

JOINT MANAGEMENT AGREEMENT

Waikato Raupatu River Trust and Waikato Regional Council

Waikato Raupatu River Trust

WAIKATO TAINUI

Waikato REGIONAL COUNCIL
Te Kaunihera ā Rohe o Waikato

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JOINT MANAGEMENT AGREEMENT

DATED: 18 June 2013

This JOINT MANAGEMENT AGREEMENT is made between:

A. **Waikato-Tainui Te Kauhanganui Incorporated** in its capacity as trustee of the Waikato Raupatu River Trust **(Waikato-Tainui).**

B. **Waikato Regional Council,** a Regional Council duly constituted by the Local Government Act 2002 (the **Council).**

Each one a Party and together referred to as the Parties.

BACKGROUND

1.1 The Waikato Raupatu Claims Settlement Act 1995 (the **1995 Act**) gave effect to certain provisions of the Deed of Settlement between Her Majesty the Queen in right of New Zealand (the **Crown**) and Waikato-Tainui dated 22 May 1995 (the **1995 Deed**) and settled certain Raupatu claims made to the Waitangi Tribunal by Robert Te Kotahi Mahuta, the Tainui Maaori Trust Board and Ngaa Marae Toopu on behalf of Waikato-Tainui (Wai 30). The 1995 Act expressly excluded certain historical claims, including the claim to the Waikato River.

1.2 In the spirit of co-operation, compromise and good faith, and as foreshadowed in the 1995 Deed, Waikato-Tainui and the Crown entered into negotiations in respect of the claims of Waikato-Tainui concerning the Waikato River.

1.3 On 17 December 2009 Waikato-Tainui and the Crown signed a further Deed of Settlement, this time in relation to the Waikato River (**2009 Deed**). The Parties agreed to enter into a new age of co-management over the Waikato River with an overarching purpose of the settlement to restore and protect the health and wellbeing of the Waikato River for future generations.

1.4 On 14 January 2011, the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 (**Waikato River Settlement Act**) came into effect. The spirit, intent and relevant provisions of the settlement apply to this Joint Management Agreement (**Agreement**).

1.5 This Agreement affirms the commitment between Waikato-Tainui and the Council to:

(a) enter into a new era of co-management over the Waikato River;

(b) achieve the overarching purpose of the Waikato River Settlement Act to restore and protect the health and well being of the Waikato River for future generations;

(c) provide an enhanced relationship between Waikato-Tainui and the Council on areas of common interest; and

(d) recognise the relationship underpinning this Agreement is an evolving one whereby Waikato-Tainui and the Council will continue to explore the potential for transfers, delegations and sharing of relevant powers and functions under the Resource Management Act 1991 (**RMA**) and Local Government Act 2002 (**LGA 2002**).

2. Kingitanga Accord Principles

2.1 This Agreement is made pursuant to the Waikato River Settlement Act and is to be interpreted in a manner that furthers the principles set out in the Kingitanga Accord. The principles of the Kingitanga Accord are set out below.

(a) Te mana o te awa (the spiritual authority, protective power and prestige of the river)

(i) To Waikato-Tainui, the Waikato River is a tuupuna (ancestor) which has mana (prestige) and in turn represents the mana and mauri (life force) of the tribe. The Waikato River has its own mauri, its own spiritual energy and its own powerful identity. It is a single indivisible being.

(ii) Respect for te mana o te awa (the spiritual authority, protective power and prestige of the Waikato River) is at the heart of the relationship between the tribe and their ancestral river. Waikato-Tainui regard their river with reverence and love. It gave them their name and is the source of their tribal identity. Over generations, Waikato-Tainui have developed tikanga (values, ethics governing conduct) which embody their profound respect for the Waikato River and all life within it.

(iii) The Waikato River sustains the people physically by providing kai (food) and enjoyment through traditional and contemporary activities. Spiritually, to Waikato-Tainui, the Waikato River is constant, enduring and perpetual.

(b) Mana whakahaere (authority and rights of control)

(i) Mana whakahaere refers to the authority that Waikato-Tainui have established in respect of the Waikato River over many generations. Mana whakahaere entails the exercise of rights and responsibilities to ensure that the balance and mauri (life force) of the Waikato River are maintained. It is based in recognition that if we care for the river, the river will continue to sustain the people.

(ii) In customary terms mana whakahaere is the exercise of control, access to, and management of the Waikato River, including its resources in accordance with tikanga (values, ethics, and governing conduct).

(c) Health and wellbeing

(i) The principle of health and wellbeing reflects the overarching purpose of the settlement, which is to restore and protect the health and wellbeing of the Waikato River.

(ii) The health and wellbeing of Waikato-Tainui and its special relationship with the Waikato River is inherently connected with the health and wellbeing of the Waikato River.

(d) Co-management

(i) The Crown and Waikato-Tainui have committed to enter into a new era of co-management in respect of the Waikato River. The principle of co-management includes:

- the highest level of good faith engagement; and
- consensus decision-making as a general rule

while having regard to statutory frameworks, statutory timeframes, and the mana whakahaere of Waikato-Tainui and the Waikato-Tainui Environmental Plan.

(ii) To be effective, co-management must be implemented and achieved between the Parties at a number of levels and through a range of management tools and mechanisms, including (but not limited to) the following:

- the development, amendment and implementation of strategies, policy, legislation and regulations that may potentially impact on the health and wellbeing of the Waikato River;
- the processes for granting, transferring, varying and renewing consents, licenses, permits and other authorisations for all activities that potentially impact on the health and wellbeing of the Waikato River;
- the provisions for effective Waikato-Tainui input and participation by engagement at an early stage in statutory and management processes, and other actions, that may affect the health and wellbeing of the Waikato River, including the planning and development of new and amended policies or management initiatives or decisions affecting or relating to the Waikato River; and
- co-management will provide for early and effective input from Waikato-Tainui, rather than simply an obligation to consult.

(e) Integration

(i) Arising from the principles of te mana o te awa and mana whakahaere, and inter-related to the principle of co-management, is the principle of integration. The health and wellbeing of the Waikato River and successful co-management requires effective integration of management between the relevant government agencies, Crown entities, local authorities and non-governmental agencies who have roles and responsibilities in respect of the Waikato River.

(f) Honour and Integrity

(i) Underpinning the deed of settlements are the principles of honour and integrity. Waikato-Tainui and the Crown entered into the 1995 Deed and 2009 Deed in good faith, relying on the commitments of each other contained in the deeds and the Kiingitanga Accord with the intention of achieving a full, fair and durable settlement of the claims of Waikato-Tainui in relation to the Waikato River. The principle of honour and integrity is reflected in this Agreement.

3. Relationship

3.1 The Parties have over the years had an informal relationship at both governance and management levels.

3.2 The Waikato River Settlement Act highlights the importance of localised arrangements and decision making.

3.2 The Council's geographical boundary under local government legislation is shown in Schedule One.

3.3 Waikato-Tainui settlement boundary is referred to as Area A on SO plan 409144 (Area A) under the Waikato River Settlement Act and is as shown in Schedule One.

3.4 At the signing of this Agreement, the Parties acknowledge that Area A is subject to the provisions of this Agreement.

3.5 Notwithstanding clause 3.4 above the Parties recognise that other Treaty of Waitangi settlements may extend this Agreement beyond Area A. The Parties therefore wish to make allowances for any changes to Area A and for any additional Parties to this Agreement, subject to the following conditions. The form of any extention to Area A or the addition of one or more Parties to this Agreement will be by mutual agreement between the Council and Waikato-Tainui and following relevant legislation.

3.6 The Council acknowledges that Waikato-Tainui has mana whakahaere interests and duties that extend beyond the boundary defined in Area A. This is demonstrated by Waikato-Tainui marae that are established beyond Area A, as identified in the attached Waikato-Tainui Marae Map.

MATTERS AGREED

4. Purpose:

4.1 The purpose of this Agreement is to provide for an enduring relationship between the Parties through the shared exercise of functions, duties and powers and to give effect to the Waikato River Settlement Act.

5. Scope of Agreement

5.1 The scope of this Agreement is provided for under Section 42 of the Waikato River Settlement Act. The scope includes:

(a) matters relating to the Waikato River and activities within its catchment affecting the Waikato River;

(b) matters referred to in Section 43 of the Waikato River Settlement Act, being the exercise of the following functions, powers and duties under the RMA:

(ii) monitoring and enforcement under Section 45 of the Waikato River Settlement Act;

(iii) preparation, review or change of a RMA Planning Document under Section 46 of the Waikato River Settlement Act; and

(iv) functions, powers or duties under Part 6 of the RMA in relation to the applications for resource consents under Section 47 of the Waikato River Settlement Act.

(c) processes relating to customary activities under Section 62 of the Waikato River Settlement Act; and

(d) additional matters as agreed in accordance with Section 52 of the Waikato River Settlement Act.

5.2 Extending the scope of this Agreement recognises that:

(a) the mana whakahaere of Waikato-Tainui extends beyond those provisions provided for in the Waikato River Settlement Act, this includes social, economic and cultural aspirations;

(b) the Parties are community partners and there are mutual benefits in exploring further agreements to enhance community relationships; and

(c) the Parties work with each other in various operational activities and securing a working relationship through schedules in this Agreement would outline responsibilities and provide an efficient and effective process of engagement.

5.3 The Parties agree to continue exploring the development and agreement of further schedules within twelve (12) months of signing this Agreement.

