

MINISTER OF FISHERIES
and
CHIEF EXECUTIVE OF THE MINISTRY OF FISHERIES
and
WAIKATO-TAINUI

FISHERIES ACCORD

20 OCTOBER 2008

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THIS ACCORD is made between

THE MINISTER OF FISHERIES ("MINISTER")

and

THE CHIEF EXECUTIVE OF THE MINISTRY OF FISHERIES ("CHIEF EXECUTIVE")

and

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

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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. On 22 August 2008 Waikato-Tainui and the Crown signed a deed of settlement of Raupatu claims in relation to the Waikato River ("deed of settlement") and a Kiingitanga Accord, and have agreed to enter 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.
- D. The deed of settlement includes, inter alia, provisions relating to how the Crown will recognise and provide for the co-management of the Waikato River. 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.
- E. To give effect to the obligations under clause 9.3 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, the Minister, the Chief Executive and the Ministry of Fisheries ("Ministry"), this Fisheries Accord is entered into by Waikato-Tainui, the Minister, and the Chief Executive.

TERMS OF THIS FISHERIES ACCORD:

1 PURPOSE

1.1 The purpose of this Fisheries Accord is to:

- (a) reflect the commitment of the Crown (including the Minister, the Chief Executive and the Ministry) 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, the Minister, the Chief Executive and the Ministry will establish and maintain a positive, co-operative and enduring relationship regarding the management and regulation of fisheries resources of the Waikato River;
- (c) provide a framework and mechanisms to achieve co-management in respect of the fisheries resources of the Waikato River;

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- (d) ensure that the Crown, through the Minister, the Chief Executive and Ministry, recognises and provides for the mana whakahaere of Waikato-Tainui; and
- (e) recognise that Waikato-Tainui has an interest in, and a special relationship with, all species of fish, aquatic life and seaweed found within the Waikato River that are subject to the Fisheries Act 1996.

2 PRINCIPLES

2.1 The following principles underlie:

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

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

- (a) 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.
- (b) 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):

- (a) 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.
- (b) 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, governing conduct). For Waikato-Tainui, mana whakahaere has long been exercised under the mana of the Kiingitanga.

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2.4 HEALTH AND WELLBEING:

- (a) 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.
- (b) 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.

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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 this Settlement is the principle of honour and integrity. Waikato-Tainui and the Crown have entered into this Settlement in good faith relying on the commitments of each other contained in the Deed and this Accord with the intention of achieving a full, fair and durable settlement of the Raupatu claims of Waikato-Tainui in relation to the Waikato River.

3 ROLES AND OBJECTIVES OF THE PARTIES

3.1 Joint Objective:

- (a) Waikato-Tainui, the Minister, the Chief Executive and the Ministry are committed to the restoration, and protection of the health and wellbeing of the fisheries resources of the Waikato River for future generations.

3.2 Waikato-Tainui Role:

- (a) Waikato-Tainui's role in respect of the management of fisheries issues relating to the Waikato River includes:
 - (i) developing fisheries regulations ("Waikato River Regulations") in accordance with clause 8.6 of the Waikato-Tainui deed of settlement;
 - (ii) preparing a Waikato-Tainui fisheries management plan as part of the Waikato-Tainui Environmental Plan in accordance with clause 8.4 of the Waikato-Tainui deed of settlement, expressing Waikato-Tainui's objectives for the management of fisheries matters relating to the Waikato River;
 - (iii) working with the Ministry to prepare the fisheries component of the Integrated Management Plan in respect of fisheries management under the Fisheries Act 1996 relating to the Waikato River;
 - (iv) developing mechanisms to protect elvers and glass eels within the Waikato River from commercial exploitation;
 - (v) undertaking transfers of fish (including eels) for enhancement purposes;

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- (vi) participating in pest fish eradication;
- (vii) supporting integrated co-management of the fisheries resources of the Waikato River, including the opportunity to work with the Minister, the Chief Executive and the Ministry. This includes information sharing, work planning, research planning, and other engagements with each of those persons and bodies, to assist Waikato-Tainui, the Minister, the Chief Executive and the Ministry to be able to undertake their new co-management responsibilities;
- (viii) accepting and exercising delegations of such powers and functions as may be made to Waikato-Tainui consistent with the Fisheries Act 1996;
- (ix) accepting appointments to any relevant boards; and
- (x) acting as an advisory committee to the Minister (appointed under section 21 of the Ministry of Agriculture and Fisheries (Restructuring) Act 1995) ("MAF Act").

