

MINISTER OF MĀORI AFFAIRS

and

**THE CHIEF EXECUTIVE OF TE PUNI KŌKIRI (MINISTRY OF MĀORI
DEVELOPMENT)**

and

WAIKATO-TAINUI

MĀORI AFFAIRS ACCORD

16 November 2009

MĀORI AFFAIRS ACCORD

THIS ACCORD is made between

THE MINISTER OF MĀORI AFFAIRS ("MINISTER")

and

THE CHIEF EXECUTIVE OF TE PUNI KŌKIRI (MINISTRY OF MĀORI DEVELOPMENT) ("THE CHIEF EXECUTIVE")

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 Māori Trust Board and Ngā Marae Tōpu (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 the Deed of Settlement in Relation to the Waikato River ("deed of settlement") and a Kīngitanga Accord, and have agreed to enter a new era 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 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 Kīngitanga Accord, and to further enhance the relationship between Waikato-Tainui, the Minister and the Chief Executive, this Accord is entered into by Waikato-Tainui, the Minister and the Chief Executive.

TERMS OF THIS ACCORD:

1 PURPOSE

1.1 The purpose of this Accord is to:

- (a) reflect the commitment of the Crown 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 for Māori Affairs ("the Minister") and the Chief Executive of Te Puni Kōkiri (Ministry of Māori Development) ("the Chief Executive") will establish and maintain a positive, co-operative and enduring relationship; and
- (c) outline how the Crown, through the Minister and the Chief Executive, will engage with Waikato-Tainui to provide for the exercise of mana whakahaere.

2 FUNCTIONS AND ROLES OF THE PARTIES

Waikato-Tainui

2.1 To Waikato-Tainui:

- (a) the Waikato River is a tupuna (ancestor) which has mana (spiritual authority and power) and in turn represents the mana and mauri (life force) of Waikato-Tainui;
- (b) the Waikato River is a single indivisible being that flows from the Huka Falls to Te Pūaha o Waikato (the mōwhiri) and includes its waters, banks and beds (and all minerals under them) and its streams, waterways, tributaries, lakes, aquatic fisheries, vegetation, flood plains, wetlands, islands, springs, water column, airspace and substratum as well as its metaphysical being with its own mauri.

2.2 The Waikato-Tainui relationship with the Waikato River, and Waikato-Tainui's respect for it:

- (a) gives rise to Waikato-Tainui responsibilities to protect te mana o te awa and to exercise mana whakahaere in accordance with long established tikanga to ensure the well being of the Waikato River;
- (b) lies at the heart of Waikato-Tainui's spiritual and physical wellbeing and tribal identity and culture.

2.3 Waikato-Tainui objectives for the Waikato River 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 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 wellbeing 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 Mātauranga Māori and latest available scientific methods.

Minister of Māori Affairs

- 2.4 The Minister has a number of statutory responsibilities under a number of statutes, including but not limited to the: Māori Affairs Restructuring Act 1989, Te Ture Whenua Māori Act 1993, the Resource Management Act 1991, the Fisheries Act 1996 and the Māori Fisheries Act 2004.

Chief Executive of Te Puni Kōkiri

- 2.5 The role of the Chief Executive of Te Puni Kōkiri was established under the Ministry of Māori Development Act 1991 section 9 (1).
- 2.6 The Chief Executive is the administrative head of Te Puni Kōkiri and advises and assists the Minister in the performance of his/her functions.

Te Puni Kōkiri (the Ministry of Māori Development)

- 2.7 Te Puni Kōkiri was principally established as an integrated policy agency under the Ministry of Māori Development Act 1991. Its broad functions under the Act are to:
- (a) promote increases in Māori achievement with respect to education, training and employment, health and economic resource development; and,
 - (b) monitor and liaise with each department and agency that provides, or has a responsibility to provide, services to or for Māori, for the purpose of ensuring the adequacy of those services.
- 2.8 Te Puni Kōkiri is the principal government advisor on Crown-Māori relationships.

3 PRINCIPLES UNDERLYING THIS ACCORD

- 3.1 The following principles underlie:

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

3.2 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 Waikato 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.

3.3 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 on the 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 Kīngitanga.

3.4 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.

3.5 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) to the following:
 - a. 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
 - b. 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 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.

3.6 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.

3.7 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.

3.8 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.

4 EXISTING RELATIONSHIP

- 4.1 It is acknowledged that Waikato-Tainui and Te Puni Kōkiri (Ministry of Māori Development) have an existing working relationship. Where possible the parties should look at including and integrating these existing relationships within this Accord.