6 Operational Principles

6.1 In working together under this Agreement the Parties must act in a manner that is consistent with the following guiding principles. They are to:

(a) promote the overarching purpose of the settlement being to restore and protect the health and wellbeing of the Waikato River for future generations;

(b) recognise and give effect to Te Ture Whaimana o te Awa o Waikato (the Vision and Strategy) as the primary policy setting direction document for the Waikato River;

(c) recognise the statutory functions, powers and duties of the Council, including legislation such as the LGA 2002 and the RMA;

(d) respect the mana whakahaere rights and responsibilities of Waikato-Tainui in accordance with tikanga to ensure the balance and mauri of the Waikato River is maintained;

(e) act in a manner consistent with the principles of Te Tiriti o Waitangi/Treaty of Waitangi;

(f) take into account the relevant components of the Waikato-Tainui Environmental Plan and the Integrated Management Plan as they relate to the Waikato River within the geographic jurisdiction of the Council;

(g) commit to working together in good faith and with a spirit of co-operation;

(h) commit to open, honest and transparent communication;

(i) promote the principle of co-management and commit to participate effectively in co-management;

(j) recognise and acknowledge that the Parties will benefit from working together by sharing their respective vision, knowledge and expertise;

(k) ensure early engagement and a 'no surprises' approach;

(l) recognise that the relationship between the Parties will evolve;

(m) respect the independence of the Parties and their individual mandates, roles and responsibilities in relation to the Waikato River;

(n) recognise that co-management sometimes operates within statutory frameworks that must be complied with; and

(o) commit to meeting statutory timeframes, and minimising delays and costs associated within those statutory frameworks.

7 Objectives of the Parties

7.1 The Parties each have objectives that will assist in achieving the purpose of this Agreement.

Waikato-Tainui Objectives

7.2 Waikato-Tainui will endeavour to achieve the following objectives:

(a) the restoration and protection of the health and well-being of the Waikato River;

(b) the restoration and protection of the relationship of Waikato-Tainui with the Waikato River, including their cultural, environmental, spiritual, social, and economic relationships;

(c) the integrated, holistic and co-ordinated approach to management of the natural, physical, cultural and historic resources of the Waikato River;

(d) the adoption of a precautionary approach towards decisions that may result in significant adverse effects on the Waikato River, and in particular those effects that threaten serious or irreversible damage to the Waikato River;

(e) the recognition and avoidance of adverse cumulative effects, and potential cumulative effects, of activities undertaken both on the Waikato River and within its catchments on the health and well-being of the Waikato River;

(f) the recognition that the Waikato River is degraded and should not be required to absorb further degradation as a result of human activities;

(g) the protection and enhancement of significant sites, fisheries, flora and fauna; and

(h) the application to the above of both matauranga Maaori and latest available scientific methods.

Council Objectives

7.3 The Council will endeavour to achieve the following objectives:

(a) to comply with its statutory obligations under the RMA and the LGA 2002;

(b) to assist in the improvement of the health and well being of the Waikato River;

(c) to provide for and promote the Vision and Strategy;

(d) to provide, where able to, long-term certainty to planning, policy and resource consent documentation and processes;

(e) to promote the mana whakahaere of Waikato-Tainui;

(f) to acknowledge the relationship the community has with the Waikato River;

(g) to recognise the importance of the Waikato River to the region and the nation; and

(h) to enter into a mutually beneficial relationship with Waikato-Tainui.

8 Schedules to this Agreement

8.1 The Parties agree to meet to jointly develop and agree criteria to assist Council in its decision making under the processes listed in Section 47(d)(i) to (vii) of the Waikato River Settlement Act.

8.2 In addition, the Parties have agreed to the processes outlined in the Schedules to assist Council in its decision making in relation to those processes specified in Section 47(d)(i) to (vii) of the Waikato River Settlement Act.

8.3 The Schedules outline the following:

(a) preparation, review or change of RMA Planning Documents (Schedule Two);

(b) resource monitoring and enforcement (Schedule Three);

(c) resource consents (Schedule Three);

(d) environmental monitoring (Schedule Four);

(e) navigation safety (Schedule Five); and

(f) customary Activities (Schedule Five).

8.4 As provided for under Clause 5.2(b) of this Agreement, the Parties recognise that there is mutual benefit in developing further Schedules during the course of this Agreement.

9 Meetings between the Parties

9.1 The Parties will have annual co-governance meetings to achieve the purpose of this Agreement.

9.2 The co-governance committee will be made up of equal numbers of representatives from the Council and Waikato-Tainui.

9.3 There will be co-chairs presiding over the meetings; each of the Parties will elect a co-chair to represent the Council and Waikato-Tainui.

9.4 Staff members may be invited to attend the meetings for technical support.

9.5 Any decision made at a meeting will be made at the highest level of good faith and by way of a consensus process.

10 Information Sharing

10.1 The Council will make available to Waikato-Tainui all information held by the Council (subject to the Local Government and Official Information and Meetings Act 1987) where that information is requested by Waikato-Tainui for the purposes of assisting them to exercise their mana whakahaere in respect of the Waikato River and enabling Waikato-Tainui to exercise their rights fully under this Agreement.

11 Communication between the Parties

11.1 The Parties will establish and maintain effective and efficient communication with each other on a continuing basis by:

(a) Waikato-Tainui providing, and the Council maintaining, contact details for Waikato-Tainui Staff responsible for engagement under this Agreement;

(b) the Council providing, and Waikato-Tainui maintaining, contact details for Council Staff responsible for engagement under this Agreement;

(c) providing reasonable opportunities for relevant Staff from both Parties to meet with each other, including arranging meetings to discuss and (if possible) resolve any issues when required; and

(d) identifying and educating staff members who will be working closely with Staff from each respective Party and informing staff members from each organisation of the obligations under this Agreement.

12 Resolution of Issues

12.1 The Parties agree and acknowledge that for co-management to be effective, the Parties must address the resolution of issues between them in a constructive, co-operative and timely manner. The dispute resolution process is as follows:

(a) if one Party considers that there has been a breach of this Agreement then that Party may give notice to the other Party that they are in dispute;

(b) as soon as practicable upon receipt of the notice, the Council and Waikato-Tainui representative(s) will meet to work in good faith to resolve the issue;

(c) if the dispute has not been resolved within 20 (twenty) Business Days of receipt of the notice, the chief executive officer for the Council and for Waikato-Tainui will meet to work in good faith to resolve the issue;

(d) if the dispute has still not been resolved within 30 (thirty) Business Days of a meeting between the chief executive of each Party, and as a matter of last resort, the respective chairs (or nominee) will meet to work in good faith to resolve the issue.

13 Review and Amendment

13.1 The Parties agree that this Agreement is a living document which will be updated and adapted to take account of future developments.

13.2 The first review (**Initial Review**) of this Agreement will take place no later than two (2) years from the Commencement Date.

13.3 Following the Initial Review, this Agreement will be reviewed on dates as may be agreed between the Parties, but at intervals of no more than five (5) years.

13.4 The Parties may only amend this Agreement by mutual agreement in writing.

14 Suspension of Agreement

14.1 The Parties from time to time may agree in writing to suspend in whole or in part, the operation of this Agreement. In reaching such agreement the Parties will specify the scope and duration of the suspension.

14.2 For the avoidance of doubt there is no right to terminate this Agreement by either Party.

15 Transfer and Delegation

15.1 Nothing in this Agreement precludes the Council from effecting a transfer or a delegation to Waikato-Tainui.

16 Costs

16.1 Each Party will bear its own costs in relation to its separate activities and contributions to the Agreement as set out in the Waikato River Settlement Act.

17 Exercise of Power

17.1 The Council may carry out functions or exercise the power on its own account and not in accordance with this Agreement if:

(a) An emergency situation arises; or

(b) A statutory timeframe for the carrying out of the function or the exercise of the power is not able to be compiled with under this Agreement.

17.2 As soon as practicable the Council will provide Waikato-Tainui with written notice of carrying out this function or exercise of power.

18 Definitions and Interpretations

18.1 The provisions of this Agreement shall be interpreted in a manner that best furthers the purpose and is consistent with the principles set out in the Agreement.

18.2 Interpretation: In the construction and interpretation of this Agreement, unless the context otherwise requires:

(a) the introduction, headings and marginal notes do not affect interpretation of the Agreement;

(b) where possible the same definitions under the Waikato River Settlement Act have been utilised;

(c) words importing one gender include other genders and a singular includes the plural and vice versa;

(d) a reference to a clause or schedule is a reference to a clause or schedule of this Agreement;

(e) at times the Waikato River Settlement Act may need to be read in conjunction with this Agreement;

(f) a statute includes that statute as amended from time-to-time and any Regulations, Orders in Council and other instruments issued or made under that statute from time-to-time, as well as legislation passed in substitution for that statute; and

(g) a reference to one Party giving written notice to the other, means that Party doing so in writing or in electronic form.

18.3 In this Agreement, unless the context requires otherwise:

"**Business Day**" has the same meaning as set out in Section 6 of the Waikato River Settlement Act.

"**Agreement**" means this Joint Management Agreement between the Parties including the Schedules.

"**Authorised Customary Activity**" has the same meaning as provided for under the Waikato River Settlement Act.

"**Board**" means the governance board of Waikato-Tainui.

