

## Schedule F to the Joint Management Agreement with Waikato Tainui

### Management of Maaori Sites of Significance

#### INTRODUCTION

1. The parties to this Schedule are the Waikato District Council ('Council') and Waikato-Tainui te Kauhanganui Incorporated in its capacity as trustee of the Waikato Raupatu River Trust ('Waikato-Tainui').
2. The parties entered into a Joint Management Agreement ('JMA') dated 23 March 2010 pursuant to the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010 ('River Settlement Act'). The JMA establishes a framework for engagement between Council and Waikato-Tainui in respect of matters set out in the River Settlement Act.
3. The JMA establishes a Joint Committee of persons representing Council and Waikato-Tainui ('Joint Committee') who have agreed to work together to implement the JMA.
4. The parties understand and acknowledge that, in accordance with the legislative framework set out in the River Settlement Act, the JMA may only address matters that relate to the Vision and Strategy for the Waikato River, including its Health and Wellbeing.
5. Nevertheless, the parties have agreed that they wish to collaborate on matters that sit outside of the River Settlement Act. Furthermore, the parties have agreed that they wish to use the administrative framework of the existing JMA, including the Joint Committee, for the purposes of working together in respect of the matters described in this Schedule.
6. The following sets out the agreement between the parties in respect of matters relating to the Management of Maaori Sites of Significance (MSOS).
7. To achieve the Vision for the Waikato River, specific strategies are set out in Schedule 2, Part 2 entitled "Strategy" in the River Settlement Act. The processes described in this Schedule to the JMA support the achievement of the following strategies as listed in Part 2:

**Section f:** recognise and protect Waahi tapu and sites of significance to Waikato-Tainui and other Waikato River iwi (where they do decide) to promote their cultural, spiritual and historic relationship with the Waikato River;

**Section g:** recognise and protect appropriate sites associated with the Waikato River that are of significance to the Waikato regional community.

#### Sites to which this Schedule apply

8. Subject to paragraph 9 of this Schedule, the processes described in this Schedule apply specifically to
  - a) those Maaori Sites of Significance that were returned to Waikato-Tainui as part of the River Settlement, and;

- b) any unidentified Maaori Sites of Significance located on land owned by the Crown or Waikato District Council, within the area described in the River Settlement Act as the Waikato River and its catchment; and
  - c) Maaori Sites of Significance listed within Regional and District Plans.
  - d) Other Maaori sites as agreed by the Parties
9. Where Maaori Sites of Significance have been identified on private land, the co-operation and agreement of the land owner must be sought before any of the processes described in this schedule are implemented in respect of that private land. If the agreement of the land owner is not obtained, this Schedule will not apply to that private land. The intention is to identify and where possible protect these sites; not to restrict development
10. Nothing contained in this Schedule overrides any other statutory right or obligation of either party including, but not limited to, rights and obligations pursuant to the following legislation, including any future amendments:
- (a) Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010;
  - (b) Waikato Raupatu Claims Settlement Act 1995;
  - (c) Resource Management Act 1991;
  - (d) Local Government Act 1974;
  - (e) Local Government Act 2002;
  - (f) Local Government Official Information and Meetings Act 1987;
  - (g) Reserves Act 1977;
  - (h) Public Works Act 1981;
  - (i) Conservation Act 1987;
  - (j) Historic Places Act 1993.
11. The following documents should also be taken into account by the parties when applying this Schedule:
- (a) Taonga Tuku Iho Accord dated 20 February 2009 between the Minister for Arts, Culture and Heritage and Chief Executive of the Ministry for Culture and Heritage and Waikato-Tainui;
  - (b) Memorandum of Understanding between the Board of Trustees of the New Zealand Historic Places Trust (Pouhere Taonga) and Waikato-Tainui, dated August 2009;
  - (c) Waikato Regional Policy Statement and
  - (d) Heads of Agreement between the Board of Trustees of the New Zealand Historic Places Trust (Pouhere Taonga) and Waikato District Council.
12. The Waikato-Tainui Environmental Plan Tai Tumu, Tai Pari, Tai Ao should also be taken into account by the parties when applying this Schedule, in particular;
- section 10: Tribal Strategic Plan, Whakatupuranga Waikato-Tainui 2050;
  - section 11: Vision and Strategy for the Waikato River;
  - Section 15: Natural Heritage and Biosecurity – Ngaa Taonga Maaori;
  - Section 16: Valuable historical items, highly prized sites, sites of significance – Ngaa Taonga Tuku iho, Ngaa waahi tapu, Ngaa waahi tuupuna and
  - Section 17: Natural Hazards Ngaa moorearea ao tuuroa.
13. In the event that a conflict between this Schedule and other statutory rights or obligations arises, the statutory rights or obligations shall prevail. In the event of a conflict within this Schedule the dispute resolution clauses (clauses 22 and 23) of this Schedule shall apply.

## **Definitions**

In this Schedule –

“**Consultation**” means seeking and considering with an open mind the views and opinions of the other Party on any matter described within this Schedule

“**Council**” means the Waikato District Council

“**Crown**” means Her Majesty the Queen of New Zealand

“**Joint Committee**” means the Joint Committee of Council and Waikato-Tainui, established for the purposes of implementing the Joint Management Agreement dated 23 March 2010

“**Waikato**” has the same meaning as defined in section 7 of the Waikato Raupatu Claims Settlement Act 1995

“**Waikato-Tainui**” has the same meaning as defined in section 4 of the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2010

“**Maaori Sites of Significance**” to Waikato-Tainui means those sites that are highly prized. They are areas (land, waters and space) which exhibit any of the following:

- a) Cultural importance such as areas for cultural and spiritual purification, cleansing and / or ceremonial purpose, activities, natural places, fisheries and food gathering sites;
- b) Historical importance such as areas where significant battles occurred, significant tribal and / or Kiingitanga (King Movement) events;
- c) Tribal importance such as existing and historical marae, papakaainga (communities), urupaa (burial grounds), tuahu (monuments), and areas of celebration; and / or
- d) Archaeological importance including areas where taaonga tuku iho (historical treasures) are discovered.