5 JOINT OBJECTIVE AND RELATIONSHIP PRINCIPLES

Joint objective

- 5.1 Waikato-Tainui, the Minister and the Chief Executive are committed to entering and promoting a new era of co-management over the Waikato River for the over-arching purpose of restoring and protecting the health and wellbeing of the River for future generations.

Relationship principles

- 5.2 Waikato-Tainui, the Minister and the Chief Executive agree to abide by the following relationship principles when implementing this Accord and exercising their various roles and functions:
- (a) working in a spirit of co-operation;
 - (b) ensuring early engagement on issues that the Chief Executive has the mandate from the Minister to work on;
 - (c) operating a 'no surprises' approach;
 - (d) acknowledging that the relationship is evolving, not prescribed;
 - (e) respecting the independence of the parties and their individual mandates, roles and responsibilities impacting on the Waikato River;
 - (f) recognising and acknowledging that parties benefit from working together by sharing their vision, knowledge and expertise; and
 - (g) committing to the highest level of engagement as indicated in this Accord and consistent with the principle of co-management.

6 SCOPE

- 6.1 This Accord will apply to all functions, responsibilities and actions of the Minister and Chief Executive that affect the health and wellbeing of the Waikato River and its catchments from Karapiro to Te Pūaha o Waikato, including the Waipā River from its junction with the Pūniu 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 (the "Accord Area").

- 6.2 The Minister and the Chief Executive acknowledge that Waikato-Tainui interests and the exercise of mana whakahaere by Waikato-Tainui extend beyond the Accord Area.
- 6.3 In the interests of achieving the principle of co-management, the parties will engage in good faith in accordance with the purpose and relationship principles of this Accord in respect of matters that impact on the exercise of Waikato-Tainui's mana whakahaere outside the Accord Area.

7 IMPLEMENTATION

- 7.1 In implementing this Accord, Waikato-Tainui, the Minister and the Chief Executive will use best endeavours to give effect to achieving the purpose, joint objectives and relationship principles of this Accord in relation to the exercise of their relevant statutory and regulatory functions.
- 7.2 Within 6 months of the signing of this Accord, Waikato-Tainui and the Te Puni Kōkiri Waikato Regional Director will develop an implementation strategy outlining the timeframes and priorities for the implementation and application of this Accord including the work programme.
- 7.3 The completed implementation strategy will be signed off and authorised by the Chief Executive of Te Puni Kōkiri and Chief Executive for Waikato-Tainui.

8 MECHANISMS

Relationship meetings

- 8.1 Waikato-Tainui and the Chief Executive or delegated Deputy Secretary will attend regular relationship meetings. At these meetings the parties will discuss the implementation of this Accord and agree a joint work programme as necessary.
- 8.2 These meetings will be held every six months, with one meeting a year arranged to coincide with the meeting of the relationship forum (as established under the Kīngitanga Accord). The first meeting will take place within six months of the signing of this Accord.
- 8.3 One month before each meeting, Waikato-Tainui and the Chief Executive will:
- (a) share details of current work programmes;
 - (b) propose any new items for the joint work programme (clause 8.10); and



- (c) agree administrative arrangements for the meeting.

8.4 The agenda for each meeting will be agreed between the parties no later than 10 working days before the meeting. Standing agenda items may include:

- (a) joint work programme referred to in clause 8.10;
- (b) aligning annual organisational priorities;
- (c) considering options for resourcing a joint work programme and projects;
- (d) enhancing relationships with key stakeholders;
- (e) opportunities for the parties to share the results and findings of projects with one another; and
- (f) reciprocal opportunities for secondments, training and scholarships.

8.5 At the first meeting after the settlement date, Waikato-Tainui and the Chief Executive will discuss the roles of the Minister, Chief Executive and Waikato-Tainui under the settlement legislation and in particular the respective roles of the parties in relation to:

- (a) the operational relationships between Te Puni Kōkiri and Waikato-Tainui;
- (b) how existing relationship and projects can be recognised and provided for under this Accord; and
- (c) resourcing towards achieving the over-arching purpose of the deed of settlement and the implementation of this Accord.

8.6 Waikato-Tainui and the Chief Executive are not precluded from discussing the matters detailed in clause 8.4 (or any other matters) outside the six-monthly relationship meetings.