"**Commencement Date**" means the date this Agreement is signed by both Parties.

"**Crown**" means Her Majesty the Queen in right of New Zealand and includes, where appropriate, the Parties and Departments of the Crown that are involved in, or bound by the terms of the 2009 Deed to participate in, any aspect of the redress under the 2009.

"**Draft Planning Document**" means a document prepared under Schedule 1 of the RMA and can include a RMA Planning Document.

"**LGA 2002**" means the Local Government Act 2002 and its associated amendments.

"**LGA 1974**" means the Local Government Act 1974 and its application to the Council's Navigation Safety Programme.

"**Regional Plan**" has the same meaning as set out in the RMA and includes a proposed Regional Plan.

"**Regional Policy Statement**" means the same as set out in the RMA and includes a proposed Regional Policy Statement.

"**RIG**" means the Resource Information Group of the Council.

"**RMA Planning Document**" has the same meaning as set out in Section 6 of the Waikato Settlement River Act.

"**RMA**" means the Resource Management Act 1991.

"**RUG**" means the Resource Use Group of the Council.

"**RUG Consent Officer**" means a resource consent officer within RUG.

"**Staff**" means staff from either Party, including technical officers employed or contracted by the Council or Waikato-Tainui.

"**Vision and Strategy or Te Ture Whaimana o Te Awa o Waikato**" means the Vision and Strategy for the Waikato River and has the same meaning as set out in Section 6 of Waikato River Settlement Act.

"**Waikato River**" has the same meaning as that in the Waikato River Settlement Act.

"**Waikato-Tainui**" means Waikato-Tainui Te Kauhanganui Incorporated in its capacity as trustee of the Waikato Raupatu River Trust.

"**Waikato River Settlement Act**" means the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010.

"**Working Day**" has the same meaning as working day under the RMA.

SIGNED AS A JOINT MANAGEMENT AGREEMENT

SIGNED for and on behalf of **WAIKATO REGIONAL COUNCIL**



Peter Buckley
Chairman

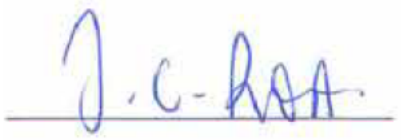


Robert Laing
Chief Executive

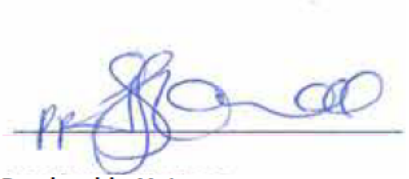




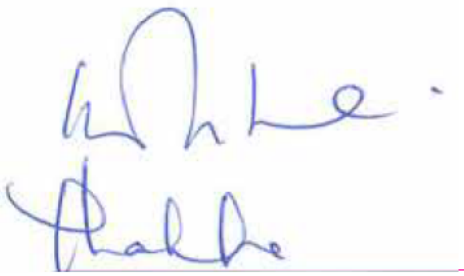
SIGNED for and on behalf of the **WAIKATO RAUPATU RIVER TRUST**
by **WAIKATO-TAINUI TE KAUHANGANUI INCORPORATED**
in its capacity as trustee.



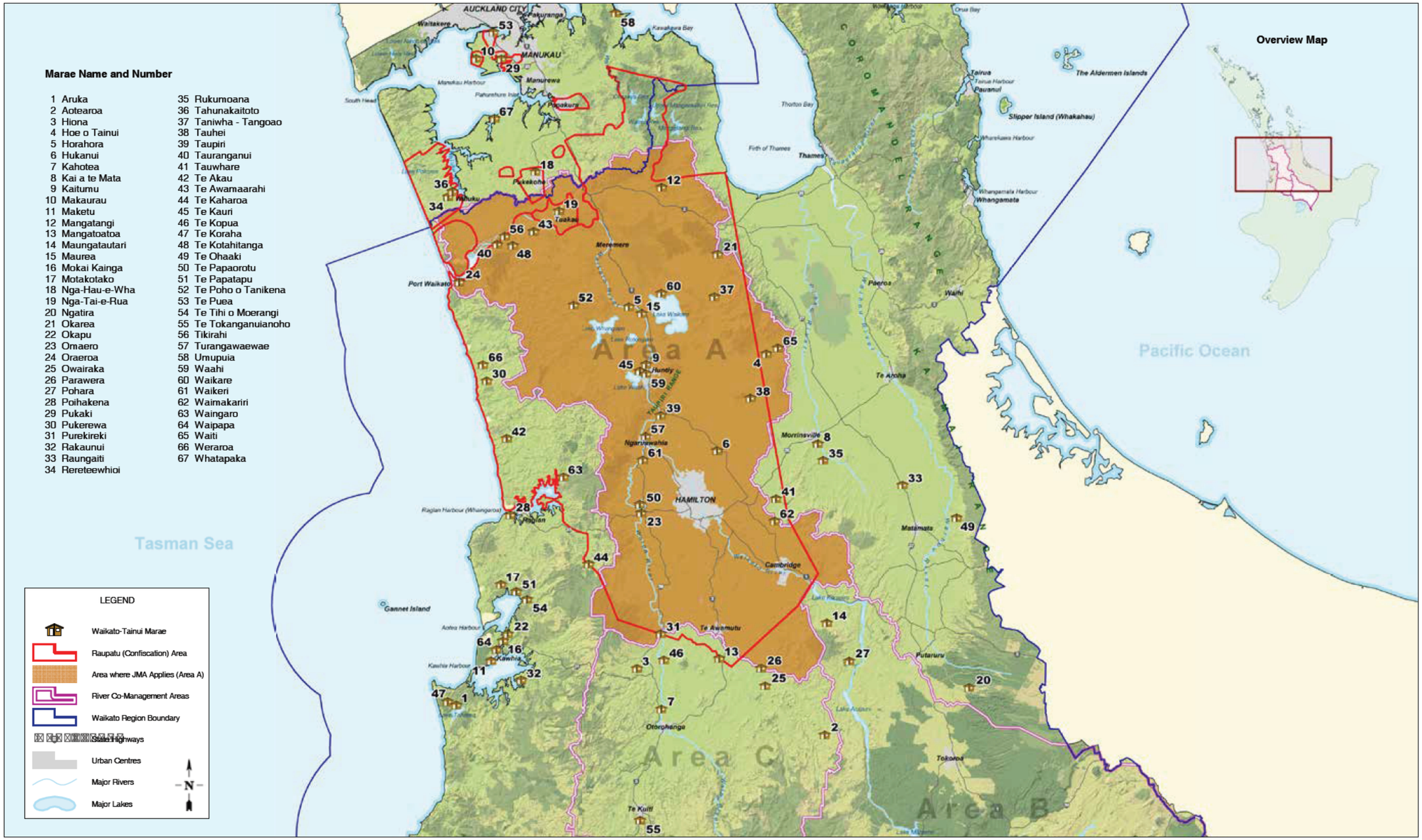
Tom Roa
Chairman



Parekawhia McLean
Chief Executive



SCHEDULE ONE
MAP OF AREA



Waikato-Tainui JMA Map: Area A and Waikato-Tainui Marae

Created by: A Jeffries
Projection: NZTM
Date: 26 Mar. 2012

Status: Draft
Request No.:22947
File name: 22947_JMA WaikatoTainui

For Waikato Regional Council staff only

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ACKNOWLEDGEMENTS AND DISCLAIMERS

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Waikato Regional Council
Te Kaunihera ā Rohe o Waikato

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SCHEDULE TWO

PREPARATION, REVIEW, CHANGE OR VARIATION OF RMA PLANNING DOCUMENTS

1. Purpose of Schedule Two

1.1 This Schedule shall apply to the preparation, review, change or variation of a RMA Planning Document pursuant to Schedule 1 of the RMA to the extent that those processes relate to the achievement of the Vision and Strategy for the Waikato River as defined by Schedule 2 of the Waikato River Settlement Act.

2. Key Staff

2.1 Key Staff will be identified between the Parties. The following positions have been identified for the purpose of this Schedule. For the Council these may be subject to change over time.

Waikato-Tainui

- General Manager
- Environment Manager

Council

- Group Manager Policy and Transport
- Programme Manager Policy and Transport

3. Preparation, review, change or variation of RMA Planning Documents

3.1 Section 43(b) of the Waikato River Settlement Act states that this Agreement must provide for Council and Waikato-Tainui to work together in carrying out certain duties, functions and powers including the preparation, review, change, or variation of a RMA Planning Document.

3.2 One outcome of working together in accordance with the requirements of the Waikato River Settlement Act will be a joint final recommendation to Council on the content of an RMA Planning Document (section 46(2)(c) of the Waikato River Settlement Act).

3.3 Table 1 on the following page outlines a process and timeframe for how the Parties will work together in accordance with section 46 of the Waikato River Settlement Act.

