

Schedule D to the Joint Management Agreement with Waikato Tainui

Land Management, Acquisition and Disposal

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'), to the extent that Waikato-Tainui has a mandate to represent Waikato (as defined in the Waikato Raupatu Claims Settlement Act 1995 ('Land Settlement Act') in respect of matters related to the Land Settlement Act.
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 2012 ('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 relating to the Land Settlement Act (which fall outside the scope 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 Land Settlement Act.
7. 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 2012;
 - (b) Waikato Raupatu Claims Settlement Act 1995;
 - (c) Resource Management Act 1991;
 - (d) Local Government Act 1974;
 - (e) Local Government Act 2002;
 - (f) Reserves Act 1977; and
 - (g) Public Works Act 1981
8. In the event that a conflict between this schedule and another statutory right or obligation arises, the statutory right or obligation shall prevail, however, refer to the dispute resolution clauses (clauses 27 – 29) of this schedule.

Definitions

In this Schedule –

“Consultation” means seeking and considering 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 in right of New Zealand

“Crown body” has the same meaning as in section 7 of the Land Settlement Act 1995 and means the Crown, a Crown entity, a State enterprise, or any company that is wholly owned by a Crown entity or a State enterprise. “Crown body” does not include a local authority

“Crown entity” has the same meaning as in section 7 of the Land Settlement Act 1995

“Deed of Settlement” means the Deed of Settlement between the Crown and Waikato-Tainui dated 22 May 1995

“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

“Land Holding Trustee” has the same meaning as Land Holding Trustee as defined in section 7 of the Land Settlement Act.

“Land Settlement Act” means the Waikato Raupatu Claims Settlement Act 1995

“Right of First Refusal” means the right of the land holding trustee to acquire residual Crown land in certain circumstances as prescribed in sections 11 to 17 of the Land Settlement Act

“RFR Land” means Crown land that is subject to sections 11 to 17 of the Land Settlement Act

“River Settlement Act” means the Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2012

“Waikato” means the same as Waikato as defined in section 7 of the Land Settlement Act

“Waikato-Tainui” means the same as Waikato-Tainui as defined in section 4 of the River Settlement Act

Background

9. The Crown and Waikato deliberately separated the Treaty of Waitangi settlement negotiations in relation to Land and the Waikato River.
10. The Crown and Waikato entered into a Deed of Settlement in respect of Land on 22 May 1995. The Waikato Raupatu Claims Settlement Act 1995 ('Land Settlement Act') gives effect to that Settlement.
11. The purpose of the Land Settlement Act is to record the apology given by the Crown to Tainui in the Deed of Settlement signed on 22 May 1995 by both representatives of the Crown and representatives Waikato ("Deed of Settlement") and to give effect to certain provisions of the Deed of Settlement, being a deed that settles the Raupatu claims.
12. Pursuant to sections 11 to 17 of the Land Settlement Act, Waikato has a Right of First Refusal ("RFR") over specified Crown Land. It is noted that the RFR was included in the Land Settlement Act, to recognise the iwi's objective to restore its tribal estate. This is encompassed in the whakatauki (proverb) "*I riro whenua atu, me hoki whenua mai*", which means "As land is taken so land should be returned".
13. RFR means that, prior to the disposal of any Crown Land, the Crown must first offer to sell the Crown Land to the land holding trustee on specified terms. The land holding trustee is required to respond within one month to accept or decline the Crown's formal offer of sale. If the land holding trustee exercises the RFR, the Crown must sell the Crown Land to the land holding trustee on the terms proposed. If the land holding trustee declines to purchase the Crown Land, the Crown cannot dispose of the Crown Land on more favourable terms to another party without first re-offering the Crown Land on the new more favourable terms to the land holding trustee.
14. Section 13 of the Settlement Act requires that the land holding trustee's RFR to acquire residual Crown land is noted on the relevant Certificate of Title.

Recognition of right of first refusal obligations

15. The Parties acknowledge and agree:
 - (a) That the Land Settlement Act does not impose any responsibility or obligations on the Council in regards to the ownership of Crown land which is subject to a RFR.
 - (b) That the responsibilities and obligations, established by the Land Settlement Act, belong to the Crown and Waikato (including the land holding trustee).

Management of Crown Land

16. The Council acknowledges that Waikato-Tainui wishes to be consulted in respect of the management of Crown Land administered by Council, and/or Crown Land that is under the Council's control. Council agrees to consult with Waikato-Tainui for the purpose of assisting it in determining appropriate management of Crown Land administered by and under the Council's control.
17. Nothing in this agreement derogates from Council's statutory rights and obligations in respect of its administration of any land under its control.

Continuing Co-operation between the Parties

18. The Parties agree that this Schedule reflects their mutual interest in supporting and continuing to foster a positive, open and trusting relationship between the Parties.
19. The Parties acknowledge that the RFR is a significant part of the Land Settlement Act.
20. The Council administers some RFR Crown land within its district. While the Land Settlement Act does not impose any responsibility or obligations on the Council in regards to the ownership of Crown land which is subject to a RFR, Council will take into consideration how their management of this land might impact on future possible return of such land to the iwi. The Parties acknowledge that early engagement and effective communication between Council and Waikato, in relation to such land, may assist Waikato in its communications with the Crown.
21. Waikato District Council and Waikato Tainui will work together to compile a list of all RFR Crown land within the Waikato district in the first two years of the implementation of this schedule.
22. Once the list has been compiled, Waikato District Council will provide annually to Waikato Tainui information if it is available, on any potential exchange or disposal of RFR Crown Land which is administered by Council.
23. Waikato-Tainui agrees to continue to pursue the Crown to give effect to sections 11 to 17 of the Settlement Act.

Disposal or exchange of Crown Land

24. If Council initiates the disposal or exchange of Crown Land that is administered by Council, the Council may consult with Waikato-Tainui prior to communicating with the Crown in relation to the Council's proposal for disposal or exchange of Crown Land.

Consultation

25. The Parties agree to meet with each other annually in July, to discuss and consult on the matters described in this schedule.
26. The Joint Committee shall provide a forum for consultation and discussion on matters relating to the Land Settlement Act. However, any direction or decision of the Joint Committee in respect of any matters relating to the Land Settlement Act shall not be binding on either Party.

Dispute resolution

27. 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 Joint Management Agreement
 - (b) Refer the matter to the Joint Committee for its consideration; or at each Party's sole discretion;

- (c) Revert to the rights and obligations available to either Party under the relevant statute, including the Land Settlement Act.
- 28. If the matter is referred to the Joint Committee, Council and Waikato-Tainui will prepare a report which clearly sets out the issues and options for resolution.
- 29. In the event that either Party exercises its statutory right under Clause 27(b), the Party exercising the right must advise the other Party within five (5) working days of its decision to do so.

Suspension of Agreement

- 30. The parties may, from time to time, agree in writing to suspend in whole or in part, the operation of this agreement.
- 31. In reaching such agreement, the parties will specify the scope and duration of such a suspension.