3.3 Waikato-Tainui Objectives:

- (a) As relevant to fisheries matters, Waikato-Tainui's objectives for the Waikato River include:
 - (i) the restoration and protection of the health and wellbeing of the Waikato River, including its fisheries resources;
 - (ii) the restoration and protection of the relationship of Waikato-Tainui with the Waikato River, including their economic, social, cultural, and spiritual relationships;
 - (iii) the integrated, holistic and co-ordinated approach to management of the natural, physical, cultural and historic resources of the Waikato River;
 - (iv) 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;
 - (v) 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;
 - (vi) the recognition that the Waikato River is degraded and should not be required to absorb further degradation as a result of human activities;
 - (vii) the protection and enhancement of significant sites, fisheries, flora and fauna. Key fisheries species include but are not limited to: long and short finned eels; whitebait; smelt; mullet; freshwater mussels; koura; piharau; kahawai; flounder; sharks; snapper; koi carp; and catfish; and
 - (viii) the application to the above of both maatauranga Maaori and latest available scientific methods.

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3.4 Ministry Role:

- (a) The Minister and the Chief Executive have certain functions, powers and duties in terms of the Fisheries Legislation. Under the Fisheries Legislation, the obligation of the Ministry is to provide for the utilisation of fisheries resources while ensuring sustainability, to meet the principles of te Tiriti o Waitangi/the Treaty of Waitangi and international obligations, to enable efficient resource use and to ensure the integrity of fisheries management.
- (b) The Ministry's specific role as relevant to this Accord and relating to the Waikato River includes:
 - (i) developing Waikato River Regulations in accordance with the settlement legislation;
 - (ii) recognising and providing for the relevant parts of the Waikato-Tainui's Environmental Plan when exercising functions and powers under the Fisheries Act 1996 in accordance with the settlement legislation;
 - (iii) working with Waikato-Tainui to prepare the fisheries component of the Integrated Management Plan for fisheries resources subject to the Fisheries Act 1996, their habitat, and the natural and historic resources of the Waikato River; and
 - (iv) supporting integrated co-management of the fisheries resources of the Waikato River, and in particular facilitating the opportunity for Waikato-Tainui to work with the Minister, Chief Executive, and the Ministry. This includes information sharing, work planning, research planning, and other engagements with each of those persons and bodies, to assist the Minister, the Chief Executive, the Ministry and Waikato-Tainui to be able to undertake their new co-management responsibilities.

3.5 Ministry of Fisheries Objectives:

- (a) Under the Fisheries Legislation, the objectives and obligations of the Ministry as relevant to this Accord are:
 - (i) providing for the utilisation of fisheries resources while ensuring sustainability;
 - (ii) meeting the principles of te Tiriti o Waitangi/the Treaty of Waitangi and international obligations;
 - (iii) enabling efficient resource use; and
 - (iv) ensuring the integrity of fisheries management.

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4 IMPLEMENTATION, APPLICATION AND SCOPE

- 4.1 The implementation and application of this Accord will be carried out in accordance with the timeframes and priorities agreed between Waikato-Tainui, the Minister, the Chief Executive and the Ministry as set out in clause 16.
- 4.2 The Minister, the Chief Executive, the Ministry and Waikato-Tainui are committed to establishing and maintaining a positive, cooperative and enduring relationship that actively contributes to the health and wellbeing of the River.
- 4.3 This Accord will apply to all functions, responsibilities and actions of the Ministry that affect 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 Puunui 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.

5 AGREEMENTS

- 5.1 In accordance with relevant provisions of the Deed, and in order to achieve the objectives of the parties to this Accord, the Minister, the Chief Executive and Waikato-Tainui have agreed on a number of redress mechanisms to be implemented regarding management of the fisheries resources of the Waikato River. These redress mechanisms include:
 - (a) developing:
 - (i) the Waikato River Regulations;
 - (ii) the fisheries components of the Waikato Tainui Environmental Plan; and
 - (iii) the fisheries component of the Integrated Management Plan.
 - (b) establishing mechanisms to provide for Waikato-Tainui to:
 - (i) protect elvers and glass eels within the Waikato River from exploitation;
 - (ii) undertake transfers of fish (including eels) for enhancement purposes;
 - (iii) participate in pest fish eradication; and
 - (iv) undertake Pā tuna / Pataka activities.
 - (c) committing to a number of arrangements that will facilitate co-management of the fisheries resources of the Waikato River, including:
 - (i) providing for early and effective engagement between Waikato-Tainui and the Ministry on relevant matters, including policy and legislation development, the review, preparation and amendment of fisheries plans and the issue of special permits; and
 - (ii) information sharing between the parties; and

