

WAIKATO-TAINUI
and
HER MAJESTY THE QUEEN
in right of New Zealand

**Agreement in Principle
for the Settlement of the Historical Claims of
Waikato-Tainui in relation to the
Waikato River**

PREAMBLE

BACKGROUND

- 1 The Waikato Raupatu Claims Settlement Act 1995 (the Act) gave effect to certain provisions of the Deed of Settlement between the Crown and Waikato dated 22 May 1995 ("1995 Deed"). The 1995 Deed settled the 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 Deed expressly excluded certain historical claims, including raupatu claims (the Wairoa and Waiuku land blocks), the West Coast Harbours and the Waikato River.
- 2 The Waikato River claim (being part of Wai 30) dated 16 March 1987 was filed in the Waitangi Tribunal by Robert Te Kotahi Mahuta on behalf of himself, Waikato-Tainui, the Tainui Maaori Trust Board and Ngaa Marae Toopu. In respect of the Waikato River, the claim states that Waikato-Tainui is prejudicially affected by the following acts, policies and omissions of the Crown:
 - "1. By which the ownership and mana of the Waikato River is denied to Waikato-Tainui.
 2. By which the waters of the Waikato River [are] desecrated, polluted, and depleted.
 3. In failing to recognise and protect Waikato-Tainui fisheries and lands in the Waikato River.
 4. By which Waikato-Tainui fisheries in the Waikato River have been depleted by pollution, over-fishing, and spiritual desecration.
 5. In providing a legislative framework for land use planning, water use planning and resource planning which fails to properly take into account Waikato-Tainui concerns for the Waikato River and which is inappropriate for the protection of Waikato-Tainui rights guaranteed by the Treaty."
- 3 By the 1995 Deed, the Crown acknowledged that the position of Waikato in relation to the Waikato River is as follows:
 - 24.1.1 Waikato's claim to the Waikato River arises as a result of the raupatu;
 - 24.1.2 Waikato have a special relationship with the Waikato River since the Waikato River is the ancestor of Waikato and the water is the life blood of the ancestor;
 - 24.1.3 the Waikato River determines the identity and wellbeing of Waikato and their rangatiratanga over the Waikato River is confirmed by the Treaty of Waitangi;
 - 24.1.4 for Waikato the Waikato River means "the Waikato River from the Huka Falls to the mouth and includes its waters, banks and beds (and all minerals

under them) and its streams, waterways, tributaries, lakes, aquatic fisheries, vegetation and floodplains as well as its metaphysical being”;

24.1.5 one of the issues which Waikato will raise in their claim relating to the Waikato River to the Waitangi Tribunal is the issue that the creation of the marginal strips by the Crown has divorced and continues to divorce Waikato further from the Waikato River and is inconsistent with the Treaty of Waitangi and Waikato will be claiming the marginal strips as part of their claim to the Waikato River;

24.1.6 this Deed will not affect any claims, rights and interests of Waikato in their relationship with the Waikato River.”

- 4 In the 1995 Deed, Waikato acknowledge that the Crown’s acknowledgement in clause 24.1 of that Deed and its agreement in clause 24.2 (that it will ensure that the marginal strips adjacent to the Waikato River remain in Crown ownership until Waikato’s claim to the Waikato River is resolved) do not prejudice the Crown’s ability to dispute Waikato’s position as outlined in that clause in the context of Waikato’s claim to the Waikato River, to argue that the marginal strips do not form part of the Waikato River or to contend that the definition of the Waikato River is narrower than that set out in clause 24.1.4 of the 1995 Deed.
- 5 In clause 24.4 of the 1995 Deed, “The Crown acknowledges that this Deed will not affect any claims of Waikato or any rights and interests which Waikato may have in their relationship with the Waikato River.”

CROWN ACKNOWLEDGEMENTS IN THE WAIKATO RAUPATU CLAIMS SETTLEMENT ACT 1995

- 6 The Preamble to the Act records that: “In 1858 Pootatau Te Wherowhero was raised up as King to unite the iwi, and preserve their rangatiratanga and their economic and cultural integrity, under his authority in the face of increasing settler challenges”; and “The New Zealand Government at the time perceived the Kiingitanga as a challenge to the Queen’s sovereignty and as a hindrance to Government land purchase policies, and did not agree to any role for, or formal relationship with, the Kiingitanga”.
- 7 The Preamble further records that: “In July 1863, after considered preparations by the New Zealand Government, military forces of the Crown unjustly invaded the Waikato south of the [Mangataawhiri] river, initiating hostilities against the Kiingitanga and the people. By April 1864, after persistent defence of their lands, Waikato and their allies had fallen back before the larger forces of the Crown and had taken refuge in the King Country”.
- 8 The Crown, in its Apology to Waikato as recorded in the Act, acknowledged that: “its representatives and advisers acted unjustly and in breach of the Treaty of Waitangi in its dealings with the Kiingitanga and Waikato in sending its forces across the Mangataawhiri in July 1863 and in unfairly labelling Waikato as rebels”; and “the subsequent confiscations of land and resources under the New Zealand Settlements Act 1863 of the New Zealand Parliament were wrongful”; and “the lands confiscated in the Waikato have made a significant contribution to

the wealth and development of New Zealand, whilst the Waikato tribe has been alienated from its lands and deprived of the benefit of its lands”.

THE RELATIONSHIP BETWEEN WAIKATO-TAINUI AND THE WAIKATO RIVER

The River belongs to us just as we belong to the River. The Waikato tribe and the River are inseparable. It is a gift left to us by our ancestors and we believe we have a duty to protect that gift for future generations.

R T Mahuta 1975

Te Mana o te Awa

- 9 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, its own powerful identity. It is a single indivisible being.
- 10 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. (*Mana o te Awa - Appendix 1*)

THE RELATIONSHIP BETWEEN RIVER IWI AND THE WAIKATO RIVER

Waikato-Tainui

- 11 To Waikato-Tainui, the River iwi are woven together through whakapapa in a spiritual korowai. Tikanga relating to the Waikato River cannot be separated from Kiingitanga and Pai Maarire, the faith that sustains it. The values of the Kiingitanga reflect its long history of commitment to kotahitanga and its trusteeship of the kaupapa on behalf of the motu.
- 12 Ultimate authority and responsibility for the protection of the Waikato River was exercised by Pootatau Te Wherowhero as te awa tupuna representative, on behalf of the people, reflecting the whakataukii (saying):

<i>Ko Taupiri te maunga</i>	<i>Taupiri is the mountain</i>
<i>Ko Waikato te awa</i>	<i>Waikato is the river</i>
<i>Ko Te Wherowhero te tangata</i>	<i>Te Wherowhero is the chief</i>
<i>Waikato Taniwharau</i>	<i>Waikato of a hundred chiefs</i>
<i>He piko, he taniwha</i>	<i>At every bend a chief</i>
<i>He piko, he taniwha</i>	<i>At every bend a chief</i>

- 13 This whakataukii indicates the strength of the many communities who lived along the banks of the Waikato River prior to the Raupatu, each exercising the responsibilities of mana whakahaere (authority, rights of control) in accordance with their tikanga (*Mana Whakahaere – Appendix 2*).