4. Table 1 – Timeframes for preparation, review, change and variations of RMA Planning Documents

	Provision	Timeframe
1	Council Staff to contact Waikato-Tainui Staff at an informal level, to have initial discussions on the need for the preparation, review, change or variation of a Council RMA Planning Document, and if required, recommend to Council that a Joint Working Party (JWP) be convened.	As soon as reasonable practicable
2	The Waikato-Tainui Environment Manager (or nominee) and the Council's Policy and Transport Group Manager (or nominee) will meet at an appropriate time to convene and to determine; (i) the makeup of the JWP; (ii) and the way they will work together to discuss and recommend to Council the matters set out in section 46(2)(a) of the Waikato River Settlement Act. Those matters being: • the process to be adopted; and • the general form and content of any document to be drafted for the purposes of consultation or notification under clause 5 of Schedule 1 of the RMA. When working together the JWP will adopt the following principles: • highest level of engagement; • effective and efficient engagement; • appreciation of regulatory and statutory obligations; and • appreciation of tribal obligations. An agreed timeframe shall be developed by the JWP. This will be presented to the Board of Waikato-Tainui and to the Council committee and/or to any other co-governance group identified by this Agreement for their information and comment.	As soon as agreed by both managers
3	Prior to the final joint recommendation (for the preparation, review, change or variation to an RMA Planning Document), Council and Waikato-Tainui will advise the JWP of whether they support in full or in part to commence the preparation, review, change or variation to an RMA Planning Document. Should either Party not agree in whole or in part to commence the preparation, review, change or variation to an RMA Planning Document, a formal letter from the Chief Executive Officer of the respective Party, shall be addressed to the Chief Executive Officer of the other Party outlining their concerns and issues. This formal letter acknowledges and prompts the JWP to seek resolution which may also include the development of a final joint recommendation that outlines those concerns and issues raised.	To be agreed
4	Following due process in steps 1 - 3, the JWP will then make a final recommendation to Council on whether to commence the preparation, review, change or variation to a RMA Planning Document (as required by section 46(2)(b) of the Waikato River Settlement Act).	To be agreed

5	In the instance that the recommendation to commence the preparation, review, change or variation to an RMA Planning Document is endorsed by Council, formal notification will be provided to the Waikato-Tainui. Contact shall occur via a formal notice/letter to: Chair of Waikato-Tainui Te Arataura Private Bag 542 NGARUAWAHIA A copy of the letter shall also be posted or emailed to the Key Staff identified in this Schedule.	As soon as reasonable practicable
6	Waikato-Tainui will acknowledge receipt of the letter within 10 (ten) Business Days.	Within 10 (ten) Business Days
7	During the development of the content of the draft RMA Planning Document, the JWP will provide for the following: • will ensure appropriate time for engagement with tribal members; • will have regard to the relevant sections of the Waikato-Tainui Iwi Environmental Plan; • will have regard to the relevant provisions provided for in the 1995 and 2010 Waikato Settlements; and • will acknowledge that the Council has to provide for engagement with other iwi, in line with settlement legislation and other legislative requirements. The section 32 of the RMA analysis will outline how these sections have been duly considered.	To be agreed
8	Prior to the development of a final joint recommendation on the content of the draft RMA Planning Document to be notified, the JWP will discuss the potential for Waikato-Tainui to participate in making decisions on the draft RMA Planning Document as required by section 46(2(d) of the Waikato River Settlement Act. The discussion will consider how matters relevant to Waikato-Tainui are appropriately represented and acknowledged as part of the decision making process.	To be agreed
9	A copy of the draft final joint recommendation will be provided to Council and Waikato-Tainui who will advise the JWP of whether they support in full or in part the content of the Draft RMA Planning Document. Should either Party not agree in whole or in part of the Draft RMA Planning Document in respect of the interests of Waikato-Tainui, a formal letter from the Chief Executive Officer of the respective Party, shall be addressed to the Chief Executive Officer of the other Party outlining their concerns and issues. This formal letter acknowledges and prompts the JWP to seek resolution, which may also include the development of a final joint recommendation that outlines those concerns and issues.	To be agreed
10	The JWP will in accordance with section 46(2)(c) of the Waikato River Settlement Act decide jointly on the final recommendation to Council on the content of a RMA Planning document that will be notified under clause 5 of Schedule 1 of the RMA.	To be agreed

5. Requests for Private Plan Changes

5.1 This part of the Schedule applies to private plan change requests as required by section 46(3) of the Waikato River Settlement Act.

5.2 This part of the Schedule addresses those private plan changes that determine policies and rules on the Waikato River and activities within its catchment affecting the Waikato River to the extent to which those processes relate to the Vision and Strategy.

5.3 Council acknowledges that nothing in this part of the Schedule derogates from Waikato-Tainui rights to participate as tangata whenua, an iwi authority, or a submitter on private plan change requests.

5.4 Table 2 below outlines the process agreed by the Parties for a request for private plan changes.

Table 2: - Request for Private Plan Changes Steps

	Provision	Timeframe
1	If a person requesting a plan change seeks a meeting with Council before a plan change request is lodged, Waikato-Tainui Staff will be informed and invited to participate in that meeting.	As soon as reasonable practicable
2	If a request is made under clause 21 of Schedule 1 of the RMA, a copy shall be provided via a formal notice/letter to the Waikato-Tainui Environment Manager.	Within 3 (three) Working Days of receiving the request
3	The Council will advise Waikato-Tainui of the statutory timeframes in relation to the request and identify dates for reporting and decision making.	As soon as reasonably practicable
4	If Council considers further information is required, Council may, if necessary, seek Waikato-Tainui feedback on what further information is required. The Council shall provide Waikato-Tainui with any additional information provided in support of any request or advise Waikato-Tainui if the applicant declines to provide any additional information.	To be agreed
5	When considering the request under clause 25 of Schedule 1 of the RMA, Council may request Waikato-Tainui to provide: • Guidance on whether it considers the plan change will impact on the mana whakahaere of Waikato-Tainui as a tribe; • Guidance on whether it considers the plan change is consistent with the Vision and Strategy and/or any other regulation developed and enacted as a result of the Waikato River Settlement Act; • Assistance on whether the plan change has given regard to the Waikato-Tainui Environmental Management Plan; and • Assistance on sections 5, 6, 7 and 8 matters under the RMA.	In accordance with the relevant timeframes advised as part of step 4 above.
6	Waikato-Tainui will provide support to the Council, should it be required, in developing a written response outlining why a request is rejected.	As and when appropriate
7	The Council will provide to Waikato-Tainui a copy of any decision and the reasons for that decision made under clause 25 of Schedule 1 of the RMA.	At the same time as notification is made to the person making the request.

8	If Council adopts the request under clause 25 of Schedule 1 of the RMA, the Waikato-Tainui Environment Manager (or nominee) and the Council Policy and Transport Group Manager (or nominee) will meet at an appropriate time prior to public notification to consider and to propose modifications to the request as appropriate. The process shall be based on the following principles of engagement: • highest level of engagement; • effective and efficient engagement; • appreciation of regulatory and statutory obligations; and • appreciation of tribal obligations.	

6. Review of the efficiency and effectiveness of RMA Planning Documents under s35 of the RMA

6.1 This part of the Schedule applies to:

a) The monitoring of the effectiveness and efficiency of RMA Planning Documents as required by section 45(2)(a) and (b) of the Waikato River Settlement Act; and

b) Waikato-Tainui role in the five (5) yearly review under section 35(2A) of the RMA as they relate to the Waikato River and activities within its catchment affecting the Waikato River to the extent to which those processes relate to the Vision and Strategy.

6.2 Section 45(2) of the Waikato River Settlement Act requires the Parties to meet no less than twice yearly in relation to monitoring and enforcement in accordance with section 35(2)(a)-(e) and section 35(2A) of the RMA.

6.3 Table 3 below outlines the process and timeframes for policy effectiveness monitoring.

Table 3: Policy Effectiveness Monitoring

	Provision	Timeframe
1	The Waikato-Tainui Environment Manager (or nominee) and Council Policy and Transport Group Manager (or nominee) will meet not less than twice yearly to discuss and agree: • the priorities, methods and extent; and potential for Waikato-Tainui participation in respect of monitoring under Section 35(2)(b) of the RMA; • the role of Waikato-Tainui in the five (5) yearly review under section 35(2A) of the RMA; and • appropriate responses to address outcomes of the monitoring under section 35(2)(b), including the potential for review of RMA planning documents.	Not less than twice yearly
2	If, as a result of monitoring under section 35(2) or section 35(2A) of the RMA it is determined that changes are required to the RMA Planning Document then Table 1 of this Schedule will apply.	

SCHEDULE THREE

RESOURCE CONSENT PROCESS AND MONITORING AND ENFORCEMENT OF RESOURCE CONSENTS

Resource Consent Processes for implementing sections 47(2) and 62(2) of the Waikato River Settlement Act

A. AGREED PROTOCOL FOR SECTION 47 OF THE WAIKATO RIVER SETTLEMENT ACT ("THE PROTOCOL")

A.1 This Protocol shall apply to resource consents, including section 127 of the RMA (changes) and section 128 of the RMA (reviews) for those activities listed in section 47(1)(a) of the Waikato River Settlement Act, generally being water permits (section 14 of the RMA), land use permits that affect the beds of rivers and streams (section 13 of the RMA) and point source discharges to the Waikato River, including its tributaries, lakes, wetlands, beds and banks).

A.2 Council has an over-arching responsibility to meet timeframes specified in the RMA for processing and deciding resource consent applications. The timeframes are as follows:

(a) non-notified applications – 20 (twenty) working days

(b) limited notified applications – 50 (fifty) working days

(c) publicly notified applications where section 41B not applicable – 70 (seventy) working days; and

(d) publicly notified applications where section 41B applicable – 85 (eighty five) working days.

