



JOINT MANAGEMENT AGREEMENT

Raukawa Settlement Trust
and Waikato Regional Council



TE POARI MATUA O RAUKAWA
RAUKAWA SETTLEMENT TRUST

Waikato
REGIONAL COUNCIL
Te Kaunihera ā Rohe o Waikato

JOINT MANAGEMENT AGREEMENT

PART A

DATED: 10th May 2012

This JOINT MANAGEMENT AGREEMENT is made between:

- A. **Waikato Regional Council (the Council)**, a Regional Council duly constituted by the Local Government Act 2002.
- B. **Raukawa Settlement Trust (the Trust)**, a Trust established by the Raukawa Settlement Trust Deed dated 16 June 2009.

Each one a Party and together referred to as the Parties.

BACKGROUND

1. On 4 September 2008, the trustees of the Trust, Te Arawa River Iwi and Ngāti Tūwharetoa entered into an agreement in relation to a co-management framework for the Waikato River with the Crown.
2. Subsequently, on 17 December 2009, the Crown and the Trust signed a deed in relation to a Co-Management Framework for the Waikato River which included provisions for joint management agreements (the **Co-Management Deed**).
3. The Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010 (the **Upper Waikato River Act**) was enacted to give effect to the Co-Management Deed and as such this Joint Management Agreement (the **JMA**) is being established pursuant to s43 of the Upper Waikato River Act.
4. The Upper Waikato River Act recognises that Te Ture Whaimana o Te Awa o Waikato (**Te Ture Whaimana - the Vision and Strategy**) is the primary direction-setting document for the Waikato River and activities within its catchment affecting the Waikato River. The vision for the Waikato River is:

“Tooku awa koiora me oona pikonga he kura tangihia o te maataamuri

The river of life, each curve more beautiful than the last

Our vision is for a future where a healthy Waikato River sustains abundant life and prosperous communities who, in turn, are all responsible for restoring and protecting the health and wellbeing of the Waikato River, and all it embraces, for generations to come”

Raukawa

5. Over the generations Raukawa have developed tikanga or protocols that embody a profound respect for their tribal area, flora, fauna, geography and all life within it. Their tikanga recognises that if people care for their environment, the environment will continue to sustain the people for generations to come.
6. As kaitiaki within their rohe, Raukawa hold a unique and special responsibility under tikanga to preserve, protect and manage sustainably natural, physical and historical resources. The tribal aspiration is a future where cultural, social, environmental and economic objectives are balanced not only for tribal members but for all those people living within the tribal rohe.
7. Raukawa as mana whenua, are also farmers, foresters, geothermal developers, investors, rate payers and providers of a wide range of services to the community. In carrying out these many roles and responsibilities, Raukawa recognises that only through partnership and collaboration will their tribal aspirations be realised.

Waikato Regional Council

8. The Council is a Regional Council pursuant to the Local Government Act 2002 (LGA) and as such is responsible, amongst other things, for promoting the social, economic, environmental and cultural well-being of communities.
9. The Council, under the Resource Management Act 1991 (RMA), is responsible for promoting the sustainable management of natural and physical resources within its region. This is achieved through the exercise of various powers and functions that relate to the management, use, development and protection of natural and physical resources.

SHARED ACKNOWLEDGEMENTS

10. The Parties agree that they are now in a new era of co-governance and co-management and within this time of change, the Parties agree to embrace new and holistic ways of working together and will continue to build a functional and effective long-term partnership.
11. Both Parties acknowledge other Waikato River iwi, their tikanga, kawa and respective relationships with the Waikato River.
12. The Parties agree and acknowledge the following, which represents the Parties aspirations for the management of the Waikato River and its catchment:
 - (a) The Parties are committed to the restoration and protection of the health and well-being of the Waikato River and its catchment for present and future generations;
 - (b) Te Ture Whaimana – the Vision and Strategy is the primary direction-setting document for the Waikato River and activities within its catchment affecting the Waikato River;
 - (c) Raukawa have a unique and evolving relationship with the Waikato River and its catchment;
 - (d) The Waikato River is an integral part of the tikanga, kawa, mātauranga and lives of Raukawa;
 - (e) Co-governance and co-management requires effective change;
 - (f) Enhanced outcomes need to be achieved for the Waikato River and its catchment in terms of both management processes and environmental results;
 - (g) The co-management framework enables Raukawa involvement in decision-making; and
 - (h) The Parties will embrace new, holistic and collaborative ways of working together.
13. The Parties now wish to formally record their working relationship under the Upper Waikato River Act in this JMA.