Nominations process

8.7 Te Puni Kōkiri provides nominations advice to the Minister of Māori Affairs. Te Puni Kōkiri will seek Waikato-Tainui input into nominations for statutory appointments with significant relevance to Waikato-Tainui where appropriate.

8.8 Te Puni Kōkiri and Waikato-Tainui will develop a process for engagement in relation to nominations for statutory appointments with significant relevance to Waikato-Tainui.

Monitoring framework

8.9 Te Puni Kōkiri will assist Waikato-Tainui to design a monitoring framework covering the implementation of the Vision and Strategy and impacts on Waikato-Tainui mana whakahaere, and the integration of Accords (developed

in accordance with the provisions of the Deed of Settlement in relation to the Waikato River and Kīngitanga Accord).

Joint work programme

- 8.10 Waikato-Tainui and Te Puni Kōkiri will develop a joint work programme as agreed to by the parties on how Waikato-Tainui and Te Puni Kōkiri will work together.
- 8.11 The joint work programme will consider matters that achieve the holistic approach of ensuring a healthy river and a healthy tribe. These matters will include but are not limited to:
- a. building and strengthening cultural identity and relationships;
 - b. development of commercial and economic potential;
 - c. education, employment and, youth development;
 - d. Māori health and well-being;
 - e. housing;
 - f. governance and succession planning;
 - g. research and development on social, cultural and environmental indicators (information systems);
 - h. enhancement and sustainability of resources in relation to the Waikato River and Waikato-Tainui mana whakahaere; and
 - i. development of any other matters as agreed between the parties.
- 8.12 Further matters to be considered as part of the joint work programme may include processes, and the priorities of the parties, in relation to the matters listed in clause 8.4.
- 8.13 The joint work programme will be reviewed and updated at each relationship meeting.
- 8.14 Officials will meet with Waikato-Tainui representatives to progress the shared work programme at least quarterly or as agreed.

Information sharing

- 8.15 Waikato-Tainui, the Minister and the Chief Executive recognise the benefit of mutual information exchange.
- 8.16 The Minister, the Chief Executive and Waikato-Tainui will use their best endeavours to share information (where that information is not sensitive or

confidential to the parties) in relation to, but not limited to, matters detailed in clause 8.4 on the following matters:

- (a) Māori statistics;
- (b) socio-economic reports;
- (c) tourism;
- (d) Māori health and wellbeing;
- (e) engagement reports;
- (f) education;
- (g) central and local government agency relationships; and
- (h) Te Puni Kōkiri's policy and legislative work programme.

9 STAFF AWARENESS

9.1 From the date of signing this Accord the Chief Executive will arrange for relevant staff (particularly those regularly involved in work relating to or impacting on the Waikato River) to be educated on:

- (a) the values and practices of Waikato-Tainui; and
- (b) this Accord and its implementation.

9.2 The Chief Executive and Waikato-Tainui will discuss opportunities for internships and secondments between the parties.

9.3 The Chief Executive will inform Waikato-Tainui when opportunities for university holiday employment or student research projects arise that are relevant to the Waikato River and its catchment area. Waikato-Tainui may propose candidates for these roles or opportunities.

10 COMMUNICATION BETWEEN THE PARTIES

10.1 The Chief Executive and Waikato-Tainui will establish and maintain effective and efficient communication with each other on a continuing basis through:

- (a) relationship meetings (in accordance with clauses 8.1 to 8.6);
- (b) Waikato-Tainui providing, and Te Puni Kōkiri maintaining, information on the Waikato-Tainui personnel responsible for matters relating to the Waikato River, including their addresses and contact details;

- (c) Te Puni Kōkiri providing, and Waikato-Tainui maintaining, information on primary Te Puni Kōkiri contacts responsible for matters relating to the Waikato River;
- (d) both parties providing reasonable opportunities for their relevant personnel to meet with each other to discuss and (if possible) resolve any issue that may arise; and
- (e) identifying staff who will be working closely with staff of the other party, and informing those staff of the contents of this Accord and their responsibilities and roles under it.

11 ESCALATION OF MATTERS

- 11.1 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.
- 11.2 As soon as practicable upon receipt of the notice referred to in clause 11.1, the relevant Regional Director for Te Puni Kōkiri and relevant representative for Waikato-Tainui will meet to work in good faith to resolve the issue.
- 11.3 If the dispute has not been resolved within 20 working days of receipt of the notice referred to in clause 10.1, the Chief Executive or delegated Deputy Secretary of Te Puni Kōkiri and General Manager of the Waikato Raupatu River Trust will meet to work in good faith to resolve the issue.
- 11.4 If the dispute has still not been resolved within 30 working days of receipt of the notice referred to in 10.1, the Minister and a representative appointed by the trustees of the Waikato Raupatu River Trust will meet to work in good faith to resolve the issue.