- 14 The Ngaati Tuuwharetoa paramount chief Tukino Te Heuheu also used this whakataukii to acknowledge the mana of Pootatau Te Wherowhero during the search for a king in the 1850s. Te Heuheu confirmed Te Wherowhero as the first Maaori King.
- 15 Te Heuheu safeguarded the source of the Waikato River at Tapuaeharuru on the south side of Mount Ruapehu. Waikato-Tainui refers to "Te matapuna wai o Tongariro - the headwaters of the Tongariro" - in recognition of the source of the Waikato River flowing through the waters of Taupo te moana - the Lake, to Te Taheke hukahuka - the Huka Falls. From here it becomes known as the Waikato River, which flows from the Huka Falls to Te Puuaha o Waikato (the mouth). The historical relationship between the Houses of Pootatau and Te Heuheu is thus bound up with the Waikato River.

Other River Iwi

- 16 The Crown and Waikato-Tainui acknowledge that each River iwi has its own unique relationship with the River and its own long established tikanga in relation to the River. Nothing in this Agreement in Principle is intended to impinge on those relationships. Nor is there any intention to question or disregard the tikanga of any River iwi.
- 17 Recognition of the relationship between Waikato-Tainui and the Waikato River by the Crown is not intended to affect the rights, interests, or mana whakahaere of any River iwi who is not a party to the settlement, but is intended to reflect a unity of purpose to respect and care for the River.

Unity: to respect and care for the Waikato River

- 18 To achieve recognition of the principle of te mana o te awa, Waikato-Tainui promotes the concept of a korowai, the protective cloak of Pootatau Te Wherowhero laid over te awa tupuna, to respect and care for the River.
- 19 The plaited fibres of the korowai reflect the strands in the whakapapa which unite the iwi with their River and with one another. The whenu which tie the korowai are held by the representatives of the Houses of Pootatau and Te Heuheu. The concept of the korowai is tikanga based, giving effect to the tikanga of mana, whanaungatanga, kotahitanga, manaakitanga and mana whakahaere under the leadership of Kiingitanga.
- 20 Holding to their own beliefs and respecting the beliefs of Waikato-Tainui, all Waikato River iwi are united in their commitment to respect and care for the River.

HISTORICAL ACCOUNT

Raupatu and the River: Invasion and War, Confiscation of Waikato Lands

- 21 Waikato-Tainui, as at 1840, possessed their River, from Huka Falls to Te Puuaha o Waikato, and their lands in accordance with their tikanga along with other Waikato River iwi. The Treaty of Waitangi guaranteed in the Maori text "te tino rangatiratanga o o ratou wenua o ratou kainga me o ratou taonga katoa" or in the English text "the full exclusive and undisturbed possession of their Lands and Estates Forests Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession".
- 22 In July 1863, the Crown's military forces crossed the Mangataawhiri River. In the ensuing war of 1863-64, the Crown's forces attacked by both land and water. The Crown's armed steamers and barges played a crucial role in the invasion as they carried Crown forces and supplies up the Waikato River and into the Waipaa River, and shelled Waikato defences.
- 23 In December 1863, Crown forces occupied Ngaaruawaahia, the home of the King and the political centre of the Kiingitanga. During the war, many communities who supported the Kiingitanga were driven out of the Waikato. In 1864-65 military settlements, including Hamilton and Cambridge, were established on the Waikato River, and also on the Waipaa River.
- 24 Confiscation of Waikato lands followed in 1865. The confiscation area extended from the Hauraki Gulf to Karapiro in the east, via Pukekura, Oraakau and the Puuniu River to the south, and from Whaingaroa (Raglan) to Te Puuaha o Waikato in the west.

The Waikato River after Raupatu

- 25 From the time of the Raupatu, the Crown assumed control of, and exercised jurisdiction over, the Waikato River. The Crown developed legislation that affected the River and established bodies with authority and rights of management over the River and its ecosystems. During the 1950s and 1960s, the Crown began to address the pollution of the River, the impact of flooding on the area and the lack of consistent policy regarding the River. The Waikato Valley Authority was established to control the Waikato River and its tributaries. Waikato-Tainui did not have a formal, or decision-making role, on the bodies that were established.
- 26 Following the Raupatu and the cessation of hostilities, new settlers occupied the confiscated lands, and farms and towns were developed along the Waikato River. The River was used for farming, coal mining, power generation schemes, the discharge of waste, and domestic and industrial abstraction. The wetlands were drained, flood protection schemes were initiated and sand and shingle were removed. While all of these uses of the Waikato River contributed to the economic growth of New Zealand, they also contributed to the pollution and deterioration of the health of the Waikato River and have significantly impacted on the fisheries and plant life of the River.

THE WAIKATO-TAINUI EXPERIENCE OF RAUPATU

27 For Waikato-Tainui:

Though Raupatu did not change their beliefs and values, nor their unique relationship with their ancestral River, its impact on te mana whakahaere exercised by their communities was immediate.

The greatest impact of the Raupatu has been the Crown's assumption of authority over, and management of the River. Waikato-Tainui were excluded from decision making: nor were they consulted as to their understanding of the River and its ecosystems. Waikato-Tainui rights and interests (whether at law, equity, custom or by the Treaty of Waitangi or otherwise), and the authority and control that they exercised to protect and ensure the well-being of the River and its resources, were denied.

Unable to protect the health of the River, Waikato-Tainui saw the decline of their rich fisheries, particularly eels and whitebait, which for generations had been central to their way of life. Communities could no longer depend on their fisheries to meet their obligations of manaakitanga.

The Crown failed to acknowledge the relationship of Waikato-Tainui with their River, and the responsibility of the iwi to protect the River. Waikato-Tainui beliefs and values were accorded neither recognition nor respect.

Though they have continued to assert their mana whakahaere in order to protect the Waikato River and all its resources under the mana of the Kiingitanga, according to their tikanga, Waikato-Tainui believe that their ability to meet their obligations to the Waikato River, as their Awa Tupuna (Ancestral River), and to ensure its well-being has been severely compromised. Waikato-Tainui feel this sense of injustice as strongly today as they did in the past.

CROWN ACKNOWLEDGEMENTS

28 The Crown acknowledges that:

- a The historical claims of Waikato-Tainui to the Waikato River arise as a result of the Raupatu of the 1860s and its consequences;
- b The Crown's invasion of the Waikato in 1863 was by land and by the Waikato River. This was a double blow to Waikato-Tainui as by the Raupatu the Crown assumed authority over both the land and the River.

