

MINISTER OF AGRICULTURE
and
MINISTER OF FORESTRY
and
MINISTER FOR BIOSECURITY
and
WAIKATO-TAINUI

**AGRICULTURE, FORESTRY and BIOSECURITY ACCORD WITH
MINISTERS**

18 JUNE 2010

THIS ACCORD is made between

THE MINISTER OF AGRICULTURE

and

THE MINISTER OF FORESTRY

and

THE MINISTER FOR BIOSECURITY ("THE MINISTERS")

and

WAIKATO-TAINUI TE KAUHANGANUI INCORPORATED, in its capacity as trustee of the WAIKATO RAUPATU RIVER TRUST ("WAIKATO-TAINUI")

BACKGROUND

- A. The Waikato Raupatu Claims Settlement Act 1995 gave effect to certain provisions of the deed of settlement between Her Majesty the Queen in right of New Zealand ("the Crown") and Waikato dated 22 May 1995 and settled certain Raupatu claims made to the Waitangi Tribunal by Robert Te Kotahi Mahuta, the Tainui Maaori Trust Board and Ngaa Marae Toopu (Wai 30). The 1995 Act expressly excluded certain historical claims, including the claim to the Waikato River.
- B. 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.
- C. By deed of settlement dated 22 August 2008 Waikato-Tainui and the Crown reached agreement on the terms of a settlement to enter a new age of co-management over the Waikato River with an overarching purpose to restore and protect the health and wellbeing of the Waikato River for future generations.
- D. The Crown is committed to restoring and protecting the health and wellbeing of the Waikato River for future generations and to the new era heralded by the 2008 deed. However, subsequent to the 2008 deed, the Crown requested to review the co-management arrangements to assess whether it was possible to better deliver the objectives and overarching purpose of the settlement.
- E. With the agreement of Waikato-Tainui, the Crown appointed an advisory panel. The Crown approached Waikato-Tainui with the advisory panel's recommendations and Waikato-Tainui agreed to consider revisiting the arrangements in the 2008 deed.
- F. In the spirit of good faith and on the basis that the arrangements in the 2008 deed could be enhanced while preserving the integrity of the settlement, Waikato-Tainui and the Crown agreed on a revised deed of settlement dated 17 December 2009.

- G. The 2009 deed now supersedes the 2008 deed and contains the terms of settlement between the Crown and Waikato-Tainui in relation to the Waikato River.
- H. The Kiingitanga Accord signed between the Crown and Waikato-Tainui on 22 August 2008 remains in full force and effect except to the extent that its requirements are expressly satisfied by the 2009 deed.
- I. Waikato-Tainui and the Crown have agreed that accords will be entered into between Waikato-Tainui and various Ministers of the Crown to enhance the relationship between the Crown and Waikato-Tainui and facilitate the new era of co-management contemplated by the settlement.
- J. To give effect to the obligations under clause 9.4 of the Deed of Settlement, and clause 3.1 and the schedule of the Kiingitanga Accord, and to further enhance the relationship between Waikato-Tainui and the Ministers of Agriculture, of Forestry and for Biosecurity ("the Ministers"), this Accord is entered into by Waikato-Tainui and the Ministers.

TERMS OF THIS ACCORD

1. PURPOSE

1.1. The purpose of this Accord is to:

- a) reflect the commitment of the Crown, through the Ministers, and Waikato-Tainui to enter a new era of co-management over the Waikato River with the overarching purpose of restoring and protecting the health and wellbeing of the Waikato River for future generations;
- b) set out how Waikato-Tainui and the Ministers will establish and maintain a positive, co-operative and enduring relationship regarding agriculture, forestry and biosecurity; and
- c) ensure that the Crown, through the Ministers, recognises and provides for the exercise of mana whakahaere of Waikato-Tainui.

2. PRINCIPLES

2.1. The following principles as set out in clause 2 of the Kiingitanga Accord underlie:

- a) the relationship of Waikato-Tainui with the Waikato River; and
- b) this Accord.

2.2. TE MANA O TE AWA (THE SPIRITUAL AUTHORITY, PROTECTIVE POWER AND PRESTIGE OF THE RIVER)

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

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. The Waikato River sustains the people physically and spiritually. It brings them peace in times of stress, relief from illness and pain, and cleanses and purifies their bodies and souls from the many problems that surround them. Spiritually, to Waikato-Tainui, the Waikato River is constant, enduring and perpetual.

2.3. MANA WHAKAHAERE (AUTHORITY AND RIGHTS OF CONTROL)

Mana whakahaere refers to the authority that Waikato-Tainui and other Waikato River iwi 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.