12 REVIEW AND AMENDMENT

- 12.1 Waikato-Tainui, the Minister and the Chief Executive 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.
- 12.2 The first review of this Accord will take place no later than two years from the Settlement Date. Thereafter the Accord will be reviewed on a two yearly basis. The review of this Accord will be agreed between all parties.
- 12.3 If, however, the statutory or regulatory functions of the Minister, Chief Executive or Te Puni Kōkiri should change prior to the first review taking place or prior to any review thereafter, then the parties, where agreed, may amend this Accord.
- 12.4 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.

12.5 Waikato-Tainui and the Crown may only vary this Accord by agreement in writing.

12.6 In respect of this Accord:

- (a) Waikato-Tainui will be represented by the Waikato Raupatu River Trust; and
- (b) where the Minister or the Chief Executive seeks 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 or the Chief Executive will do so through the Waikato Raupatu River Trust.

13 LIMITS OF ACCORD

13.1 This Accord does not affect:

- (a) legislative rights, powers or obligations;
- (b) any statutory functions, duties and powers of the Minister or the Chief Executive;
- (c) the ability of the Crown to introduce legislation and change government policy;
- (d) the ability of the Crown to interact or consult with any other person, including any iwi, hapū, marae, whānau or their representative; and
- (e) the legal rights and obligations of Waikato-Tainui.

13.2 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.

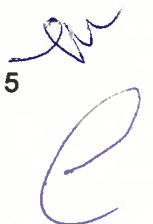
14 DEFINITIONS AND INTERPRETATION

14.1 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 3 of this Accord.

14.2 In this Accord, unless the context requires otherwise:

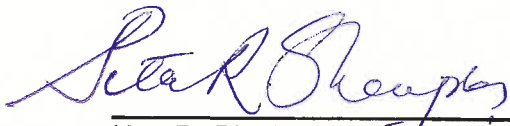
- (a) terms defined in the deed of settlement and the settlement legislation have the same meaning in this Accord;
- (b) **deed of settlement** means the deed of settlement in relation to the Waikato River signed on 22 August 2008; and
- (c) **settlement legislation** means Waikato-Tainui Raupatu Claims (Waikato River) Settlement Bill and where the Bill has become law, means the Act resulting from the passing of the Bill.

14.3 Subject to clause 14.1 the rules of interpretation in the deed of settlement apply to the interpretation of this Accord.

Handwritten signature in blue ink, followed by a large, stylized letter 'e' in blue ink.

SIGNED as a deed on 16 November 2009

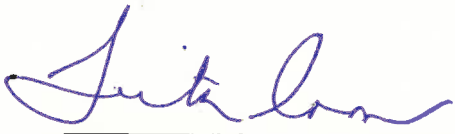
SIGNED by
THE MINISTER OF MĀORI AFFAIRS
in the presence of:


Hon Dr Pita R Sharples

WITNESS

Name: *Lifene Christ*

SIGNED by
THE CHIEF EXECUTIVE FOR TE PUNI KŌKIRI
in the presence of:


Leith Comer

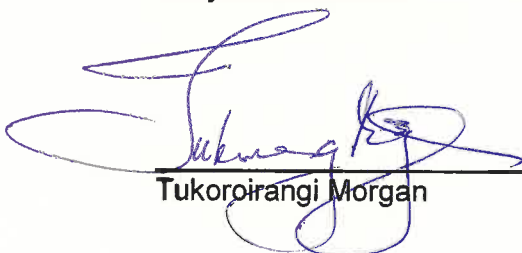
WITNESS

Name: *Lifene Christ*

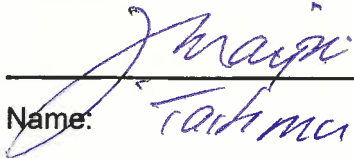
SIGNED for and on behalf
of **WAIKATO-TAINUI** by
Lady Raiha Mahuta and
Tukoroirangi Morgan


Lady Raiha Mahuta

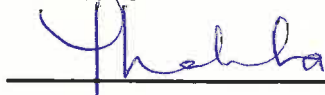
in the presence of:


Tukoroirangi Morgan

WITNESS


Name: *Tahira Mapi*

WITNESS


Name: *TIRA MAHUTA*