29 The Crown acknowledges that in occupying and subsequently confiscating Waikato land it unjustly, and in breach of the Treaty of Waitangi, denied Waikato-Tainui their rights and interests in, and mana whakahaere over, the Waikato River; and that Waikato-Tainui never willingly or knowingly relinquished those rights and interests, nor their authority over the Waikato River.

30 The Crown acknowledges the importance to Waikato-Tainui of the principle of te mana o te awa arising from their relationship with the Waikato River. To Waikato-Tainui the Waikato River is a tupuna which has mana and in turn

represents the mana and mauri of Waikato-Tainui; and to Waikato-Tainui the Waikato River is a single indivisible being that flows from the Huka Falls to Te Puuaha o Waikato and includes its waters, banks, bed (and all minerals under it) and its streams, waterways, tributaries, lakes, aquatic fisheries, vegetation, floodplains, wetlands, islands, springs, water column, airspace and substratum as well as its metaphysical being with its own mauri.

- 31 The Crown acknowledges that to Waikato-Tainui, their relationship with the Waikato River, and their respect for it, gives rise to their responsibilities to protect the mana and mauri of the River and to exercise their mana whakahaere in accordance with their long established tikanga. Their relationship with the River and their respect for it lies at the heart of their spiritual and physical wellbeing, and their tribal identity and culture.
- 32 The Crown acknowledges that it has failed to respect, provide for and protect the special relationship of Waikato-Tainui with the Waikato River.
- 33 The Crown acknowledges that the deterioration of the health of the Waikato River, while the Crown had authority over the Waikato River, has been a source of distress for the Waikato-Tainui people.
- 34 The Crown acknowledges that the pollution, degradation and development of the Waikato River, its lakes, streams and wetlands have resulted in the decline of its once rich fisheries, which had for generations sustained the people's way of life and their ability to meet their obligations of manaakitanga; and that the decline has been a further source of distress to Waikato-Tainui.
- 35 The Crown acknowledges and respects the deeply felt obligation of Waikato-Tainui to protect te mana o te awa. The Crown seeks a settlement that will recognise and sustain the special relationship Waikato-Tainui have with the Waikato River. The Crown undertakes to provide assistance to Waikato-Tainui and to work with Waikato-Tainui to assist the restoration of their mana whakahaere.
- 36 The Crown acknowledges that Waikato-Tainui wish to promote the concept of a korowai (cloak) to bring the River tribes together as an affirmation of their common purpose to protect te mana o te awa.

CONCLUDING STATEMENTS BY THE CROWN AND WAIKATO-TAINUI

Overarching purpose of the Settlement

- 37 The arrangements proposed under this Agreement in Principle reflect a commitment by the Crown and Waikato-Tainui 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.

New era of co-management

- 38 Co-management requires more than consultation alone. The successful implementation of co-management through the arrangements proposed under

this Agreement in Principle requires a new approach. Accordingly, the Crown and Waikato-Tainui acknowledge that co-management includes:

- a the highest level of good faith engagement; and
- b 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.

- 39 The Crown and Waikato-Tainui further acknowledge that to be effective, co-management must be implemented and achieved as appropriate at a number of levels and across a range of management agencies, bodies and authorities, including (but without limitation) with respect to the following:
- (a) the processes for granting, transfer, variation and renewal of consents, licences, permits and other authorisations for all activities that potentially impact on the health and wellbeing of the Waikato River; and
 - (b) the development, amendment and implementation of strategies, policy, legislation and regulations that may potentially impact on the health and wellbeing of the Waikato River.

Crown relationship with Waikato-Tainui

- 40 The settlement proposed under this Agreement in Principle aims to enhance the relationship between the Crown and Waikato-Tainui and to restore the honour of the Crown.

Integrity of the settlement

- 41 The Crown and Waikato-Tainui share a commitment to act:
- a to protect the integrity of the settlement arising from this Agreement in Principle; and
 - b in a manner that is consistent with and achieves co-management of the Waikato River.

SETTLEMENT OFFER

- 42 The settlement offered by the Crown of the Waikato River claim of Waikato-Tainui is set out in this Agreement in Principle and includes:
- a Crown Acknowledgements set out in paragraphs 28-36 above;
 - b commitment to co-management set out in paragraphs 38-39 above;
 - c recognition of the Statement of Significance of the Waikato River to Waikato-Tainui as set out in paragraph 43;
 - d a Vision and Strategy for the Waikato River;
 - e Guardians of the Waikato River;
 - f Waikato River Statutory Board;

- g Waikato River Accords with Ministers of the Crown;
- h Lands;
- i Financial Package; and
- j Settlement Implementation Funding.

STATEMENT OF SIGNIFICANCE OF THE WAIKATO RIVER TO WAIKATO-TAINUI

He Whakamaarama Na Ngaa Iwi o Waikato-Tainui mo Te Awa o Waikato.

43 Tirohia Te Pukapuka Whakaaetanga me Ngaa Pukapuka Whakatau a Tikanga mo aua whakamaarama.

“Ka mau Te Pukapuka Whakaaetanga me oona Whakatau a Tikanga i ngaa Kupu whakahirahira mo Te Awa o Waikato ki ngaa Iwi o Waikato-Tainui.

He tuupuna noo ngaa iwi o Waikato-Tainui Te Awa o Waikato. E mau ana te mana te mauri me te kaha o te Iwi.

He mauri tu tahi e kore e wehea. Ka rere mai oona wai i Te wairere o Huka puta atu ki te Puuaha o Waikato. Ka hono haere ai ngaa wai o Te Awa o Waikato i ngaa parenga, i ngaa whaiawa, i nga momo takawai o raro, i ngaa rerenga, i ngaa waikeri, i ngaa wehenga, i ngaa roto, i ngaa ika, i ngaa tupunga otaota, i ngaa maania, i ngaa repo, i ngaa motu, i ngaa puna, i ngaa arawai o te awa, i ngaa ararangi o te awa, i ngaa tuaapapa o te awa, tae noa ki oona tohu a wairua me toona mauri.

Naa too maatou hononga ki te awa, naa too maatou manaaki i te awa te take ka tiaki i te mana o te awa, aa, ka riro maa maatou taua mana whakahaere i runga i ngaa tikanga tuku iho mo te awa.

No reira, naa too maatou hononga ki te awa hei kaitiaki te puutake o too maatou oranga a wairua, oranga a tinana, a, tae noa ki oo maatou tikanga a iwi katoa.”

Statement of Significance of the Waikato River to Waikato-Tainui.