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- (iii) providing for Waikato-Tainui involvement in the Ministry's work planning, research planning, service contracting, and the education and employment of its staff.
- (d) the appointment of Waikato-Tainui as an advisory committee to the Minister of Fisheries;
- (e) opportunities for:
 - (i) entering into arrangements or contracts with Waikato-Tainui to perform functions, duties and powers of the Chief Executive regarding the management of the fisheries resources of the Waikato River and its catchment pursuant to section 294 of Fisheries Act 1996; and
 - (ii) the appointment of Waikato-Tainui representatives to relevant boards.

5.2 Waikato River Regulations:

- (a) The Waikato-Tainui deed of settlement 2008, settlement legislation and Fisheries legislation provides for Waikato-Tainui to:
 - (i) manage customary fishing on the Waikato River through the issuing of customary fishing authorisations; and
 - (ii) recommend to the Minister of Fisheries the making of bylaws restricting or prohibiting fishing on the Waikato River.
- in respect of fisheries resources subject to the Fisheries Act 1996 in the Waikato River through the promulgation of regulations under section 186 of the Fisheries Act 1996. The fisheries regulations will apply to the Waikato River and its catchments as defined in clause 8.21 in the Waikato-Tainui deed of settlement.
- (b) Both parties will work together to develop draft regulations which will include (but not necessarily be limited to) those matters listed in Schedule A to this Accord.
 - (c) Both parties acknowledge that the Waikato River Regulations will provide that they will prevail over:
 - (i) commercial regulations;
 - (ii) amateur regulations; and
 - (iii) customary regulations.

within the Waikato River and its catchments.

- (d) The Ministry undertakes, within available resources, to provide Waikato-Tainui with such information and assistance as may be necessary for the proper administration of their non-commercial fisheries, including

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fisheries regulations or bylaws, within the Waikato River. This information and assistance may include but is not limited to:

- (i) discussions with the Ministry on the implementation of regulations which may relate to, or impact on the Waikato River;
 - (ii) facilitate the appropriate authorisations to hold and transfer fisheries resources subject to the Fisheries Act 1996 for the purposes of Waikato-Tainui undertaking pa tuna and pātaka customary activities;
 - (iii) provision of information and assistance that may be required to establish bylaws or management plans for the management of fisheries in the Waikato River;
 - (iv) provision of existing information, if any, relating to the sustainability, biology, fishing activity and fisheries management which relate to or impact on the Waikato River; and
 - (v) consultation with Waikato-Tainui on requirements to ensure compliance with regulations and bylaws for the management of fisheries in the Waikato River.
- (e) To assist Waikato-Tainui in the development and administration of the Waikato River Regulations, the Ministry will, within the resources available, provide:
- (i) resources to assist Waikato-Tainui to carry out their role in the development of the Waikato River Regulations and bylaws; and
 - (ii) training to persons who have authority to administer and implement the Waikato River Regulations and any relevant bylaws.

5.3 Waikato-Tainui Environmental Plan:

- (a) Clause 8.4 of the Waikato-Tainui deed of settlement provides for Waikato-Tainui to develop their Environmental Plan (the Plan).
- (b) The Ministry will assist Waikato-Tainui, within the resources available to the Ministry, to develop relevant parts of the Plan.
- (c) The Plan may outline:
 - (i) Waikato-Tainui's objectives for the management of their customary, commercial, recreational and environmental interests in fisheries resources of the Waikato River;
 - (ii) how Waikato-Tainui will participate in fisheries management of the Waikato River and its catchment;
 - (iii) how Waikato-Tainui's customary, commercial and recreational fishing interests will be managed in an integrated way;
 - (iv) how Waikato-Tainui will participate in the Ministry's fisheries management processes (including the issue of special permits)

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that affect fisheries resources of the Waikato River and its catchment; and

- (v) mechanisms for the protection of glass eels and elvers from exploitation.
- (d) The parties agree to meet, as soon as reasonably practicable, to discuss:
 - (i) the content of the Waikato-Tainui Environmental Plan, including how the plan will recognise and provide for the mana whakahaere of Waikato-Tainui; and
 - (ii) how the Ministry will work with Waikato-Tainui to develop relevant parts of the Waikato-Tainui Environmental Plan.