A.3 Step 1 of the Protocol outlined in Table 1 below directly reflects the requirements of section 47(2)(a)-(c) of the Waikato River Settlement Act. The remainder of the Protocol has been agreed between the Parties and is designed to enable practical engagement between the Council and Waikato-Tainui on consent applications of interest to Waikato-Tainui, whilst meeting the statutory timeframes. The timeframes identified in Table 1, steps 1-7 of the Protocol are regarded as "ideal" timeframes which the Parties will, in their best endeavours, aim to achieve. However, some flexibility may be required, provided that does not compromise meeting the statutory timeframes.

Table 1: Timeframes

	Provision	Timeframe
1	Within 1 (one) Working Day of receiving an application as complete under Section 88 of the RMA, or otherwise as soon as reasonably practicable, the Council will provide to Waikato-Tainui a summary of resource consent applications received. The summary shall include the following information (if relevant): • name(s) of consent applicant(s); • consent/s applied for; • file/consent no; • brief description of each activity applied for; • type of activity; • location of property/activity (or activities); • land owner and occupier details; • whether consultation has occurred with Iwi; if so, which Iwi; • whether written approval provided by Iwi; • RUG Resource Officer contact details; and • if a section 127 change of conditions or section 128 review, the reason for the change/review. The information provided by the Council to Waikato-Tainui may be via e-mail to a nominated email address.	Provision of data to Waikato-Tainui (Day 1)
2	If Waikato-Tainui considers that further detail/information on, or a copy of, the application is required Waikato-Tainui will advise the RUG Consent Officer accordingly and will copy the message to rugq@waikatoregion.govt.nz (or other nominated email address). The need for consultation at the marae or hapu level should however continue to be determined on a case-by-case basis by Waikato-Tainui. If no advice is received by Day 2 (two) of the consent process in relation to a particular application, the RUG Consent Officer will assume that Waikato-Tainui has no further interest in that application.	Waikato-Tainui to advise RUG Consent Officer - within 1 (one) Working Day (Day 2 of the timeframes)
3	Any request to the RUG Consent Officer for a copy of the application shall be responded to a soon as practicable. Any request to the applicant by the RUG Consent Officer for further information may have regard to any advice received from Waikato-Tainui as to information required. Any further information received in accordance with section 92 of the RMA shall be forwarded to Waikato-Tainui as soon as practicable.	Provision of application copy – as soon as practicable. Issuing of s92 - within 2 Working Days (Day 4 of the timeframes)

4	Following the receipt of the application documents and/or further information requested from the applicant (as the case may be), Waikato-Tainui shall consider the information and advise the Council via email and/or letter confirming Waikato-Tainui position being: • no issue (has no direct impact on Iwi obligations); • support for the application; • opposed unless certain conditions are met; or • full opposition to the application. **The advice shall also include:** • the name of the Waikato-Tainui Staff member responsible for the statement including all contact details; and • reason(s) for Waikato-Tainui position. **And may include:** • recommendations (if any) and reason(s); • suggested pathway forward if there are outstanding matters; and/or • Waikato-Tainui views on notification and reason(s) for its views. Council may have regard to the above matters when it makes a decision on notification.	Confirming Waikato-Tainui's position - within 2 (two) Working Days of receiving information as per item 4 (Day 6 of the timeframes)
5	Upon receiving Waikato-Tainui comments as set out in step 4 above, the RUG Consent Officer shall formally acknowledge receipt via email and/or letter and advise of the process from here.	Acknowledgement within 1 (one) Working Day upon receiving Waikato-Tainui advice (Day 7 of the timeframes)
6	If there are outstanding matters to deal with, the Parties will identify a timeframe to deal with the matter.	To be agreed

B. CRITERIA / PROCEDURE TO IMPLEMENT SECTION 47(2)(D) OF THE WAIKATO RIVER SETTLEMENT ACT

B.1 Section 47(2)(d)(i) of the Waikato River Settlement Act requires the Parties to jointly develop and agree criteria to assist Council's decision-making in regard to the matters which are the subject of 1-8 following. The Parties agree that it is not appropriate to develop decision-making criteria for many of these matters and have instead agreed to a combination of criteria and processes, set out below, to assist Council decision-making.

1. Pre-application processes

1.1 There are no RMA statutory requirements that address pre-application processes. That is applicants are not required to undertake any measures prior to lodging an application. Applicants simply have to comply with the requirements of the Forms Regulations and section 88 of the RMA (both of which relate to completion of the appropriate forms and provision of adequate information to the consent authority).

The Parties have discussed and agreed that there are no additional criteria that will assist Council in its decision making. Notwithstanding the above, the Parties have agreed to the following process to assist Council's decision making during the pre-application process.

1.2 **Agreed Process**

(a) Where there is a proposed pre-application meeting with an applicant, the Council will advise the applicant that Waikato-Tainui would like to participate in the meeting.

(b) Where the applicant opposes Waikato-Tainui participating in a pre-application meeting and Council Staff consider that consultation with Waikato-Tainui is necessary, Council Staff will encourage applicants to consult and seek advice and guidance from Waikato-Tainui and, where possible, to do so before the application is formally lodged.

2. Direct referral requests – (section 87E of the RMA)

2.1 Any applicant for a consent that is to be notified may lodge a request with the Council for direct referral of their application to the Environment Court. The Council has discretion to agree to or decline such a request. If it agrees, the application is referred to the Environment Court and the Council must prepare a report on the application which is to be provided to the Court. If the Council refuses the request, it must process the application in the usual manner.

2.2 **Agreed Process**

(a) At its earliest convenience, the Council will notify Waikato-Tainui that a request for a direct referral to the Environment Court was received for an application.

(b) The Council will engage with Waikato-Tainui as to its views on the request.

(c) The Parties will meet to discuss and agree criteria to assist Council in its decision making.

(d) When making a decision on such requests the Council will take account of the decision-making criteria in the Council Criteria for Decision Making Table (Table 2) below as well as any additional criteria agreed between the Parties.

(e) The Council will formally advise Waikato-Tainui of its decision and the reasons for the decision.

Table 2: Council Criteria for Decision Making on a request for direct referral to the Environment Court

Criteria	Guidance Notes
1. Necessity	
Consider if a hearing would otherwise be necessary.	Are there or are there likely to be any submitters?
Consider whether there are alternative decision-making bodies that could better determine the application.	Is this a matter of significance that could be referred to the Environmental Protection Authority (EPA)?
Consider whether if in the usual course of events the decision will likely result in an Environment Court appeal and/or court case.	Would a pre-hearing provide a more efficient and cost effective alternative?
2. Providing an enabling process	
Consider the reasons the applicant has provided in making the application to go to the Environment Court.	What reasons has the applicant supplied with their application? Are these valid?
Consider how the decision will affect other applications in process.	Will other applicants be advantaged or disadvantaged by a referral? Will matters of processing priority or resource allocation priority be affected?

Consider the effect on submitters and/or affected parties.	Will the referral benefit submitters through their sharing of resources and/or focusing the matters they are submitting on? Will submitters be deterred by the cost and formality of a court process and therefore put the quality of the consent decision in jeopardy?
Consider the effect on other consent authorities.	What effect will there be on any other consent authority involved in this proposed activity or project?
3. Cost and Timelines	
Consider whether the overall cost will be more or less that the normal process.	Will there be a cost advantage or disadvantage for the applicant? Will there be a cost advantage or disadvantage for any other party including Council?
Consider the timeframe effects.	Will the Environment Court be a faster or slower option than a council hearing and possible appeal? Will the court process delay or speed up decision making on other consent applications?
Consider the available funding to support the Council's costs in carrying out their duties at the Environment Court.	Is funding available to cover the costs of acting as a witness at the Court? Has the applicant offered to pay for any additional costs that will be incurred by the Council?
4. Technical Resolution	
Consider whether there is a matter that will be best determined through cross examination and presentation of sworn evidence.	Will the Environment Court assist the resolution of matters of a scientific or technical nature? Will the Environment Court decision provide precedence that will assist decision making for other applications/ future applications?
5. Any Other Relevant Matters	

3. Check for completeness – (section 88 of the RMA)

3.1 This is a check that section 88(2) of the RMA has been complied with. It requires that the application has been completed in the prescribed form and that it includes an adequate Assessment of Environmental Effects (**AEE**) prepared in accordance with Schedule 1 of the RMA. If not, the application may be rejected as incomplete and returned to the applicant. The timeframe clock has not started. It is important to note that this is a check of "basic completeness" rather than accuracy or adequacy. In other words, it is not for checking the quality of the effects assessment of the proposal on, for example, water quality, but rather merely to check that water quality has been addressed in the AEE in some form. The Parties have agreed on the following criteria to assist council in its decision making.

3.2 **Agreed Process**

(a) Where the Council receives an application that indicates clearly a potential adverse effect on the health and wellbeing of the Waikato River in terms of the matters addressed in the Vision and Strategy but the matter is not addressed in the AEE, that matter may be taken account of when Council determines the completeness of an application under section 88 of the RMA.

4. Deferral pending additional applications – (section 91 of the RMA)

4.1 This section enables the Council to defer processing/hearing an application if the applicant's proposal requires additional resource consents and those applications have not been made. For avoidance of doubt, the clock stops during the period between the request and the receipt of additional applications. The question of what consents are required for a proposal is a matter of fact. There is little or no room for discretion. A decision to request further applications is not a decision that would be made differently according to whether the proposal raised issues of interest to tangata whenua or not. It is therefore difficult to see what further decision-making criteria would be appropriate in the context of this Agreement.