The deed of settlement and settlement legislation will contain the following statement of significance of the Waikato River to Waikato-Tainui:

“The Waikato River is our tupuna (ancestor) which has mana (spiritual authority and power) and in turn represents the mana and mauri (life force) of Waikato-Tainui;

The Waikato River is a single indivisible being that flows from the Huka Falls to Te Puuaha o Waikato (the mouth) 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.

Our relationship with the Waikato River, and our respect for it, gives rise to our responsibilities to protect te mana o te Awa and to exercise our mana whakahaere in accordance with long established tikanga to ensure the well being of the River.

Our relationship with the River and our respect for it lies at the heart of our spiritual and physical wellbeing, and our tribal identity and culture.”

WAIKATO-TAINUI OBJECTIVES FOR THE WAIKATO RIVER

- 44 The deed of settlement will contain a statement of the objectives of Waikato-Tainui for the Waikato River (Waikato-Tainui Objectives for the Waikato River) as follows:
- 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 (as shown on the attached maps) 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 matauranga Maaori and latest available scientific methods.
- 45 The Waikato-Tainui Objectives for the Waikato River, including any changes Waikato-Tainui may make to their Objectives that are consistent with the overarching purpose of this settlement to restore and protect the health and wellbeing of the River for future generations, will form a basis from which a Vision and Strategy for the Waikato River is developed.
- 46 If Waikato-Tainui make changes to the Waikato-Tainui Objectives for the Waikato River at any time after the Deed of Settlement is signed, those changes will form the basis of any future review of the Vision and Strategy for the Waikato River.

VISION AND STRATEGY FOR THE WAIKATO RIVER

Vision and Strategy requirements

- 47 The Vision for the Waikato River must:
- a be consistent with the overarching purpose of this settlement and the commitment by the Crown and Waikato-Tainui to enter a new era of co-

management over the Waikato River to restore and protect the health and wellbeing of the River for future generations while incorporating:

- i the Waikato-Tainui Objectives for the Waikato River; and
 - ii any other objectives reflecting the interests of all New Zealanders;
- b set clear and realistic outcomes capable of being implemented and sustained over time.
- 48 The Strategy for the Waikato River must describe how the Vision will be implemented and promoted, and (without limitation) will set an agenda that:
- a identifies and implements processes and methods to improve the quality of the Waikato River, based on and incorporating both maatauranga Maaori and available scientific research and after consideration of iwi and hapuu management plans;
 - b identifies and implements opportunities for Waikato-Tainui and each Waikato River Iwi to exercise rights and responsibilities/mana whakahaere in the Waikato River;
 - c provides for the public's use of, and access to, the Waikato River; and
 - d recognises existing consents, licences, authorisations and other existing rights in relation to the Waikato River.

GUARDIANS ESTABLISHMENT COMMITTEE

- 49 As soon as practicable after the signing of this Agreement in Principle, a committee to be called the Guardians Establishment Committee will be appointed.
- 50 The Guardians Establishment Committee will comprise:
- a four members appointed by Waikato-Tainui to represent the interests of Waikato-Tainui;
 - b one member each appointed by Ngaati Tuuwharetoa, Te Arawa, Raukawa, and Ngaati Maniapoto to represent their interests as Waikato River iwi;
 - c up to seven members appointed by Ministers of the Crown to represent the interests of all New Zealanders in the Waikato River; and
 - d one member to represent the regional community interest, appointed by Ministers of the Crown after receipt of a nomination from Environment Waikato.
- 51 The functions of the Guardians Establishment Committee are to:
- a develop a consultation draft of the Vision and Strategy for the Waikato River;
 - b develop and carry out a consultation process for the proposed Vision and Strategy for the Waikato River;

- c having considered the results of the consultation process, agree a final version of the Vision and the Strategy to be recommended to the Crown and Waikato-Tainui for approval and inclusion in the deed of settlement and the settlement legislation.
- 52 The Guardians Establishment Committee may delegate such part or parts of its functions (other than the function to agree the final version of the Vision and Strategy as referred to in paragraph 51(c)).
- 53 The approved consultation process for the proposed Vision and Strategy for the Waikato River must:
- a identify groups and organisations who will be directly consulted;
 - b include a form of public notice of the proposed Vision and Strategy for the Waikato River;
 - c provide for the receipt and consideration of submissions.

COMMITMENTS PRIOR TO SETTLEMENT

- 54 Notwithstanding that this is an agreement in principle and its terms will not become binding until embodied in a deed of settlement, upon the signing of this Agreement in Principle the Crown and Waikato-Tainui undertake to:
- a complete the appointment of members of the Guardians Establishment Committee;
 - b agree Terms of Reference by which the Guardians Establishment Committee is to operate;
 - c agree how the Guardians Establishment Committee is to be resourced and supported to carry out its functions;
 - d investigate opportunities with each other, Crown agencies, local authorities, management agencies and regulatory authorities as appropriate for engaging effectively in co-management related to the Waikato River, including the operation of the Waikato River Statutory Board;
 - e approve the final version of the Vision and the Strategy for incorporation in the deed of settlement and the settlement legislation.

GUARDIANS OF THE WAIKATO RIVER

- 55 The deed of settlement and the settlement legislation will provide for the establishment, and outline the structure, purpose and functions of the permanent Guardians of the Waikato River (the Guardians).
- 56 The Guardians will be a statutory body consisting of:
- a up to four members to represent Waikato-Tainui and up to four members to represent other River iwi with interests along the Waikato River;
 - b an equal number of members comprising:

- i up to seven members appointed by Ministers of the Crown to represent the interests of all New Zealanders in the Waikato River; and
- ii one member to represent the regional community interest, appointed by Ministers of the Crown after receipt of a nomination from Environment Waikato.

57 The purpose of the Guardians is to:

- a promote and work to achieve the overarching purpose of the settlement to restore and protect the health and wellbeing of the Waikato River for future generations;
- b assist each Waikato River iwi to exercise mana whakahaere over the Waikato River;
- c work to achieve an integrated, holistic and co-ordinated approach to the management of the Waikato River; and
- d act consistently with the Vision.