5.4 Integrated River Management Plan:

- (a) The settlement legislation will provide for the preparation, approval and (as necessary) subsequent review of an integrated river management plan for the Waikato River and its catchment. The purpose of the integrated river management plan is to promote an integrated, holistic and co-ordinated approach to the aquatic life, habitats and natural resources of the Waikato River and its catchment.
- (b) The Integrated River Management Plan will include a component on issues related to fisheries management under the Fisheries Act 1996.
- (c) The fisheries component of the Integrated River Management Plan will be developed and approved jointly by Waikato-Tainui and the Chief Executive.

5.5 Protection of elvers and glass eels:

Statement of Association for Waikato-Tainui

Tuna (eel) are highly significant to Waikato-Tainui. Traditionally the Waikato-Tainui Rohe was abundant with eels, as the following quote demonstrates:

"... the Waikato River, with its tributaries, was the most celebrated in New Zealand for its pa-tuna and the quantities of eels found there, right away from the mouth up to the Huka Falls, near Lake Taupo, above which none are found. The Mangatawhiri, the Maramarua, the Whangamarino, the Mangawara, the Waipa, the Awaroa, the Opuatia, and the two lakes Waikare and Whangape, all in middle Waikato, were famed for their eels...". Downes (1918, p296–297).

Waikato-Tainui traditional ecological knowledge of tuna is immense and includes aspects such as the social importance of tuna, tuna names, fishing seasons, fishing techniques, tuna preparation, fishing restrictions and conservation measures, tuna migration and management options.

- (a) The Minister, the Chief Executive and the Ministry acknowledge that Waikato-Tainui have an interest in the tuna (eel) fishery while ensuring sustainability within the area set out in this Accord. This includes the protection of elvers and glass eels from commercial take.

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- (b) For the purposes of this Accord and the Waikato River Regulations tuna (eel) means:
 - a. *Anguilla dieffenbachii* (longfinned eel);
 - b. *Anguilla australis* (shortfinned eel); and
 - c. *Anguilla reinhartii* (Australian longfinned eel).
- (c) Undersized tuna (eel) means tuna (eel) with a weight less than the minimum weight prescribed for the taking of tuna (eel) by or under the Fisheries Act or its subsequent equivalent. At the date of the Waikato-Tainui deed of settlement this weight was 220 grams.
- (d) While the Fisheries (Commercial Fishing) Regulations 2001 prohibits the taking of undersized tuna (eel) Waikato-Tainui, the Minister, the Chief Executive and the Ministry acknowledge that Waikato-Tainui are entitled to make bylaws under the Waikato River Regulations to restrict or prohibit the take of tuna (eel) at all stages of their life cycle. Where any such bylaw is made, Waikato-Tainui, the Minister, the Chief Executive and the Ministry acknowledge that the Waikato River Regulations will prevail over any commercial, amateur or customary regulations applying within the Waikato River and its catchment.
- (e) However, if it is demonstrated to the satisfaction of the Minister and Waikato-Tainui that there are sufficient quantities of undersized tuna (eel) to provide for its commercial catch, the Minister may authorise the commercial taking of undersized tuna (eels) in accordance with:
 - (i) this Fisheries Accord;
 - (ii) the settlement legislation;
 - (iii) section 12 of the Fisheries Act 1996; and
 - (iv) section 10 of the Treaty of Waitangi (Fisheries Claims) Settlement Act 1992 ("TOW Act").
- (f) For the avoidance of doubt, acting in accordance with the settlement legislation requires the Minister to:
 - (i) recognise and provide for the Waikato-Tainui Environmental plan;
 - (ii) have particular regard to the vision and strategy for the Waikato river; and
 - (iii) take into account the fisheries component of the Integrated River Management plan.

5.6 Transfer of fish for enhancement purposes:

- (a) In recognition of the particular importance of fisheries resources to Waikato-Tainui, the Waikato River Regulations will provide for Waikato-Tainui to issue their own customary non-commercial permits to take:

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- (i) tuna (eel) at any stage of its lifecycle; and
- (ii) any other species subject to the Fisheries Act 1996.

from the Waikato River as part of any enhancement, education, protection or aquaculture project.