MATTERS AGREED

1. PURPOSE

1.1 The Purpose of this JMA is to:

- (a) Provide for an enduring relationship between the Parties through the shared exercise of functions, duties and powers under the Upper Waikato River Act and the RMA;
- (b) Strengthen the commitment between the Council and the Trust to enter into a new era of co-governance and co-management over the Waikato River with the overarching purpose of restoring and protecting the health and wellbeing of the Waikato River for present and future generations;
- (c) Set out how the Parties will work together in relation to the following RMA duties, functions and powers;
 - (i) Monitoring and enforcement activities (pursuant to s47 of the Upper Waikato River Act);
 - (ii) Preparing, reviewing, changing or varying a RMA Planning Document (pursuant to s48 of the Upper Waikato River Act); and
 - (iii) Duties, functions, or powers under Part 6 of the RMA in relation to applications for resource consents (pursuant to s49 of the Upper Waikato River Act).
- (d) Provide for processes to explore whether customary activities can be carried out without the need for a statutory authorisation and whether customary activities can be provided for as permitted activities.

2. SCOPE

2.1 This JMA covers the following:

- (a) Matters relating to the Waikato River and activities within its catchment affecting the Waikato River;
- (b) Matters relating to activities in the catchment of the Waipā River from its source to its junction with the Pūniu River to the extent to which the matters relate to the Raukawa interests in the catchment if the matters set out in parts 5 and 6 of the Co-Management Deed are applied to the Waipā River as described in the Upper Waikato River Act and shown in Schedule One; and
- (c) Matters referred to in clause 1.1(c) above (s45 of the Upper Waikato River Act); and
- (d) Matters referred to in clause 19 of this JMA.

2.2 To achieve the above purpose the JMA is separated into two parts:

- (a) Part A – Purpose, Scope, Principles and ancillary provisions; and
- (b) Part B – Legislated Requirements (Clause 1.1(c) and (d)).

3. TERM

3.1 The Parties agree and acknowledge that under the Upper Waikato River Act the JMA will commence on the Commencement Date and will remain in force in perpetuity.

4. PRINCIPLES

JMA Principles

- 4.1 The Parties acknowledge and agree that in working together they will:
- (a) Give appropriate weight to the relevant matters and documents provided for under the Upper Waikato River Act, including;
 - (i) The overarching purpose of the Upper Waikato River Act, being to restore and protect the health and wellbeing of the Waikato River for present and future generations;
 - (ii) Te Ture Whaimana - the Vision and Strategy;
 - (iii) The Upper Waikato Integrated River Management Plan;
 - (iv) The Raukawa Environmental Management Plan;
 - (b) Respect the mana whakahaere of Raukawa;
 - (c) Act in a manner consistent with the principles of Te Tiriti o Waitangi / The Treaty of Waitangi; and
 - (d) Recognise the statutory functions, powers and duties of the Council.

Relationship Principles

- 4.2 The Parties acknowledge and agree that to achieve the JMA Principles set out in clause 4.1 above, they will:
- (a) Work in good faith and in a spirit of co-operation;
 - (b) Commit to open, honest and transparent communication;
 - (c) Commit to participate effectively in co-management;
 - (d) Ensure early engagement on issues of known mutual interest;
 - (e) Operate on a 'no surprises' approach;
 - (f) Acknowledge that the relationship is an evolving one;
 - (g) Respect the independence of each other and their individual mandates, roles and responsibilities;
 - (h) Recognise and acknowledge that both Parties benefit from working together by sharing their vision, knowledge and expertise;
 - (i) Recognise that co-management operates within statutory frameworks that must be complied with; and
 - (j) Commit to meeting statutory timeframes and minimising delays and costs associated with those statutory frameworks.

5. DISPUTE RESOLUTION (ESCALATION OF MATTERS)

- 5.1 The Parties agree and acknowledge that for co-management to be effective the Parties must address the resolution of issues between them in a constructive, co-operative and timely manner consistent with the principles underlying this JMA.

5.2 The dispute resolution process is as follows:

- (a) If one Party considers that there has been a breach of the JMA then that Party may give notice to the other Party that they are in dispute.
- (b) As soon as practicable upon receipt of the notice, the Council and the Trust's representative(s) will meet to work in good faith to resolve the issue.
- (c) If the dispute has not been resolved within 20 (twenty) Business Days of receipt of the notice, the Chief Executive of the Council and the General Manager/Chief Executive Officer of the Trust will meet to work in good faith to resolve the issue.
- (d) If the dispute has still not been resolved within 30 (thirty) Business Days of a meeting between the Chief Executive of the Council and the General Manager/Chief Executive Officer of the Trust, and as a matter of last resort, the respective Chairs (or nominee) will meet to work in good faith to resolve the issue.

6. SUSPENSION

6.1 The Council and the Trust may agree in writing to suspend, in whole or part, the operations of the JMA. In reaching this decision, the Parties must specify the scope and duration of the suspension in writing.