58 The functions of the Guardians will include:

- a as necessary, developing arrangements to achieve co-management with all persons (including Crown agencies, management agencies and regulatory authorities) exercising powers or carrying out functions under any Act that affects the Waikato River;
- b receiving, sharing and reviewing information on the state of the Waikato River;
- c considering documents about the management of the Waikato River such as iwi and hapuu management plans in any review or updating of the Vision and Strategy;
- d carrying out research, promoting education programmes and advocating or providing advice in relation to activities or changes required to restore and protect the health and wellbeing of the Waikato River for future generations;
- e promoting and monitoring the inclusion of the Vision and Strategy in policies, plans and processes related to the Waikato River, including proposing how the methods contained in the Strategy could be provided for in those policies, plans and processes;
- f regularly monitoring and, if necessary, promoting amendments to the Strategy to ensure that it is enabling progress towards the Vision, in accordance with a process providing Crown and Waikato-Tainui approval and consultation with other River iwi;
- g reporting at least every 5 years to the Crown and relevant iwi authorities on the progress being made towards achieving the Vision;
- h reviewing the Vision at least every 10 years and, if the Guardians agree, recommending to Waikato-Tainui and the Crown, any amendment to it; and

- i undertaking public consultation on any proposed changes to the Vision and the Strategy and incorporating appropriate changes when it is appropriate to do so.
- 59 The Guardians' responsibilities under paragraphs 57 and 58 above, will apply to the Waikato River and activities in the catchments affecting the Waikato River from Huka Falls to Te Puuaha o Waikato and, the Waipaa River from its junction with the Puniu River to its junction with the Waikato River as shown on the attached map. The mana whakahaere of each of the Waikato River iwi remains with each iwi, reflecting the whakataukii 'he piko, he taniwha, he piko, he taniwha'.
- 60 The Guardians will act in a manner that is consistent with and achieves co-management. The deed of settlement and the settlement legislation as appropriate will set out how the Guardians will achieve co-management and will include dispute resolution procedures.

PROVISIONS OF THE DEED OF SETTLEMENT AND SETTLEMENT LEGISLATION

- 61 The deed of settlement and settlement legislation contemplated by this Agreement in Principle will contain provisions setting out the Vision and Strategy and how they are to be given the highest level of recognition in legislation affecting the Waikato River and its management.
- 62 The Crown and Waikato-Tainui agree that it is the intention that Crown agencies, local authorities, management agencies and regulatory authorities, when exercising powers, carrying out functions or duties, or establishing plans, policies or standards in relation to, or affecting, the Waikato River, must:
- a engage, in accordance with the requirements of co-management with,
 - i the Guardians of the Waikato River; and,
 - ii for matters connected with the Waikato River from Karapiro to Te Puuaha o Waikato and the Waipaa River sub-catchments delineated on the attached map, Waikato-Tainui or the Waikato River Statutory Board as appropriate; and
 - b give the Vision and relevant provisions of the Strategy the highest level of recognition.
- 63 The deed of settlement and the settlement legislation will identify relevant legislation impacting on the Waikato River and will prescribe how (including, if necessary, through amending legislation) the Vision and Strategy for the Waikato River will be given the highest level of recognition.
- 64 Without limiting the scope of matters to be addressed to provide for the highest level of recognition for the Vision and Strategy for the Waikato River, it is expected that the deed of settlement and settlement legislation will, among other things:
- a prescribe how decision-makers under the Resource Management Act 1991 (including consent authorities and the Minister for the Environment) will give

- the highest level of recognition to the Vision in accordance with the relevant provisions of the Strategy;
- b require Environment Waikato to give effect to the Vision in accordance with the relevant provisions of the Strategy in the preparation and change of regional policy statements and regional plans;
 - c prescribe how the decision-makers under the Conservation Act will give the highest level of recognition to the Vision in accordance with the relevant provisions of the Strategy when, respectively, preparing, approving or otherwise considering any conservation management strategy, conservation management plan, national park management plan or fresh water fisheries management plans in respect of an area through which the Waikato River flows;
 - d prescribe how decision-makers under the Fisheries Act 1996 will give the highest level of recognition to the Vision in accordance with the relevant provisions of the Strategy including but not limited to, decisions to set or vary a sustainability measure for one or more stocks or areas relevant to the Waikato River.
- 65 The deed of settlement and the settlement legislation will provide that the Crown, Crown agencies, local authorities, management agencies and regulatory authorities when developing policies or laws impacting on the Waikato River, or affecting use rights in relation to the Waikato River (including in relation to water), shall engage with Waikato-Tainui to ensure:
- a the Vision and Strategy are given the highest level of recognition; and
 - b policies and laws are implemented in accordance with the requirements of co-management.

WAIKATO RIVER STATUTORY BOARD

- 66 The Crown will consult with Environment Waikato to agree on the establishment of a Waikato River Statutory Board with a view to the Board being established through the deed of settlement and settlement legislation. It is anticipated that the Waikato River Statutory Board will be a statutorily formed body comprising an equal number of Waikato-Tainui representatives and an equal number of other members. The other members will include current Environment Waikato councillors, representatives of the various local authorities covered by the Board's functions and representatives of relevant Crown agencies.
- 67 The deed of settlement and settlement legislation will confer on the Waikato River Statutory Board powers and functions that reflect the intention that the Board will be an entity to implement and ensure compliance with the requirement to give the highest level of recognition to the Vision and Strategy for the Waikato River from Karapiro to Te Puuaha o Waikato (including the lower Waipaa River) and activities in the Waikato River Mouth to Karapiro and the Waipaa River sub-catchments delineated on the attached map.
- 68 Before the deed of settlement is signed, an agreement setting out how the Waikato River Statutory Board will operate in accordance with co-management,

including the dispute resolution procedures that will apply, will need to be developed and agreed by Waikato-Tainui, Environment Waikato, the other local authorities represented on the Board and the Crown. Elements of this agreement may be incorporated into the settlement legislation as appropriate.

WAIKATO RIVER TRUST

69 The Crown notes that Waikato-Tainui will establish the Waikato River Trust as the governance structure to act for Waikato-Tainui in relation to the settlement. The Trustee of the Waikato River Trust will be Te Kauhanganui o Waikato Incorporated through its executive committee. The Trustee of the Waikato River Trust will:

- a receive, hold and manage any funds and assets, including cultural redress, provided under the deed of settlement and the settlement legislation;
- b exercise the powers and functions conferred on Waikato-Tainui under the deed of settlement and settlement legislation.

WAIKATO RIVER ACCORDS WITH MINISTERS

70 As soon as practicable after the signing of the Agreement in Principle, the Crown and Waikato-Tainui will consult in relation to various Ministers of the Crown issuing Accords with the Waikato-Tainui regarding issues that affect the Waikato River with a view to agreeing appropriate provisions to be included in the deed of settlement, the settlement legislation and other relevant legislation. It is envisaged that the Accords will reflect the intention of the settlement to achieve co-management, and will be drafted and agreed between Waikato-Tainui and the Crown before any deed of settlement is signed.

INTENTION OF THE SETTLEMENT

71 It is acknowledged that the Crown and Waikato-Tainui have different concepts and views regarding relationships with the Waikato River (which the Crown would seek to describe as including "ownership") and that this settlement is not intended to resolve these differences but is primarily concerned with management of the Waikato River to restore and protect the health and wellbeing of the Waikato River for future generations and to recognise the special relationship of Waikato-Tainui with the Waikato River.