5.7 Waikato-Tainui involvement in pest fish eradication

- (a) Where commercial fishing is provided for in a pest management strategy, the Ministry will issue persons or organisations designated by Waikato-Tainui with a commercial fishing permit for that purpose.

5.8 Arrangements to facilitate integrated co-management - Engagement between Waikato-Tainui and the Ministry:

- (a) The Ministry will engage with Waikato-Tainui on the development of sustainability measures under the Fisheries Act 1996, Fisheries Plans under the Fisheries Act 1996, relevant policy initiatives and any changes to legislation, to the extent that those activities may impact on the management of fisheries resources of the Waikato River and its catchment.
- (b) The level of engagement required between the Ministry and Waikato-Tainui is as follows:
 - (i) If the relevant matter will directly impact on the fisheries management of the Waikato River and its catchment as defined in clause 8.21 in the Waikato-Tainui deed of settlement, the Ministry will provide for Waikato-Tainui's input and participation.
 - (ii) If the relevant matter impacts on the Fisheries Management Area 9 and relevant quota management areas the Ministry will meet with Waikato-Tainui and provide for a level of engagement as agreed between the parties consistent with section 12 of the Fisheries Act 1996.
- (c) If the level of engagement requires for Waikato-Tainui's input and participation, the Ministry will:
 - (i) notify Waikato-Tainui in writing of the relevant matter at the earliest possible stage;
 - (ii) make available to Waikato-Tainui sufficient information to enable Waikato Tainui to provide meaningful feedback on the relevant matter;
 - (iii) if requested by Waikato-Tainui, meet with them to discuss possible options for resolution of the relevant matter and seek to reach a consensus on what is required to address the issue;
 - (iv) if consensus is not able to be reached within an agreed timeframe, continue to exercise the relevant power or function, or undertake the relevant process consistent with the relevant statutory framework; and

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- (v) report back to Waikato-Tainui on how, as appropriate, in the exercise of the relevant power and function:
 - a. the Waikato-Tainui Environmental plan has been recognised and provided for;
 - b. the vision and strategy for the Waikato river has been given particular regard; and
 - c. the fisheries component of the Integrated River Management plan has been taken into account.
- (d) If the level of engagement requires the Ministry to consult with Waikato-Tainui, the Ministry will:
 - (i) notify Waikato-Tainui in writing of the relevant matter at the earliest possible stage;
 - (ii) meet with Waikato-Tainui if requested;
 - (iii) provide Waikato-Tainui with a reasonable period of time within which to respond to the relevant matters; and
 - (iv) report back to Waikato-Tainui on the final decisions relating to the relevant matter in accordance with 5.8 (c) (v) of this Accord.

6 INFORMATION SHARING:

- (a) Waikato-Tainui and the Ministry recognise the benefit of mutual information exchange. To this end, the Ministry and Waikato-Tainui will as far as possible exchange any information that is relevant to and will assist with the integrated management of the fisheries resources of the Waikato River and its catchment.
- (b) The Ministry will make available to Waikato-Tainui all existing information held by, or reasonably accessible to, the Ministry 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, particularly where that information is necessary for:
 - (i) developing and implementing the Waikato-Tainui Regulations, the Integrated River Management Plan and Waikato-Tainui Environmental Plan; and
 - (ii) enabling Waikato-Tainui to fully exercise their rights under this Accord.
- (c) In addition to the provision of information in accordance with clause 6 (b) of this Accord, the Ministry will:
 - (i) promptly advise Waikato-Tainui of any proposed policy changes or initiatives that may impact directly on fisheries matters relating to the Waikato River;

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- (ii) if requested by Waikato-Tainui, advise of and make available to them research reports that the Ministry has received that relate to fisheries matters in respect of the Waikato River; and
 - (iii) provide Waikato-Tainui with access to technical data held by the Ministry relating to the management of fisheries matters in respect of the Waikato River and its catchment.
- (d) The obligations in clauses 6 (b) and 6 (c) of this Accord do not apply to information that the Ministry is legally prevented from providing (for example, information that is the subject of an obligation of confidentiality or non-disclosure) or to information that the Ministry may withhold under the Official Information Act 1982.