7. WAIVER OF RIGHTS

7.1 The Trust may give written notice to the Council that it waives a right provided for in Part B (legislated requirements) of the JMA.

7.2 The Trust must specify the extent and duration of the waiver in the notice.

7.3 The Trust may at any time revoke a notice of waiver by written notice to the Council.

8. GUARDIANSHIP

8.1 A co-governance committee will be established to be the guardian of the JMA.

8.2 The committee will be made up of equal numbers of representatives from the Council and the Trust who will meet annually to:

- (a) Review the effectiveness of the JMA in achieving its purpose;
- (b) Discuss issues of interest to both parties;
- (c) Undertake specific roles in relation to the individual Schedules including making recommendations on plan changes, variations or review to the Council; and
- (d) Undertake any other tasks in accordance with agreed terms of reference.

8.3 There will be co-chairs presiding over the meetings, each of the Parties will elect a co-chair to represent the Council and the Trust.

8.4 Staff members may be invited to attend the meetings for technical support.

8.5 Any decision made at a meeting will be made at the highest level of good faith and by way of a consensus process.

- 8.6 The Parties will each appoint a senior manager to oversee the implementation of the JMA; each taking responsibility for providing a key point of contact for advice and support.

9. REVIEW AND AMENDMENT

- 9.1 The Parties agree that this JMA (and the Schedules) is a living document which will be updated and adapted to take account of future developments.
- 9.2 Schedules to this JMA can be reviewed by agreement of both Parties in addition to the scheduled reviews described below.
- 9.3 The first full review (**Initial Review**) of this JMA will take place no later than two (2) years from the Commencement Date.
- 9.4 Following the Initial Review, this JMA will be reviewed on dates as may be agreed between the Parties, but at intervals of no less than two (2) years and no more than five (5) years.
- 9.5 The Parties may amend this JMA by agreement in writing, signed by the respective Chief Executive Officers.
- 9.6 The Parties will provide written notice of the changes and a copy of the amended JMA to the Minister for the Environment.

10. INFORMATION SHARING

- 10.1 The Council will make available to the Trust all information held by the Council (subject to the Local Government and Official Information and Meetings Act 1987) where that information is requested by the Trust for the purposes of assisting them to exercise their mana whakahaere, in respect of the Waikato River and enabling the Trust to exercise their rights fully under this JMA.
- 10.2 The Trust may make available to the Council information, where appropriate, and when requested by the Council, to enable it to fulfil its statutory obligations and obligations of this JMA.

11. COMMUNICATION

- 11.1 The Council and the Trust will establish and maintain effective and efficient communication with each other on a continuing basis by:
- (a) The Trust providing, and the Council maintaining, contact details for the Trust personnel responsible for engagement under this JMA;
 - (b) The Council providing, and the Trust maintaining, contact details for the Council personnel responsible for engagement under this JMA; and
 - (c) Identifying and educating staff who will be working closely with each other from each respective Party and informing them of the obligations under this JMA.

12. COSTS

- 12.1 Each Party will bear their own costs in relation to their separate activities and contributions to this JMA, including the Schedules, as set out for in the Upper Waikato River Act. Separate activities relate to:
- (a) RMA Planning Documents (Clause 15);
 - (b) Resource Consent Processes (Clause 16); and
 - (c) Monitoring and Enforcement (Clause 17).

13. EXERCISE OF POWERS

- 13.1 The Council may carry out functions or exercise powers on its own account and not in accordance with the JMA if:
- (a) An emergency situation arises; or
 - (b) A statutory timeframe for the carrying out of the function or the exercise of the power is not able to be complied with under this JMA.
- 13.2 As soon as practicable the Council will provide the Trust with written notice of carrying out this function or exercise of power.

14. DEFINITIONS

- 14.1 In this Agreement, unless the context requires otherwise:

“Business Day” has the same meaning as set out in S7 of the Upper Waikato River Act.

“Commencement Date” means the date this JMA is signed by both Parties.

“Joint Management Agreement or JMA” means this Joint Management Agreement between the Parties, including the Schedules.

“LGA” means the Local Government Act 2002 and its associated amendments.

“Raukawa” means:

- (a) The collective group of individuals who descend from Raukawa and affiliate to a Raukawa marae in the Waikato area;
- (b) Each individual referred to in paragraph (a); and
- (c) The part of an iwi, hapū, whānau, or group of individuals made up of individuals referred to in paragraph (a).

“Raukawa Environmental Management Plan” means the environmental management plan that the Trust prepares and serves on the Council and other agencies.

“Regional Council Component” means the component in the Upper Waikato River Integrated Management Plan on issues related to the resource management functions, biosecurity and local government functions of the Council under the RMA, Biosecurity Act 1993, the LGA and other relevant legislation.