72 Without derogating from the statement of differences between the Crown and Waikato-Tainui as to "ownership" of the Waikato River, it is acknowledged that nothing in the settlement affects any rights and interests including any rights that Waikato-Tainui, or the Crown, may have including any right arising:

- a according to tikanga or custom law;
- b from Te Tiriti o Waitangi/the Treaty of Waitangi or its principles;
- c under legislation;
- d at common law (including in relation to aboriginal title or customary law);
- e from a fiduciary duty;
- f or otherwise.

- 73 The deed of settlement and settlement legislation will include a provision that there shall be no disposition or creation of a property right or interest in the Waikato River (including the grant of an estate in fee simple, lease, licence or easement) which, in the view of the Crown, is capable of disposition or creation:
- a without prior engagement between Waikato-Tainui and the Crown in accordance with the requirements of co-management, including negotiation of related matters such as entitlement to any economic benefit which may arise;
 - b that is inconsistent with the Vision for the Waikato River.
- 74 Paragraph 73 applies to the Waikato River from the Karapiro dam to Te Puuaha o Waikato (including the Waipaa River from its junction with the Puuniu River to the Waipaa junction with the Waikato River).

LAND ADMINISTERED BY THE MINISTRY FOR THE ENVIRONMENT

- 75 The Crown offers to transfer to Waikato-Tainui land of the Crown administered by the Ministry for the Environment adjacent to the Waikato River from Karapiro to Te Puuaha o Waikato subject to confirmation that the land is not subject to prior statutory obligations.

FINANCIAL MATTERS

- 76 The Crown and Waikato-Tainui agree that there will be a financial package from the Crown providing for cultural and economic loss, implementation and operational funding for establishing the Vision and Strategy (including the Guardians Establishment Committee), the Guardians of the Waikato River and the Waikato River Statutory Board, a clean up fund, an endowment to support the vision of Sir Robert Mahuta for the Tainui Endowed College at Hopuhopu, and initiatives to restore and protect the economic, social, cultural and spiritual relationships of Waikato-Tainui with the Waikato River.
- 77 The Crown and Waikato-Tainui have agreed that the Crown will fund:
- a the following as pre-settlement Treaty negotiation costs:
 - i the actual and reasonable costs including fees and allowances for all members of the Guardians Establishment Committee and contracting specific services as they consider necessary for establishing the Vision and Strategy prior to the deed of settlement;
 - ii an independent scoping study, to be undertaken between the signing of this Agreement in Principle and a deed of settlement, to identify clean-up priorities for the Waikato River;
 - iii an independent scoping study, to be undertaken between the signing of this Agreement in Principle and a deed of settlement, to identify on-going operational costs for the Guardians Establishment Committee, Guardians of the Waikato River and the Waikato River Statutory Board.
 - b the following as Treaty settlement implementation costs:

- i based on the findings of the scoping study, the Crown will set up and fund a clean-up programme (secured by a trust fund, multi-year appropriation or legislative authority), with a guaranteed minimum annual sum for a specified number of years, which may be added to by other parties;
 - ii the Crown will fund the post settlement operation of the Guardians of the Waikato River and Waikato River Statutory Board; and
- c in addition, but not as part of the settlement:
 - i the Crown will provide an endowment to support the vision of Sir Robert Mahuta for the Tainui Endowed College at Hopuhopu, as an educational centre within a national and international community of scholars, providing leadership and innovation, research and scholarship in indigenous development and practices, with a special focus on the Waikato River, including research, and management practices on improving the health and well being of the Waikato River, and Waikato-Tainui tribal histories associated with the Waikato River; and
 - ii the Crown and Waikato-Tainui are considering the establishment of a Trust for the restoration and protection of the relationship of Waikato-Tainui with the Waikato River including their economic, social, cultural and spiritual relationships; and
- d such other components, arrangements or ventures for Waikato-Tainui developments and initiatives in relation to the Waikato River as may be agreed between the Crown and Waikato-Tainui for the purposes of paragraph 76 above.

78 As soon as practicable after the date of this Agreement in Principle and after receipt of the scoping study, the Crown and Waikato-Tainui will agree and finalise the financial matters relating to the proposed settlement.

OTHER MATTERS

- 79 As soon as practicable after the date of this Agreement in Principle, the Crown and Waikato-Tainui will:
- a identify which lands of the Crown adjacent to the Waikato River from Karapiro to Te Puuaha o Waikato and the lower Waipaa River may be available as part of the settlement;
 - b negotiate suitable arrangements in respect of sites of important cultural, spiritual, social and waahi tapu significance;
 - c discuss the development of regulations for the management of fisheries, flora, fauna and other resources;
 - d negotiate whether memorialised lands, marginal strips, and first rights of refusal relating to the Waikato River are to be included within the settlement.

REVIEW

- 80 The deed of settlement will provide for representatives of the Crown to meet with representatives of Waikato-Tainui.
- a The purpose of the meetings shall be to review the operations and outcomes of the Guardians, the Waikato River Statutory Board and the other measures taken pursuant to the deed of settlement and settlement legislation and to consider what appropriate action might be taken so that the integrity of the settlement is protected.
 - b Participants in the meetings are to be:
 - i three individuals nominated by Waikato-Tainui;
 - ii the Prime Minister (or any Ministers nominated by him or her);
 - iii the Minister for the Environment (or another Minister nominated by him or her);
 - iv the Chairperson of Environment Waikato (or another Councillor nominated by him or her); and
 - v any other participants that Waikato-Tainui and the Crown agree should attend a particular meeting.
 - c The first meeting is to be held on a date to be agreed by Waikato-Tainui and the Crown that is within six months of the first submission of the Guardian's report under paragraph 58(g) and subsequently within six months of each following report from the Guardians.
 - d A review of these meetings is to be held 15 years after the first meeting to discuss whether the meetings have been successful in achieving their purpose and whether changes to meeting arrangement should be made to assist with achieving this purpose and whether or not there is still a need to hold the meetings.

CONDITIONS

STATUS OF THIS AGREEMENT

- 81 This Agreement in Principle has been entered into on a without prejudice basis, is subject to negotiation of outstanding matters, and is also subject to amendment following consultation, negotiation, and additional information becoming available.

APPROVAL BY WAIKATO-TAINUI AND THE CROWN

- 82 This Agreement in Principle required approval by:
- a Te Kauhanganui; and
 - b Cabinet.

83 This Agreement in Principle has been signed by authorised representatives of Waikato-Tainui and the Crown pursuant to those approvals.