7 SPECIAL PERMITS

- (a) The Ministry will provide for early and effective engagement with Waikato-Tainui on special permit applications that directly affect the Waikato River and its catchment. The Ministry undertakes to:
- (i) Ensure that applicants contact Waikato-Tainui to discuss their application prior to submitting their request for a special permit to the Ministry;
 - (ii) if requested by Waikato-Tainui, meet with them to discuss any issues or conditions in respect of the special permit;
 - (iii) if consensus is not able to be reached within an agreed timeframe, continue to process the special permit application in accordance with the relevant provisions of the Fisheries Act 1996; and
 - (iv) report back to Waikato-Tainui on how, in determining the application:
 - a. the Waikato-Tainui Environmental plan has been recognised and provided for;
 - b. the vision and strategy for the Waikato river has been given particular regard; and
 - c. the fisheries component of the Integrated River Management plan has been taken into account.

8 WORK PLANNING

- (a) The Ministry will arrange for Waikato-Tainui to meet with the Ministry's business groups (Business Manager) that will, or may be, affected by work plans relating to the Waikato River and its catchments; and
- (b) The Ministry and Waikato-Tainui will seek to agree on the development of work plans for services to be provided relating to the Waikato River and its catchments, including providing Waikato-Tainui with opportunities to submit proposals for the provision of services where they consider those proposals are necessary to successfully manage fisheries resources of the Waikato River and its catchments.

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9 RESEARCH PLANNING PROCESS

- (a) The Ministry will assist Waikato-Tainui to participate in the Ministry's research planning process by providing for Waikato-Tainui to:
 - (i) become an "approved research provider" to the Ministry;
 - (ii) participate in the processes, timelines and objectives associated with the Ministry's research planning process;
 - (iii) place their contact details on the Ministry's research planning database;
 - (iv) be consulted on any research proposals submitted to the Ministry relating to the Waikato River and its Catchment; and
 - (v) requiring a contracted researcher to:
 - a. contact Waikato-Tainui before undertaking any research on or relating to the Waikato River, to outline the researcher's objectives and when the research will take place; and
 - b. provide a copy of their final research report to Waikato-Tainui.
- (b) If Waikato-Tainui submit their own research proposal or are subcontracted on another proposal 9 (a) (iv) and (v) do not apply.

10 CONTRACTING FOR SERVICES

- (a) The Ministry will consult with Waikato-Tainui in respect of any contracts for the provision of services that may impact on the management of the fisheries within the Waikato River.
- (b) A successful contractor may be directed to engage with Waikato-Tainui as appropriate in undertaking the relevant services, should this be requested by Waikato-Tainui.
- (c) Waikato-Tainui may be provided with a copy of any report arising from a contract for services and that relates to the management of the fisheries resources of the Waikato River.
- (d) If Waikato-Tainui are contracted for services then 10 (b) will not apply.

11 EDUCATION OF STAFF

- (a) The Ministry will arrange for all relevant staff (and in particular those who are regularly involved in work relating to or impacting on fisheries resources of the Waikato River) to be trained on the values and practices of Waikato-Tainui.
- (b) Meet and discuss annually; opportunities for Internships and secondments between the parties.
- (c) The Ministry will inform Waikato-Tainui when opportunities for university holiday employment or student research projects arise that are relevant to

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the Waikato River and its catchment area. Waikato-Tainui may propose candidates for these roles or opportunities.

12 EMPLOYMENT OF STAFF

- (a) Where the Ministry and Waikato-Tainui agree that a particular position within the Ministry will affect management of the fisheries resources of the Waikato River, the parties will also agree (taking into account the degree to which the position will impact on management of those resources) the extent to which Waikato-Tainui will be involved in the appointment process for that position. Waikato-Tainui's involvement may include:
 - (i) the development of the job description;
 - (ii) being notified the particular position has become (or is to become) vacant;
 - (iii) being consulted as to where the relevant employee should be located; and
 - (iv) engagement over selection of the interview panel.

13 APPOINTMENT OF WAIKATO-TAINUI AS AN ADVISORY COMMITTEE TO THE MINISTER

- (a) The settlement legislation will provide for Waikato-Tainui to be appointed as an advisory committee to the Minister under section 21 of the MAF Act.
- (b) Under the settlement legislation Waikato-Tainui may provide advice directly to the Minister that Waikato-Tainui considers necessary or desirable for the sustainable utilisation of fisheries within the Waikato-River, the Minister is then required to consider its advice, and in considering that advice, recognise and provide for the customary non-commercial interests of Waikato-Tainui in respect of all matters concerning the utilisation, while ensuring sustainability of fish, aquatic life and seaweed within the Waikato River and its catchments.