## **Background**

14. Registration of Sites of Significance - Archaeological sites and some sites of significance were included in the former Operative Waikato District Plan (1997). At the time of reviewing the now Operative Waikato District Plan (Waikato Section) (2013) (WDP) the decision was made to exclude these sites as:
  - a) There was a lack of information relating to the significance of the sites;
  - b) The information was unreliable in regards to specific site location;
  - c) There was agreement that the New Zealand Historic Places Trust (NZHPT) and Council would participate in the Archaeological Upgrade programme being undertaken nationwide. This programme was to update and review the archaeological database while identifying sites by GPS where appropriate.
15. The WDP was notified without identifying any archaeological sites and submissions seeking the inclusion of archaeological sites were not upheld in the decisions. As a consequence, this part of the decision was appealed by NZHPT. During settlement negotiations on the appeal, a Heads of Agreement was signed between NZHPT and Council whereby Council agreed to include in the district plan by way of a future plan change significant archaeological sites. It was agreed that a process and criteria would be determined for;

- (a) Identifying and including significant sites for protection; and,
  - (b) Identifying and mapping other sites for enquiry purposes only.
16. This work is currently being undertaken. A number of significant Pa and other archaeological sites either in public ownership or private ownership have been identified. These will be subject to the Schedule 1 process of the RMA, which is an ongoing process.
17. The processes described in this Schedule will complement and enhance the work already in progress and described above.

### **Specific Agreed Actions**

18. Waikato Tainui and Waikato District Council staff will meet within six months of the date of this Schedule to begin development of a joint strategy to identify MSOS on Crown land managed by the Waikato District Council and on land owned by the Waikato District Council, particularly on land adjacent to the Waikato River. The strategy will include an agreed process to collate information which is required to enable these sites to be included in the District Plan.
19. Following the identification of the sites, Waikato-Tainui and the Council will agree on a plan and timeframe to achieve:
- (a) Agreements for the management of these sites, including notification of disturbance, waka (canoe) landings, waananga (learning seminar), training and pou (upright posts).
  - (b) Agreements on the measures that the Council and Waikato-Tainui will jointly undertake to ensure the protection of identified MSOS;
  - (c) The development of a communication strategy to raise awareness about MSOS on private land and how to identify and protect these sites.
  - (d) The development of initiatives that will enhance and grow the skills and knowledge of Council and Waikato-Tainui staff in relation to MSOS, their history and protection (which might include training, site visits, tira hoe (tours via canoe) and others). Refer Schedule G to the Joint Management Agreement (Staff Training and Awareness) for more detail.

### **Other Joint Management Agreement Schedules**

20. When appropriate and relevant, provisions set out in the other schedules to the JMA should be taken into account when dealing with MSOS. Particular note should be taken of:
- a) Schedule A: Monitoring and Enforcement (particularly Process D – District Plan compliance) and
  - b) Schedule B: Resource Consents (particularly Part 4).

(See Appendices to this Schedule for these excerpts).

### **Consultation**

21. The Parties agree to meet with each other annually in July, to review, discuss and consult on the matters described in this Schedule. This will include a joint annual report on progress for the Joint Committee.

### **Dispute resolution**

22. Where any dispute or disagreement arises in relation to the matters described in this Schedule, the Parties may either:
  - (a) Consider the matter using the disputes resolution process outlined in the JMA or;
  - (b) Refer the matter to the Joint Committee for its consideration and final determination.
23. If the matter is referred to the Joint Committee, the Council and Waikato-Tainui shall prepare a joint report which clearly sets out the issues and options for resolution.

### **Suspension of Schedule**

24. The parties may, from time to time, agree in writing to suspend in whole or in part, the operation of this Schedule by giving the other party 20 business days notice.
25. In reaching such agreement, the parties will specify the scope and duration of such a suspension.

**APPENDICES**

**Excerpt from Schedule A: Monitoring and Enforcement**

**Process D - District Plan compliance monitoring**

	Process	Timeframe	
1	<p>When Council plan to monitor an environmental incident (CRM) that is of interest to the Trust, Council shall notify the Trust via email.</p> <p>Where any effect on the Waikato River and/or its catchment, as well as activities listed below, qualify as that interest.</p> <p><u>Activities</u></p> <ul style="list-style-type: none"> <li>• Activities within 20m of a known archaeological site</li> <li>• Activities close to sites of significance</li> <li>• Activities that may affect authorised customary activities</li> <li>• Stormwater related incidents</li> </ul> <p>Progress forward on the monitoring of resource consents or designation decisions, will be determined after this initial contact.</p>	As Required	

**Excerpt from Schedule B: Resource Consents**

**Part 4 – Ability to request a meeting for the purpose of discussing resource consent matters**

In the spirit of the guiding principles of the Joint Management Agreement set out in Part 2 above, either partner may request that a meeting be held for the following purposes:

- A general discussion on resource consent matters, including the processes set out in this schedule;
- A specific resource consent matter that is covered by section 47 of the Act;
- An RMA matter as set out in Part 3 above;
- A matter related to the joint development of the decision making criteria described in part 3 above;
- A specific resource consent matter outside the scope of the Act;
- Any other related matter.

The request for a meeting should be made through the key persons named at Page 1 of this schedule or their nominees.