NOT BOUND UNTIL DEED OF SETTLEMENT

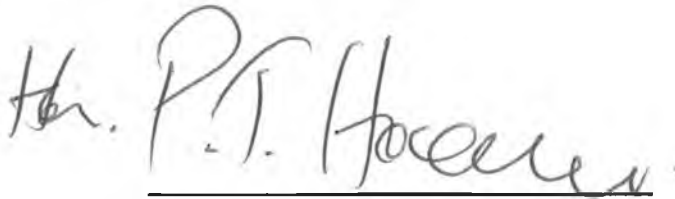
84 Waikato-Tainui and the Crown agree that:

- a this Agreement in Principle is not binding;
- b any agreements concerning Waikato River claims reached with Waikato-Tainui in subsequent negotiation discussions will not be binding until embodied in a deed of settlement;
- c any overlapping claims issues must be addressed to the Crown's satisfaction before it can enter into a deed of settlement;
- d settlement legislation will be needed to implement certain aspects of any deed of settlement entered into by the Crown and Waikato-Tainui.

SIGNED THIS *16th* DAY OF *December* 2007

For and on behalf of the Crown:

Authorised Signatory



Printed name:

Hon Parekura Horomia
Minister of Māori Affairs

Authorised Signatory



Printed name

Hon Mita Rinui
Associate Minister in Charge of Treaty of Waitangi
Negotiations

For and on behalf of Waikato-Tainui and the claimants:

By the Co-Negotiators

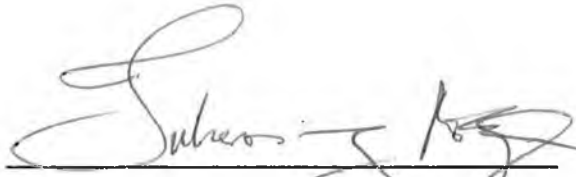
Authorised Signatory:



Printed Name:

Lady Raiha Mahuta, Co-Negotiator

Authorised Signatory:



Printed Name:

Tukoroirangi Morgan, Co-Negotiator

WITHOUT PREJUDICE

WITHOUT PREJUDICE

Appendix 1: Te Mana o te Awa (the spiritual authority, protective power and prestige of the River)

Principle

Te Mana o te Awa is one of the key principles of the Waikato River claim, which seeks respect for Te Awa Tupuna (ancestral river). The River has its own mauri, its own spiritual energy, and its own powerful identity.

Te mana o te Awa may be best understood in the koorero of kaumaatua, senior Kiingitanga spokesmen and esteemed kuia (some of whom have since passed on). They are statements of great importance because they embody beliefs that are familiar to thousands of Waikato-Tainui people and other River tribes, guiding their actions from day to day. Such beliefs are not normally expressed publicly, but they are recorded here to underline Waikato-Tainui's special relationship with their River, which is at the heart of the River claim.

Te Awa Tupuna

The River is a tupuna (ancestor) of Waikato-Tainui which has mana and which in turn represents the mana (spiritual authority, protective power and prestige) and mauri (life force) of the tribe. The River is a single indivisible being. In the words of the late kaumaatua Kamira Henry Haggie: 'The River is a being, a mother, complete and whole body comprising the water, the bed and the banks from its source to the sea. The life of the River and thus of the tribe is in its intactness –no limb struck from its body or the head separate from the heart.' And Sir Robert Te Kotahi Mahuta spoke of: 'Ngaa awa itiiti e pa ana ki te wai o Waikato, ko ngaa uua o to taatou awa. To taatou awa he manawa.' (All the little streams and rain that flow into the Waikato River are like the veins of the body. The River is our heart.)

Unique Relationship of Waikato-Tainui with the River

The relationship of Waikato-Tainui with the River lies at the heart of their spiritual and physical well-being, and their identity. Tikanga relating to the River cannot be separated from Kiingitanga and Pai Maarire, the faith that sustains Kiingitanga.

Kaumaatua and kuia acknowledge the mana of the River in their koorero:

The late kuia Mite Kukutai: 'Te Wai e rere iho nei –te awa o Waikato- he wai oranga, he wai tinana o Waikato, oranga ngakau, oranga wairua. Koinei to maatou wai kai a Waikato. Kaumaatua ake maatou i te wai o Waikato.'

The late Mere Taka, kuia of Mangatangi marae: 'To us, the people of Tainui, the River has a very deep significance, to our way of life today. To us, Waikato is the River for cleansing oneself, of blessing, and the River...is one of our guardians...to us, the generation of today.'

Kuia Iti Rawiri of Te Awamaarahi marae: 'The Waikato River is a tupuna and looks after us throughout our lives. The River feeds us, nurtures us, and takes care of us, healing our hurts and protecting us from harm. The River's spiritual powers are as important today as they were in the past. The power of the River does not change or dwindle with the passing of the year...If people were going on a journey, they would go to the River first before leaving the area. This is still practised today. When people were sick, we

would send them to the River to anoint themselves and be healed. This is still practised today. To us, the most important thing about the River is the water's healing power. '

The River protects the people, but it is also the responsibility of the people to protect the River and its wairua (spirit). Otherwise, in the words of the late Pumi Taituha, if the wairua of the River is violated, the River suffers, becomes sick, and if ignored, will die.

Kaumatua Hare Puke, speaking for Tainui and the Kiingitanga, has stated: 'We are the guardians and protectors of the River. We have a duty to try to make people understand that the assault on the River, our ancestor, must stop.'

Whakapapa and Unity of the River tribes

The River is a tupuna, thus the River iwi, as kuia Ngahinaturae Te Uira expressed it, are woven through whakapapa in a spiritual korowai (cloak); they celebrate their tribal connections through the rhythms of the whenua (land) and the awa.

For Tainui, that unity is also expressed in the Kiingitanga. For nearly a hundred and fifty years Kiingitanga has shaped and given purpose to the lives of all those who support it; its kaupapa (purpose) unites people from many marae and many iwi. In the words of kuia Iti Rawiri:

"This is a responsibility that has been passed on to us from our tuupuna, a responsibility that we have passed on to our children and mokopuna... Waikato are the kaitiaki of the Kiingitanga so we must take care of the Kiingitanga by taking care of the people. This care, this aroha, this mahi is what makes us strong and keeps us strong... the Kiingitanga is aroha ki te tangata, manaaki i te tangata, whaangai i te tangata, he rangimaarie i ngaa waa kaatoa."

Thus the values of the Kiingitanga reflect its long history of commitment to kotahitanga (unity), and the mutual support of the people and leadership in their trusteeship of the kaupapa on behalf of all the motu (the whole country).

Ultimate authority and responsibility for protection of the River was exercised by Pootatau Te Wherowhero on behalf of the people, hence the whakataukii (saying):

<i>Ko Taupiri te maunga</i>	<i>Taupiri is the mountain</i>
<i>Ko Waikato te awa</i>	<i>Waikato is the river</i>
<i>Ko Te Wherowhero te tangata</i>	<i>Te Wherowhero is the chief</i>
<i>Waikato Taniwharau</i>	<i>Waikato of a hundred chiefs</i>
<i>He piko, he taniwha</i>	<i>At every bend a chief</i>
<i>He piko, he taniwha</i>	<i>At every bend a chief</i>

This whakataukii indicates the strength of the many communities which lived along the banks of the River prior to Raupatu, each exercising the responsibilities of mana whakahaere in accordance with their tikanga (tribal rules/custom).