14 MINISTRY PARTICIPATION IN WAIKATO RIVER STATUTORY BOARD

- (a) The Ministry agrees that it will co-operate with all reasonable requests for its participation in and co-option to the Waikato River Statutory Board ("Statutory Board"). In particular, the Ministry will ensure that relevant officials work within the Statutory Board when reasonably requested to do so by the Statutory Board through its powers of co-option.

15 ADDITIONAL FISHERIES REDRESS MECHANISMS

- (a) The Minister and Chief Executive agree to explore and have ongoing discussions with Waikato-Tainui regarding the development of additional fisheries redress mechanisms, as appropriate and necessary.

16 IMPLEMENTATION OF ACCORD

- (a) To ensure that this Accord is operating effectively and efficiently, as soon as practicable (but no more than six months) after the signing of the Waikato-Tainui deed of settlement, the Ministry will meet with Waikato-

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Tainui to agree a strategy to implement this Accord. The strategy will address:

- (i) all matters raised in this Accord;
- (ii) reporting processes to be put in place, for example that an annual report on certain matters be provided by the Ministry to Waikato-Tainui;
- (iii) processes for exploring and implementing any additional fisheries mechanisms that may become available or necessary;
- (iv) review of the implementation of this Fisheries Accord; and
- (v) any other matters the parties may agree are appropriate to be addressed.

17 COMMUNICATION BETWEEN THE PARTIES

- (a) The Ministry and Waikato-Tainui will establish and maintain effective and efficient communication with each other on a continuing basis by:
 - (i) Waikato-Tainui providing, and the Ministry maintaining, information on the Waikato-Tainui personnel responsible for fisheries matters relating to the Waikato River, including their addresses and contact details;
 - (ii) the Ministry providing, and Waikato-Tainui maintaining, information on primary Ministry contacts responsible for fisheries matters relating to the Waikato River;
 - (iii) both parties providing reasonable opportunities for their relevant personnel to meet with each other, including arranging annual meetings to discuss and (if possible) resolve any issue that has arisen in the past 12 months; and
 - (iv) the Ministry identifying personnel that will be working closely with Waikato-Tainui, and arranging for those personnel to be appropriately educated as to the contents of this Accord and their responsibilities and roles under it.

18 ESCALATION CLAUSE

- (a) If one party considers that there has been a breach of this accord then that party may give notice to the other that they are in dispute.
- (b) Within 20 working days of being given notice, the relevant Business Manager (Ministry of Fisheries) and the General Manager of the Waikato Raupatu River Trust will meet to work in good faith to resolve the issue.
- (c) If the dispute has not been resolved within 20 working days, the Ministry of Fisheries Chief Executive and the Chief Executive Officer of the Waikato Raupatu Trustee Company will meet to work in good faith to resolve the issue.

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- (d) If the dispute has still not been resolved within 30 working days, the Minister and representatives from Waikato-Tainui Te Arataura will meet to work in good faith to resolve the issue.

19 REVIEW AND AMENDMENT

- (a) The Minister 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.
- (b) The first review of this Accord will take place no later than 2 years from the Settlement Date. Thereafter the Accord will be reviewed on a two yearly basis. The review of this Accord will be part of the implementation strategy set out in clause 16 and will be agreed between both parties.
- (c) Where the parties cannot reach agreement on any review or variation proposal they will use the escalation processes contained in clause 18 of this Accord.
- (d) Waikato-Tainui and the Crown may only vary this Accord by agreement in writing.
- (e) In respect of the exercise of rights and obligations under this Accord:
 - (i) any right of Waikato-Tainui will be exercised through the Waikato Raupatu River Trust; and
 - (ii) where the Minister, the Chief Executive or the Ministry is required to engage, or otherwise interact, with Waikato-Tainui (including, without limit, making available information, consulting, informing Waikato-Tainui of certain matters, seeking advice, providing notice or assistance, or meeting with Waikato-Tainui), the Minister, the Chief Executive or the Ministry will satisfy that obligation by engaging, or otherwise interacting, with the Waikato Raupatu River Trust.

20 LIMITS OF ACCORD

- (a) This Accord does not override or limit:
 - (i) legislative rights, powers or obligations; or
 - (ii) the functions, duties and powers of the Minister, Chief Executive and any Ministry officials under legislation; or
 - (iii) the ability of the Crown to introduce legislation and change government policy; or
 - (iv) the ability of the Crown to interact or consult with any other person, including iwi, hapu, marae, whanau or their representative; or
 - (v) the legal rights and obligations of Waikato-Tainui.