4.2 The Parties have discussed and agreed that there are no additional criteria to assist Council in its decision making. However, the Parties have agreed to the following process to assist the decisions made when Council considers whether an application should be deferred under section 91 of the RMA.

4.3 **Agreed Process**

(a) For applications that Waikato-Tainui has an interest in (ie, in terms of Steps 2-7 of the Protocol), the Council shall advise Waikato-Tainui of any section 91 of the RMA deferrals.

5. Requests for further information – (section 92 of the RMA)

5.1 This section relates to (i) Council requests of the applicant for further information and (ii) the Council itself commissioning a report on some aspect of the application where the Council considers the application may have significant adverse effects. Section 92 provides an ability to fill information gaps in the AEE provided by the applicant. In both cases the timeframe clock stops. The Parties have agreed to the following criteria and process to assist Council in its decision making.

5.2 **Agreed Criteria and Processes**

(a) When considering the adequacy of information provided in an AEE, the Council may have particular regard to:

- any deficiencies in the AEE as to the effects of the application on the health and wellbeing of the Waikato River;
- whether the information provided enables the Council to make an adequate assessment of the application against the Vision and Strategy; and
- any advice from Waikato-Tainui to determine whether further information is required. In this regard, Waikato-Tainui will direct any such advice through the RUG Consent Officer dealing with the application.

(b) For applications that Waikato-Tainui has an interest in (i.e., in terms of steps 2-7 of the Protocol) the Council will provide Waikato-Tainui a copy of any section 92 of the RMA requests for information or commissioning of reports as soon as reasonably practicable.

(c) For applications that Waikato-Tainui has an interest in (i.e. in terms of steps 2-7 of the Protocol) when further information is obtained, or a report is commissioned, pursuant to section 92 of the RMA, that information shall be provided to Waikato-Tainui as soon as reasonably practicable.

6. Notification decisions on applications – (section 95A – 95F of the RMA)

6.1 Notification decisions are required to be made within about 5 (five) Working Days of receipt of the application (because any notification has to be undertaken no later than Day 10). Procedurally and legally, the decision is complex, involving the application of multiple statutory tests and discretions. In the Protocol agreed between the Council and Waikato-Tainui, it is anticipated that Waikato-Tainui may, in particular cases, advise the Council that it considers an application should be notified. Council may have regard to that advice when it makes a decision on notification.

6.2 **Agreed Process to Develop Criteria**

(a) Council will provide Waikato-Tainui with a copy of the resource consent application in accordance with the Protocol.

- Where Waikato-Tainui advises, that in its view, an application should be notified (publicly or limited), it will provide the Council with reasons. The Parties will discuss the reasons and agree on criteria that will assist the Council when it makes a notification decision. The Council may document its views on the reasons given as part of the notification decision.
- When considering whether the adverse effects of the proposal on the environment are "likely to be more than minor" (for the purposes of section 95A(2)(a) of the RMA), the Parties will discuss any environmental effects raised by Waikato-Tainui to agree whether the effects will assist Council in it's decision making. Council may document its conclusions in relation to those effects as part of the notification decision.
- When considering whether there are any "affected persons" (for the purposes of Section 95B(1) of the RMA), the Parties will discuss any advice from Waikato-Tainui as to which Parties it considers may be "affected persons" and agree whether the advice will assist Council in its decision making.
- When considering whether the adverse effects of the proposal on a person are "likely to be minor or more than minor" (for the purposes of Ssection 95E(1) of the RMA), the Parties will discuss any effects raised by Waikato-Tainui to agree if those effects would assist Council in its decision making. Council may document in the notification decision guide, its conclusions (in the notification guide decision form) in relation to those effects as part of the notification decision.
- When considering whether there are special circumstances that warrant the public notification of an application (pursuant to section 95A(4) of the RMA), the Parties will discuss matters raised by Waikato-Tainui (such as matters that would promote achievement of the Vision and Strategy for the Waikato River) to agree whether those matters will assist Council in its decision making.
- When considering whether, in its discretion, the Council should publicly notify an application (pursuant to Section 95A(1) of the RMA), the Parties will have discuss matters raised by Waikato-Tainui (such as matters that would promote achievement of the Vision and Strategy for the Waikato River) to agree whether those matters will assist Council in its decision making.

Note: For the sake of clarity, it is important to note that the Council acknowledges that Waikato-Tainui considers itself as the major stakeholder with regard to the Waikato River and that Waikato-Tainui reserves the right to consider itself an adversely affected party irrespective of Waikato-Tainui entering into this Agreement or any other agreement with the Council. This acknowledgement does not, in itself, confer affected party status on Waikato-Tainui in terms of the RMA.

7. Change applications – (section 127 of the RMA)

7.1 These applications are applications initiated by consent holders to change or cancel a condition or conditions of consent. Section 127(3) of the RMA provides that section 88 to section 121 of the RMA apply. This means such applications are to be processed in the same way as any other application. The Council procedures (for example, pre-application, section 88 completeness, section 91, 92 and notification) generally make no distinction between section 127 change applications and applications made under section 88. For this reason, the Parties have agreed that for the purposes of this Agreement, there are no other "process-related" criteria that can be identified that are not already identified for section 88 applications (and which equally apply to section 127 applications).

7.2 **Agreed Process**

Section 127 of the RMA applications will be treated in accordance with the relevant provisions of this Schedule.

8. Reviews– (section 128 of the RMA)

8.1 These are reviews, initiated by the Council, of the conditions of a resource consent. Such reviews may only be undertaken where a condition of the consent enables such or, where no such condition exists, in some limited specified circumstances. Where a consent contains a review condition, it provides an opportunity for review. The condition cannot make a review mandatory; a decision to initiate a review must still be made. Similarly as with section 127 of the RMA change applications, many of the procedures for undertaking a review are the same as for a standard application, and to that extent, the Parties have agreed that those criteria will apply. The Parties have also agreed that the following process and criteria will apply.

8.2 **Agreed Process and Criteria**

(a) The Council will annually provide Waikato-Tainui with a list of high priority resource consents for which an opportunity for review of consents is approaching, (this matter to be discussed at the next biennial meeting (refer below)).

(b) Matters discussed at the meeting may result in criteria being developed to assist Council in its decision making.

(c) In determining whether or not to undertake a review of a consent under section 128 of the RMA, the Council will have regard to any information and views provided by Waikato-Tainui.

Note: That for the purpose of this provision, "high priority" means sites assigned in Council's compliance monitoring database as Priority 1 sites.

C. PROCESS TO IMPLEMENT SECTION 62(2) AND (4) OF THE WAIKATO RIVER SETTLEMENT ACT

C.1 This section provides for section 62(2) and section 62(4) of the Waikato River Settlement Act as it applies to Authorised Customary Activities and statutory authorisations in relation to whitebait stands or eels weirs.

C.2 The Council acknowledges that when carrying out its functions and exercising its powers under the RMA, it must recognise and provide for the importance of Authorised Customary Activities and the use of whitebait stands and eel weirs to Waikato-Tainui and as an integral part of the relationship of Waikato-Tainui with the Waikato River.

C.3 In accordance with section 62(2) of the Waikato River Settlement Act, the Council will seek to avoid conflicts between resource consents and notified Authorised Customary Activities by following the process below.

C.4 In accordance with Section 58(2) and (3) of the Waikato River Settlement Act, if the Council receives an application for a resource consent that would prevent an Authorised Customary Activity from happening; or would have a significant adverse effect on an Authorised Customary Activity. The following will occur:

(a) The Council will assess the scale and nature of the potential effects, after consulting with, and having particular regard to the views of Waikato-Tainui;

(b) Advise Waikato-Tainui in writing of the Council's assessment of the effects and any conditions that would prevent the effects;

(c) If Waikato-Tainui does not consent to the application it will advise the Council in writing as soon as reasonably practicable but no later than 8 (eight) Working Days after receiving the Council's formal advice; and

(d) The Council will advise Waikato-Tainui in writing of the Council's decision on the application.

C.5 In accordance with section 62(4) of the Waikato River Settlement Act the Council will avoid the grant of a statutory authorisation to a person in relation to whitebait stands or eel weirs that gives rise to a significant adverse effect on the use of traditional whitebait stands or eel weirs by members of Waikato-Tainui by undertaking the following process:

(a) The Council will advise Waikato-Tainui when it receives an application for a resource consent for a whitebait stand or eel weir which it considers may significantly affect the use of traditional whitebait stands or eel weirs by members of Waikato-Tainui;

(b) The Council will undertake an assessment of the likely adverse effects of the proposed activity on the use of traditional whitebait stands or eel weirs by members of Waikato-Tainui, and determine whether conditions can be imposed that avoid a significant adverse effect;

(c) The Council will avoid granting the consent if it is likely that doing so will give rise to a significant adverse effect on the use of traditional whitebait stands or eel weirs by members of Waikato-Tainui; and

(d) The Council will advise Waikato-Tainui in writing of the Council's decision on the application.

D. RESOURCE CONSENT MONITORING AND ENFORCEMENT PROCEDURES

1. Implementing section 45 of the Waikato River Settlement Act

1.1 This section provides for section 45(2)(a), (b) and (e) of the Waikato River Settlement Act in relation to the monitoring of resource consents for activities listed in section 47(1) and enforcement action.