In customary terms mana whakahaere is the exercise of control, access to, and 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, governing conduct). For Waikato-Tainui, mana whakahaere has long been exercised under the mana of the Kiingitanga.

2.4. HEALTH AND WELLBEING

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.

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.

2.5. CO-MANAGEMENT

a) 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:

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

while having regard to statutory frameworks and the mana whakahaere of Waikato-Tainui and other Waikato River iwi.

b) To be effective, co-management must:

- i. be implemented and achieved at a number of levels and across a range of management agencies, bodies and authorities, including (but without limitation) 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; and
 - the processes for granting, transfer, variation and renewal of consents, licenses, permits and other authorisations for all activities that potentially impact on the health and wellbeing of the Waikato River; and
- ii. include provision 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. This is a positive obligation to provide for early and effective input from Waikato-Tainui, rather than simply an obligation to consult.

2.6. INTEGRATION

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.

2.7. TREATY OF WAITANGI

Te Tiriti o Waitangi/the Treaty of Waitangi and its principles apply to this Accord and the relationship between the Crown and Waikato-Tainui reflected in this Accord.

2.8. HONOUR AND INTEGRITY

Underpinning the deed of settlement is the principle of honour and integrity. Waikato-Tainui and the Crown entered into the deed of settlement in good faith relying on the commitments of each other contained in the deed 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 Accord.

3. RELATIONSHIP PRINCIPLES

3.1. In addition to the principles underpinning the Kiingitanga Accord, Waikato-Tainui and the Ministers agree that when implementing this Accord they will:

- a) work in a spirit of co-operation;
- b) ensure early engagement;
- c) operate a 'no surprises' approach;
- d) acknowledge that the relationship is evolving, not prescribed;

- e) respect the independence of the parties and their individual mandates, roles and responsibilities impacting on the Waikato River; and
- f) recognise and acknowledge that parties benefit from working together by sharing their vision, knowledge and expertise.

4. OBJECTIVES OF THE PARTIES

Joint Objective

- 4.1. Waikato-Tainui and the Ministers are committed to the restoration and protection of the health and wellbeing of the Waikato River for future generations.

Ministers' Priorities

- 4.2. The Ministers' priorities for the agriculture, forestry and biosecurity portfolios are outlined in the Ministry of Agriculture and Forestry's accountability documentation (such as a Statement of Intent, which is consistent with the policies and performance expectations of the Government).

Waikato-Tainui Objectives

- 4.3. Waikato-Tainui objectives for the Waikato River relevant to the agriculture, forestry and biosecurity portfolios, include:
 - a) the restoration and protection of the health and wellbeing of the Waikato River,
 - b) the restoration and protection of the relationship of Waikato-Tainui with the Waikato River, including their economic, social, cultural, and spiritual 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 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 wellbeing of the 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 maatauranga Maaori and latest available scientific methods.

5. ROLES OF THE PARTIES IN RELATION TO THIS ACCORD

- 5.1 The role of Waikato-Tainui is to commit to achieving the purpose of this Accord.
- 5.2 The role of the Ministers is to commit to achieving the purpose of this Accord.

6. SCOPE OF THIS ACCORD

- 6.1. This Accord applies to the functions and activities of the parties as they relate to the health and wellbeing of the Waikato River and its catchments from Karapiro to Te Puuaha o Waikato, including the Waipaa River from its junction with the Puuniu River to its junction with the Waikato River, being the parts of those rivers shown as located within the area marked "A" on the SO plan in part 6 of the schedule to the Waikato-Tainui deed of settlement.
- 6.2. The Ministers acknowledge that Waikato-Tainui interests and the exercise of mana whakahaere by Waikato-Tainui extend beyond the Accord Area.
- 6.3. The Ministers will engage in good faith with Waikato-Tainui in accordance with the purpose of this Accord in respect of agreed matters that impact on the exercise of the mana whakahaere of Waikato-Tainui outside the Accord Area.

7. RELATIONSHIP MEETINGS

- 7.1. The Ministers and the Chair of Te Arataura will meet annually on dates and at venues to be agreed by Waikato-Tainui and the Ministers.
- 7.2. The Ministers will endeavour to attend any relationship forum established under the Kiingitanga Accord when issues relevant to the Ministers portfolios are to be discussed.
- 7.3. Each party will meet their own costs.

8. NOMINATIONS FOR BOARDS AND ADVISORY COMMITTEES

- 8.1. Waikato-Tainui will be invited to nominate appropriately skilled and experienced people for consideration for appointment to boards or advisory committees established by Ministers or by legislation, such as the Biosecurity Ministerial Advisory Committee and the Board of the Walking Access Commission.

9. INFORMATION SHARING

- 9.1. The Ministers and Waikato-Tainui will share information (where that information is not sensitive or confidential) that is relevant to the other parties' objectives.