The Ngaati Tuuwharetoa paramount chief Tukino Te Heuheu IV also used this whakataukii to acknowledge the mana of Pootatau Te Wherowhero during the search for a king in the 1850s. Te Heuheu confirmed Te Wherowhero as the first Maaori King.

Te Heuheu safeguarded the source of the Waikato River at Tapuwaeharuru on the south side of Mt Ruapehu. Waikato-Tainui refer to “Te maataapuna wai o Tongariro – the headwaters of the Tongariro” – in recognition of the source of the Waikato River flowing through the waters of Taupo – te moana – the lake, to Te Taheke hukahuka – the Huka Falls. From here it becomes known as the Waikato River, which flows from the Huka Falls to Te Puuaha o Waikato – the mouth. The historical relationship between the Houses of Pootatau and Te Heuheu is thus bound up in their relationship with the River.

Aspirations

To achieve recognition of the principle of Te Mana o te Awa, Waikato-Tainui promotes the concept of a Korowai, a protective cloak laid over te awa tupuna, to respect and care for the River.

The plaited fibres of the Korowai reflect the strands in the whakapapa which unite the iwi with their River and with one another. The whenu (shoulder sash), which tie the korowai are held by the representatives of the Houses of Pootatau and Te Heuheu.

Thus the Korowai concept is tikanga based, giving effect to the tikanga of mana, whanaungatanga (kinship, relationship), kotahitanga (unity), manaakitanga (hospitality, to care for) and mana whakahaere (authority, control) under the leadership of Kiingitanga.

Within the Korowai other River tribes are thus assured of negotiating their own settlement outcomes with the Crown.

For all New Zealanders the Korowai allows the continuation of public access, navigation, recreation and fishing provided there is mutual respect for this concept.

The Korowai will ensure that the responsibilities, obligations and preservation of a whole and healthy Waikato River are carried by all.

Appendix 2: Te Mana Whakahaere (authority, rights of control)

Principle

Mana whakahaere refers to the authority that Waikato-Tainui and other River tribes have established in respect of the River over many generations. Mana whakahaere entails the exercise of rights and responsibilities to ensure that the balance and mauri (life force) of the 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 management of the River, including its resources in accordance with tikanga (values, ethics governing conduct), by each of the communities along the River to protect it and ensure its wellbeing. Customary fishing rights to tuna (eel), for instance were passed down through whakapapa from one generation to the next; and with them, the responsibility of kaitiaki (guardian of the taonga); tribal rights to tuna were associated with particular pa, and exercised to ensure conservation of the resource.

For Waikato Tainui or Tainui iwi, mana whakahaere has long been exercised under the mana of the Kiingitanga.

In these negotiations with the Crown, mana whakahaere still provides a way forward for all River communities. The Guardians are intended to assist each river tribe in the exercise of its mana whakahaere in the 21st century, but no more than that. The tribes are not being asked to surrender their mana whakahaere to the Guardians. Through their own management of River resources, and their own projects and programmes, the tribes will continue to exercise their mana whakahaere in accordance with tikanga as they always have. But through the Guardians they will also be able to act collectively as a united body to ensure the future health and well-being of the River in the future.

Appendix 3: Glossary

<i>ararangi:</i>	airspace
<i>arawai:</i>	water column
<i>aroha ki te tangata:</i>	care for the people
<i>awa:</i>	river
<i>awa tupuna:</i>	ancestor river
<i>hapuu:</i>	sub tribe
<i>he rangimarie i ngaa waa katoa:</i>	of peaceful and caring nature at all times
<i>he wai oranga:</i>	it is water with healing properties
<i>ika:</i>	aquatic fisheries
<i>iwi:</i>	tribe
<i>kaitiaki:</i>	caregiver, caretaker
<i>kaumaatua:</i>	elder
<i>kaumaatua ake maatou i te wai o Waikato:</i>	the water of Waikato helps us throughout our nurturing and growing lives to adulthood.
<i>kaupapa:</i>	purpose
<i>kiingitanga:</i>	king movement
<i>koinei to maatou wai kai:</i>	we use the water of Waikato for our food accompaniment
<i>korowai:</i>	cloak
<i>kotahitanga:</i>	unity
<i>kuia:</i>	elderly women
<i>mana:</i>	spiritual authority, protective power and prestige
<i>manaaki i te tangata:</i>	be hospitable to the people
<i>manaakitanga:</i>	hospitality, to care for
<i>manawa:</i>	heart

<i>maania:</i>	floodplains
<i>Maatauranga Maaori:</i>	Maaori knowledge
<i>maunga:</i>	mountain
<i>mauri:</i>	and life force, not simply its own, but also representing the life force of that of the tribes along its waterways.
<i>momo takawai:</i>	minerals
<i>motu:</i>	country
<i>ngaa awa itiiti:</i>	the little streams
<i>ngaa motu:</i>	islands
<i>Ngaa uaua:</i>	veins
<i>oranga wairua:</i>	including spiritual healing
<i>pa:</i>	fortified site
<i>Pai Maarire:</i>	prayers of faith
<i>parenga:</i>	banks
<i>puna:</i>	springs
<i>rangatira:</i>	leader
<i>rerenga:</i>	streams
<i>repo:</i>	wetlands
<i>roto:</i>	lakes
<i>Te Awa o Waikato:</i>	The Waikato River
<i>Te awa tupuna:</i>	ancestral river
<i>te maataapuna wai o Tongariro:</i>	the headwaters of Tongariro
<i>Te Puuaha o Waikato:</i>	Te Puuaha o Waikato (The mouth of the Waikato River. For the avoidance of doubt, this extends westwards from the boundary of the Coastal Marine Area as provided for in the Resource Management Act 1991, to where the River meets with the Tasman Sea in line with the western coast of New Zealand's land mass.)
<i>Te Taheke hukahuka:</i>	The Huka Falls
<i>te wai e rere iho nei:</i>	this Water that flows towards us

<i>tikanga:</i>	tribal rules and customs
<i>tuaapapa:</i>	substratum
<i>tuna:</i>	eel
<i>tupunga ota ota:</i>	vegetation
<i>waikeri:</i>	waterways
<i>wehenga:</i>	tributaries
<i>whaiawa:</i>	beds
<i>whakapapa:</i>	genealogy
<i>whakataukii:</i>	saying, proverb
<i>whanaungatanga:</i>	kinship relationship
<i>whenu:</i>	shoulder sash
<i>whenua:</i>	land

Map 1 To accompany Agreement in Principle



Map 2

To accompany Agreement in Principle