1.2 Biannual meetings will be held between the Council and Waikato-Tainui. These will be undertaken during the first and third quarters of each calendar year at mutually agreeable times. The Council, through RUG, will co-ordinate the scheduling of the two meetings with Waikato-Tainui.

1.3 The purpose of the biannual meetings will be to:

(a) discuss and agree on priorities for monitoring the exercise of resource consents that have effect in the region;

(b) discuss and agree on the methods for and extent of the monitoring of the exercise of resource consents that have effect in the region;

(c) discuss the potential for Waikato-Tainui to participate in the monitoring of the exercise of resource consents that have effect in the region;

(d) discuss appropriate responses to address the outcomes of the monitoring of the exercise of resource consents that have effect in the region including enforcement under the RMA, including criteria for the commencement of prosecutions, applications for enforcement orders, the service of abatement notices and the service of infringement notices;

(e) discuss the potential for persons nominated by Waikato-Tainui to participate in enforcement action under the RMA;

(f) discuss consent review opportunities (as annually advised as per 8.2 (reviews) above) in the next 6 (six) months;

(g) discuss the effectiveness of consent conditions;

(h) review the effectiveness of Council's compliance activities, policies and practices, to improve compliance between all resource users; and

(i) other agreed matters at the time of agenda setting.

1.4 Bi-annual meetings process:

(a) call for agenda items, one month prior to the meeting date;

(b) agenda to be pre-circulated to both Parties;

(c) minutes to be kept;

(d) action points to be recorded and reported back to the next meeting; and

(e) Waikato-Tainui and the Council will alternate hosting the meetings.

2. Implement section 45(2)(c) of the Waikato River Settlement Act (summary report of enforcement actions)

2.1 No later than 3 (three) weeks prior to each biannual meeting, RUG shall, subject to the Privacy Act 1993 and Local Government and Official Information Meetings Act 1987 provisions, provide Waikato-Tainui with a summary update of enforcement actions (prosecutions, enforcement orders, abatement notices and infringement notices) undertaken by the Council under the RMA in respect of those activities which relate to the Waikato River and activities within the catchment affecting the Waikato River. The summary shall include name; description, type of action; date and outcome.

SCHEDULE FOUR

ENVIRONMENTAL MONITORING JOINT PLANNING, COLLECTING AND REPORTING OF ENVIRONMENTAL INFORMATION

1. Purpose of Schedule Four

1.1 This Schedule applies to the joint development and reporting of environmental monitoring information to protect the health and well-being of the Waikato River as outlined in the Vision and Strategy. Such information includes current state of the environment monitoring but excludes information related to consent application and monitoring.

1.2 The outcome of this Schedule will be the public release of a jointly prepared, catchment-based environmental report between the Parties.

2. Key Staff

2.1 Key Staff will be identified between the Parties. The following positions have been identified for the purpose of the Schedule. For the Council these may be subject to change over time.

Waikato-Tainui

- General Manager
- Environment Manager
- Training and Operations Manager

Council

- Group Manager Resource Information (RIG)
- Programme Manager Water Air & Waste
- Programme Manager Environmental Monitoring
- Programme Manager Spatial Information

2.2 Table 1 below outlines the process and timeframes for the joint development and reporting of environmental monitoring information.

Table 1: Timeframes and Process

	Provision	Timeframe
1	Waikato-Tainui Environment Manager (or nominee) and the Council RIG Manager (or nominee) will meet at an appropriate time to determine the most effective process. The process shall be based on the following principles: • highest level of engagement; • effective and efficient engagement; • appreciation of regulatory obligations; and • appreciation of tribal obligations. An agreed timeframe shall be developed and presented to each respective Board/Council committee for information and comment and/or other co-governance group identified in this Agreement.	

2	Council Staff will meet Waikato-Tainui Staff at an informal level, to gain a common understanding of what information is currently collected and where, what methodologies are being used and what reports are being produced and by when. The Council and Waikato-Tainui Staff members will jointly develop a protocol for sharing, gathering, storing and reporting information.	As soon as reasonable practicable
3	The Council and Waikato-Tainui are to meet for a half-day workshop, with the purpose being to scope and develop the work programme necessary to achieve the joint monitoring and reporting. This work programme will include: • continued monitoring of existing sites; • potential need for additional monitoring; • identification of training needs; • composition of monitoring team and health and safety requirements (warranting or certification); • access to specific locations; • resources needed/identified; • identification of priorities and methods; • intended outcomes from monitoring; • engagement purpose and principles; and • timeframes. This work programme will be presented to each Party's respective Board and Council committee for information purposes.	As soon as reasonable practicable
4	Engagement between Waikato-Tainui and the Council will take account of the following: • ensuring appropriate time for engagement with tribal members; • incorporation of relevant sections of the Waikato-Tainui Iwi Environmental Plan; • recognition of relevant provisions provided for in the 1995 and 2010 Waikato Settlements; • acknowledgement that the Council has to provide for engagement with other iwi, whether through Treaty of Waitangi settlement legislation or other legislation; • protection of sensitive information and use of sensitive information that has been collected (subject to the Local Government and Official Information and Meetings Act 1987); • data gathering and storage for tribal knowledge and application; and • any other subsequent points identified and agreed by both Parties Staff members. The Council's environmental information sharing and reporting should demonstrate that the points outlined in this table have been duly considered.	To be agreed
5	Upon this process being actioned, a joint environmental report will be presented to each respective Board/Council committee for approval. Any further comments provided will be discussed at a meeting between the respective key Staff identified.	To be agreed
6	Once all comments are agreed between the Parties, and prior to public release, each respective Party will receive a copy of the Council/Waikato-Tainui catchment-based environmental report. This report will be provided within a reasonable timeframe (ideally 2 (two) months) to allow feedback to be taken into consideration of both Parties.	To be agreed

SCHEDULE FIVE

NAVIGATION SAFETY AND CUSTOMARY ACTIVITIES

1. Purpose of Schedule Five

1.1 This Schedule applies to the navigation safety duties, functions and powers of the Council relating to the Authorised Customary Activities of Waikato-Tainui.

1.2 Duties, functions and powers excluded from this Schedule are permits or authorisations under the: RMA, the Reserves Act 1977 and any other enactment as outlined in section 57(e) of the Waikato River Settlement Act.

1.3 The outcome of this Schedule is to establish a process between the Council and Waikato-Tainui to manage Authorised Customary Activities as they relate to navigation safety.

2. Key Staff

2.1 Key Staff will be identified between the Parties. The following positions have been identified for the purpose of the Schedule. For the Council these may be subject to change over time.

Waikato-Tainui

- General Manager
- Environment Manager
- Training and Operations Manager

Council

- Division Manager Compliance and Education
- Programme Manager Navigation Safety
- Harbourmaster

3. Background

3.1 The Navigation Safety Programme is governed by Part 39A of the LGA 1974 and Maritime Rules under the Maritime Transport Act 1994.

3.2 The main policy documents for the Navigation Safety Programme (including its duties, functions and powers) are:

(a) the Navigation Safety Bylaw 2009 ("the **Bylaw**") (and subsequent amended Bylaws); and

(b) the Harbour Safety Plan.

3.3 The Navigation Safety Programme manages the role of Harbourmasters which is currently a team of two (and one Deputy Harbourmaster) who manage different sections of the Waikato River (and tributaries). For example, (a) Port Waikato, Waikato Lakes and south to Lake Karapiro; (b) west coast from Port Waikato to Mokau, Waikato River and Lakes from southern end of Lake Karapiro to the Huka falls.

3.4 The agreed process relates to Area A as outlined in Schedule One. However, it is acknowledged by both the Council and Waikato-Tainui that this part of the Waikato River may be extended in response to further Treaty of Waitangi settlement claims.

3.5 In general, activities that are managed by the Harbourmasters include:

(a) general boating/other users behaviour (education & enforcement);

(b) moorings safety;

(c) conflicts between users;

(d) temporary events;

(e) waterways safety (signage/ navigation lights/ log removal/ wrecks/ hazards); and

(f) emergency response if required (accidents/ tsunami response).

A. REVIEWS AND CHANGES TO THE BYLAW

The agreed process is as follows:

Steps	Provision	Timeframe
1	**Engagement with Waikato-Tainui** Prior to commencing public engagement on review of the Bylaw, the Programme Manager Navigation Safety and a key Staff from Waikato-Tainui will meet and discuss: • issues being raised by the Council as a part of the review; • implications of the Vision and Strategy for the Bylaw, in particular addressing requirements in section 17(1), (5) and (6) of the Waikato River Settlement Act; • issues of concern to Waikato-Tainui that should be included in the review; and • joint agreement on location and number of public consultation meetings for the public review process.	As soon as reasonably practicable and prior to pre-consultation with the wider community.
2	**Public Consultation** At public consultation meetings on the Bylaw, relating to the Waikato River and Lakes within Area A (unless extended via further Treaty of Waitangi settlement claims), there may be joint attendance by Staff from both Parties	To be agreed
3	**Administrative Processes (Pre-Hearing)** It is acknowledged that the: • Council staff will be responsible for the preparation of documentation in accordance with Bylaw making processes in the LGA 2002; • Council staff will be responsible for writing and producing the Staff report which is forwarded to the Council Hearings Committee; and • Council staff will liaise with Waikato-Tainui Staff to discuss a joint approach on responses to public submissions relating to the Waikato River within Area A impacting on customary activities. Where a joint recommendation cannot be reached, on matters relating to this Schedule, alternatives are to be included in the Staff report. (Note: The pre-hearing work should not involve any representatives that might subsequently be on the Hearings panel).	To be agreed

4	**Hearing** • Council will be responsible for appointing the appropriate number of Councillors to hear submissions (generally not less than 3 (three)); • Council will be responsible for setting the timing of the Hearings (in accordance with the LGA 2002); and • Staff from Waikato-Tainui and the Council may attend the Hearing.	To be agreed
5	**Administrative Processes (Post-Hearing)** It is acknowledged that the: • Council staff will be responsible for all administrative matters related to the post hearing stage including: producing the decisions report, getting the Bylaw endorsed by Council, producing the bylaw, web access, notifications and other such matters; • the Programme Manager Navigation Safety will advise Waikato-Tainui once the decisions made by the Hearings panel have been endorsed by the full Council; and • copies of the final bylaw will be forwarded to Waikato-Tainui once published.	To be agreed

B. TEMPORARY EVENT PERMITS

B.1 In accordance with the Bylaw if any person or organisation is organising an event that could have implications for other users they must apply for a temporary event permit. This is the only permit issued by the Navigation Safety Programme.