10. EVALUATION, REVIEW AND AMENDMENT

- 10.1. The Ministers and Waikato-Tainui agree that this Accord is a living document which should be updated and adapted to take account of future developments and additional co-management opportunities.
- 10.2. The parties will annually jointly assess the effectiveness of the Accord and consider how they need to change the way they operate to rectify any failure to meet those measures.

10.3. The first review of this Accord will take place no later than three years from the settlement date. Thereafter the Accord will be reviewed on no more than a three yearly basis. The review of this Accord will be agreed between all parties.

10.4. Where the parties cannot reach agreement on any review or variation proposal they will use the escalation processes contained in clause 11 of this Accord.

10.5. Waikato-Tainui and the Crown may only amend this Accord by agreement in writing.

11. ESCALATION OF MATTERS

11.1. Should the parties be unable to agree on any matter in this Accord, one party will give notice to the other that they are in dispute.

11.2. If the dispute has still not been resolved within 30 working days, the relevant Minister and a nominated representative(s) appointed by the trustees of the Waikato Raupatu River Trust will meet to work in good faith to resolve the issue.

12. RELATIONSHIP BETWEEN THIS ACCORD AND OTHER ACCORDS AGREED BETWEEN WAIKATO-TAINUI AND THE CROWN

12.1. The parties acknowledge:

- a) that this Accord is one of a number that has been or may be entered into between Waikato-Tainui and other Ministers; and
- b) that there is a significant relationship between this Accord and other Accords given the overarching purpose of the settlement.

12.2. In recognition of this relationship, and given principle 2.6, the parties will exercise their best endeavours to provide for the effective integrated management of the Accords when making any decisions that impact on the Waikato River and its catchment, as appropriate.

13. PROTECTING THE INTEGRITY OF THIS ACCORD

13.1. Where the functions, roles and responsibilities performed by Ministers at the date of this Accord change or are no longer carried out by Ministers, the Ministers will exercise their best endeavours to ensure that responsibility for the implementation of this Accord transfers to the appropriate Ministers.

14. LIMITS OF ACCORD

14.1. This Accord does not override or limit:

- a) legislative rights, powers or obligations; or
- b) the functions, duties and powers of the Ministers, Director-General and any Ministry officials under legislation; or
- c) the ability of the Crown to introduce legislation and change government policy; or

- d) the ability of the Crown to interact or consult with any other person, including any iwi, hapuu, marae, whaanau or their representative; or
- e) the legal rights and obligations of Waikato-Tainui.

14.2. This Accord does not have the effect of granting, creating or providing evidence of an estate or interest in, or rights relating to, land or any other resource held, managed or administered by the Crown.

15. DEFINITIONS AND INTERPRETATION

15.1. The provisions of this Accord shall be interpreted in a manner that best furthers the purpose of this Accord and is consistent with the principles set out in clause 2 of this Accord.

15.2. In this Accord, unless the context requires otherwise:

- a) terms defined in the deed of settlement and the settlement legislation have the same meaning in this Accord;
- b) deed of settlement means the Deed of Settlement in relation to the Waikato River signed on 17 December 2009;
- c) settlement legislation means the Waikato Tainui Raupatu Claims (Waikato River) Settlement Act 2010; and
- d) the parties means Waikato-Tainui and as appropriate to the circumstances the Ministers and MAF.

15.3. Subject to clause 15.1 the rules of interpretation in the deed of settlement apply to the interpretation of this Accord.

AGRICULTURE, FORESTRY AND BIOSECURITY ACCORD WITH MINISTERS

SIGNED as a deed on 18 June 2010

SIGNED by
THE MINISTER OF AGRICULTURE
in the presence of:



Hon David Carter

WITNESS



Name: George Riri

SIGNED by
THE MINISTER OF FORESTRY
in the presence of:




Hon David Carter

WITNESS



Name: George Riri

SIGNED by
THE MINISTER FOR BIOSECURITY
in the presence of:



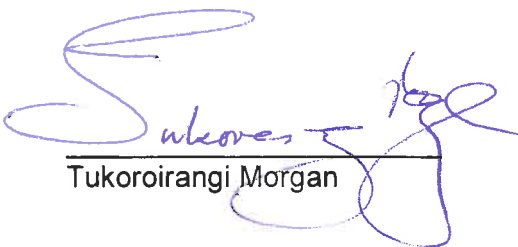
Hon David Carter

WITNESS



Name: George Riri

SIGNED for and on behalf
of **Waikato-Tainui** by
Tukoroirangi Morgan
in the presence of:



Tukoroirangi Morgan

WITNESS



Name: DONNA FAVEL