FISHERIES ACCORD

- (b) 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.

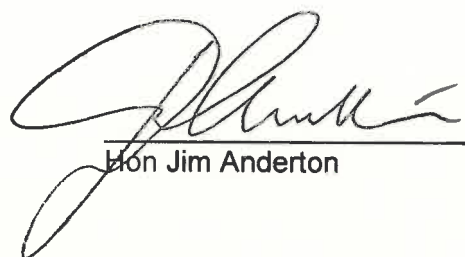
21 DEFINITIONS AND INTERPRETATION

- (a) 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.
- (b) In this Accord, unless the context requires otherwise:
 - (i) terms defined in the Waikato-Tainui deed of settlement have the same meaning in this Accord;
 - (ii) Fisheries Legislation means:
 - a. The Fisheries Act 1983;
 - b. The Fisheries Act 1996;
 - c. The Treaty of Waitangi (Fisheries Claims) Settlement Act 1992;
 - d. The Maori Fisheries Act 2004; and
 - e. the Maori Commercial Aquaculture Claims Settlement Act 2004.
 - (iii) Waikato-Tainui deed of settlement means the Deed of Settlement in relation to the Waikato River signed on 22 August 2008.
- (c) Subject to clause 20 (a), the rules of interpretation in the deed of settlement apply to the interpretation of this Accord.


FISHERIES ACCORD

SIGNED as a deed on 20 October 2008


SIGNED by
THE MINISTER OF FISHERIES
in the presence of:


Hon Jim Anderton


WITNESS


Name: Anna Falloon

SIGNED by
THE CHIEF EXECUTIVE OF
THE MINISTRY OF FISHERIES
in the presence of:


Simon Wayne McNee

WITNESS


Name: Anna Falloon


SIGNED for and on behalf
of Waikato-Tainui by
Lady Raiha Mahuta and
Tukoroirangi Morgan


Lady Raiha Mahuta

in the presence of:


Tukoroirangi Morgan

WITNESS


Name: TIM MANUKAU

FISHERIES ACCORD

SCHEDULE A

Waikato River Regulation Headings

Waikato River Fisheries Regulations to be made under Section 186 of the Fisheries Act 1996 will include the following provisions but not be limited to:

- (a) Authority of Trustees of the Waikato Raupatu River Trust to appoint a Fisheries Unit of the Waikato Raupatu River Trust.
- (b) Duties and functions of the Fisheries Unit of the Waikato Raupatu River Trust.
- (c) Duties and functions of Kaitiaki
- (d) Recognition of members of the Fisheries Unit of the Waikato Raupatu River Trust as Kaitiaki.
- (e) Authority of the Fisheries Unit of the Waikato Raupatu River Trust to appoint additional Kaitiaki, and revoke appointments.
- (f) Authority for Minister to confirm, via gazette, appointment of the Fisheries Unit of the Waikato Raupatu River Trust as Kaitiaki and confirmation of additional Kaitiaki.
- (g) Requirement that any person exercising powers and authority under regulations act consistently with the relevant plan (ie Fisheries Component of the Waikato-Tainui Environmental Plan).
- (h) Authority for the Fisheries Unit of the Waikato Raupatu River Trust to issue written authorisations to take/transfer/hold/store/distribute fisheries resources managed under the Fisheries Act 1996 for customary purposes (pa tuna and pātaka) from the Waikato River and its Catchments (as defined in Clause 7.5 of the Waikato-Tainui Deed of Settlement in Relation to the Waikato River).
- (i) Authority for additional Kaitiaki to issue written authorisations to take/hold/distribute fisheries resources managed under the Fisheries Act 1996 for customary purposes from the Waikato River and its Catchments.
- (j) Authority for the Fisheries Unit of the Waikato Raupatu River Trust to consult upon and propose/make bylaw in the Waikato River and its Catchments.
- (k) Authority for Minister to consider proposed bylaws, apply an Undue Adverse Effect test on bylaws.
- (l) Requirement for the Minister to recognise and provide for the Fisheries Component of the Waikato-Tainui Environmental Plan when exercising Undue Adverse Effect test.
- (m) Record keeping, document management and reporting requirements for written authorisations and bylaws.
- (n) Offences and defences.
- (o) Any other matters that the Waikato Raupatu River Trust and the Minister of Fisheries consider relevant to the making of regulations under Section 186 of the Act.