B.2 Two scenarios have been identified under the agreed process on temporary event permitting. They are:

- Authorised Customary Activities (events) that Waikato-Tainui notifies to the Council; and
- Authorised Customary Activities (events) that are undertaken by any member of Waikato-Tainui (not notified to the Council in accordance with section 58(1) of the Waikato River Settlement Act but in a similar manner to section 58(4)) of the Waikato River Settlement Act.

Scenario 1: Authorised Customary Activities (events) that Waikato-Tainui notifies to the Council

1. **Initial Notification of Upcoming Events**

In accordance with section 58(1) of the Waikato River Settlement Act, Waikato-Tainui will provide to the Programme Manager Navigation Safety and/or other nominated person, by 30 June each year:

(a) a list of Authorised Customary Activities that are intended to occur in the 12 (twelve) month period starting on 1 (one) January of the following year;

(b) likely locations; and

(c) likely dates.

These Authorised Customary Activities will be deemed to be an authorised temporary event in accordance with the Bylaw and as such are called an Authorised Customary Temporary Event. An Authorised Customary Temporary Event permit will be issued following the 20 (twenty) day confirmation from Waikato-Tainui.

Council Staff will add the Authorised Customary Temporary Event to their navigation safety website of events (this is to enable other event organisers to be aware of the dates/ locations). A link to Waikato-Tainui website will also be available.

2 . **Potential Conflicts Between Events**

To manage potential conflicts between all events, the Council will seek to avoid conflicts of dates and location by requiring all other event organiser to take into account the timing of events listed on the navigation safety events calendar, which is on the Council's website and to contact Waikato-Tainui, to check if there is any other potential conflicts between events.

In accordance with section 58(2) and (3) of the Waikato River Settlement Act, if the Council receives an application for a temporary event permit, that would prevent an Authorised Customary Temporary Event from occurring or would have a significant adverse effect on an Authorised Customary Temporary Event, then the following will occur:

(a) the Council will assess the scale and nature of the potential effects, after consulting with, and have particular regard to the views of Waikato-Tainui;

(b) advise Waikato-Tainui in writing of the Council's assessment of the effects and any conditions that would prevent the effects;

(c) if Waikato-Tainui does not consent to the application it will advise the Council in writing as soon as reasonably practicably, but no later than 8 (eight) Business Days after receiving the Council's formal advice; and

(d) the Council will advise Waikato-Tainui in writing of the Council's decision on the application.

With regards to (a) above, the process for consulting by Council will be to ensure early engagement with Waikato-Tainui. This will allow a timely assessment and response in determining whether there are significant adverse effects on a customary activity. In giving the information, Council will advise Waikato-Tainui when comments/views are required. The Key Staff member for Waikato-Tainui is the Environment Manager.

3. **Second Notification of Upcoming Events**

In accordance with section 58(4) of the Waikato River Settlement Act, no less than 20 (twenty) Business Days before an Authorised Customary Temporary Event (that has previously been advised to the Council) Waikato-Tainui will notify the Council of the precise dates and locations of the activity.

Waikato-Tainui will also provide the Council with:

(a) details of the event organiser (person) and their contact phone number during the event; and

(b) a copy of their safety plan.

The event organiser will be responsible for managing the event and all associated safety issues.

The Council will be responsible for public notification (and associated costs of notification) as required by Section 58(5) (no less than 10 (ten) days before the event).

Scenario 2: Authorised Customary Activities (events) that are undertaken by any member of Waikato-Tainui (not notified to the Council in accordance with section 58(1) but in a similar manner to section 58(4) of the Waikato River Settlement Act)

Waikato-Tainui will be responsible for informing Waikato-Tainui members of the events calendar on the Council website (so they can avoid conflicts in time with the Council's authorised events).

No less than 20 (twenty) Business Days before an authorised customary event (that has not previously been advised to the Council) Waikato-Tainui will notify the Council of the precise dates and locations of the activity. Waikato-Tainui will also provide the Council with:

(a) details of the event organiser and their contact phone number during the event; and

(b) a copy of their safety plan.

The Council will issue a Authorised Customary Temporary Event permit to the Trust and/or the event organiser.

The event organiser will be responsible for managing the event and all associated safety issues with the Council being responsible for public notification as required by Section 58(5) of the Waikato River Settlement Act (no less than 10 (ten) days before the event).

If there is any potential conflict between the timing or location of an authorised customary event and an Authorised Customary Temporary Event, Waikato-Tainui, the Programme Manager Navigation Safety and the two respective events organiser's will meet as soon as reasonable practicable to discuss options and alternatives for best managing the two activities.

C. USE OF TRADITIONAL WHITEBAIT STANDS AND EEL WEIRS

C.1 The Council acknowledges that when carrying out its functions and exercising powers pursuant to the Bylaw it must recognise and provide for the importance of Authorised Customary Activities. The use of whitebait stands and eel weirs to Waikato-Tainui is an integral part of the relationship that Waikato-Tainui has with the Waikato River.

C.2 In accordance with section 56 and section 62(4) of the Waikato River Settlement Act:

(a) The Council will retain the 5 knot speed limits within 30m distance from shore or from a structure; (as per the Bylaw), (except for temporary events where speed provisions are lifted); and

(b) The Council will discuss appropriate wording with Waikato-Tainui and will recommend adding specific references to traditional whitebait stands and eel weirs as a part of the next Bylaw review, if it is jointly considered appropriate to do so.

Note: Structures are controlled under section 13 of the RMA, and are subject to rules in the Waikato Regional Plan, in addition to any measures that may be outlined in the Bylaw.

D. STATUTORY TIMEFRAMES

D.1 In accordance with section 55 of the Waikato River Settlement Act:

(a) If any actions are taken by the Council in order to meet a statutory deadline (and which might otherwise contravene another process in the navigation safety section of this Agreement), the Council will send details of these actions to Waikato-Tainui via an email to the Staff member provided as soon as reasonable practicable after the action has been taken.

E. TANGIHANGA AND HARI TUUPAAPAKU

E.1 In accordance with section 60 of the Waikato River Settlement Act:

(a) Waikato-Tainui will notify the Programme Manager Navigation Safety as soon as reasonably practicable by telephone of the date of the event, location and likely duration;

(b) Waikato-Tainui and the Programme Manager Navigation Safety will discuss any management issues associated with any other activities occurring in the same location/ date;

(c) if there are any actual or potential conflicts with other events, Waikato-Tainui, the "other event" organiser and the Programme Manager Navigation Safety will meet as soon as reasonable practicable to discuss options and alternatives for best managing the two activities;

(d) The Council will ensure that an appropriate clause to cover this eventuality is incorporated into the Bylaw at its next review and into the conditions of any temporary event permit; and

(e) The Council will be responsible for publicly notifying a temporary closure of the area involved, including erecting any signs at local boat ramps, if considered necessary.

F. BIANNUAL MEETINGS

F.1 Waikato-Tainui and the Council will meet twice each calendar year. This forum shall be to discuss any matters regarding the implementation of navigation safety and customary activities, including, but not limited to, the following matters:

(a) in accordance with section 62(3)(a) of the Waikato River Settlement Act, whether other customary activities (events and other activities) could be undertaken without the need to obtain a temporary event permit, or other exemption from Bylaw;

(b) in accordance with section 62(9) of the Waikato River Settlement Act, the development of appropriate protocols for the customary practice of placing raahui; and

(c) in accordance with section 62(5) of the Waikato River Settlement Act, the appointment of Harbourmasters, Enforcement Officers and Honorary Enforcement Officers.

The process for the bi-annual meetings is:

(a) a call for agenda items, 1 (one) month prior to the meeting date;

(b) agenda to be pre-circulated to both Parties;

(c) minutes to be kept;

(d) action points to be recorded and reported back to the next meeting; and

(e) Waikato-Tainui and the Council will alternate hosting the meeting.

G. REVIEW OF SCHEDULE FIVE

G.1 The Council and Waikato-Tainui may at any time agree to undertake a review of this Schedule.

G.2 A meeting between Waikato-Tainui and the Council will be undertaken to gain a common understanding of what should be amended, and the issues or concerns relating to the proposed amendment for this Schedule.