“**Regional Plan**” has the same meaning as set out in the RMA and includes a proposed Regional Plan.

“**Regional Policy Statement**” has the same meaning as set out in the RMA and includes a proposed Regional Policy Statement.

“**RIG**” means the Resource Information Group of the Council.

“**RMA Planning Document**” has the same meaning as a Resource Management Act 1991 Planning Document as set out in the Upper Waikato River Act.

“**RMA**” means the Resource Management Act 1991.

“**RUG**” means the Resource Use Group of the Council.

“**RUG Consent Officer**” means a resource consent officer within RUG.

“**Te Ture Whaimana – the Vision and Strategy**” means Te Ture Whaimana o Te Awa o Waikato - the Vision and Strategy for the Waikato River and has the same meaning given to it under the Upper Waikato River Act.

“**Upper Waikato River Integrated Management Plan**” has the same meaning as set out in s36 of the Upper Waikato River Act.

“**Upper Waikato River Act**” means the Ngati Tuwharetoa, Raukawa, and Te Arawa River Iwi Waikato River Act 2010.

“**Waikato River**” has the same meaning as that in the Upper Waikato River Act.

“**Working Days**” has the same meaning as working day under the RMA and also has the same meaning as Business Day under this JMA.

14.2 **Interpretation:** In the construction and interpretation of this JMA, unless the context otherwise requires:

- (a) The introduction, headings and marginal notes do not affect the interpretation of the JMA;
- (b) Where possible the same definitions under the Upper Waikato River Act have been utilised;
- (c) Words importing one gender include other genders and a singular includes the plural and vice versa;
- (d) A reference to a clause or Schedule is a reference to a clause or schedule of this JMA;
- (e) At times the Upper Waikato River Act may need to be read in conjunction with this JMA;
- (f) A statute includes that statute as amended from time-to-time and any regulations, other Orders in Council, and other instruments issued or made under that statute from time-to-time, as well as legislation passed in substitution for that statute; and
- (g) A reference to one Party giving written notice to the other, means that Party doing so in writing or in electronic form.

PART B

LEGISLATED REQUIREMENTS

Planning Documents, Resource Consent Processes, Monitoring and Enforcement and Customary Activities

15. PLANNING DOCUMENTS

RMA Planning Documents

- 15.1 The processes for preparing, reviewing, changing or varying a RMA Planning Document between the Parties are as described in Schedule Two and Figure One.
- 15.2 The overall process for undertaking the legislated requirements under the Upper Waikato River Act is shown in Appendix One - Figure Four, including how the processes are linked.

Raukawa Environmental Management Plan

- 15.3 The Council acknowledges that the Trust may require assistance in both the development and the implementation of the Raukawa Environmental Management Plan and as such, services may be provided to the Trust by agreement.
- 15.4 Upon completion of the Raukawa Environmental Management Plan, the Trust must serve the Council with a copy before Clauses 15.5 and 15.6 have any effect.
- 15.5 Where the Council has been served the Raukawa Environmental Management Plan by the Trust, it must recognise it in the same manner as is required under the RMA for any planning document recognised by an iwi authority.
- 15.6 When the Council is considering an application for a resource consent under s104 of the RMA (consideration of applications) and it has considered that s104(1)(c) applies to the Raukawa Environmental Management Plan, then the Council must have regard to the Raukawa Environmental Management Plan.

Upper Waikato River Integrated Management Plan

- 15.7 Sections 36 to 40 of the Upper Waikato River Act set out the requirements that the Trust together with:
- (a) The Council;
 - (b) Tūwharetoa Māori Trust Board (if they wish to);
 - (c) Te Arawa River Iwi Trust;
 - (d) Minister of Agriculture and Forestry (successor to the Ministry of Fisheries);
 - (e) Minister of Conservation; and
 - (f) Any other relevant or appropriate department or agency by agreement

are to prepare and approve components of the Upper Waikato River Integrated Management Plan using the process described in Schedule 5 of the Upper Waikato River Act by January 2014.

15.8 Of particular importance to the Council is the preparation and approval of the Regional Council Component which must be undertaken between the Council, the Trust, Te Arawa River Iwi Trust and Tūwharetoa Māori Trust Board.

15.9 A process for the preparation and approval of the Upper Waikato River Integrated Management Plan will be developed in conjunction with the Parties and those listed in 15.7 (b) to (f) based on the prescribed Schedule 5 in the Upper Waikato River Act.

16. RESOURCE CONSENT PROCESSES

16.1 The Parties' processes for providing information on resource consent applications and assisting Council's decision making are more fully described in Schedule Three and Figure Two.

16.2 The Parties agree to meet to jointly develop and agree criteria to assist Council in its decision making under the processes in s49(2)(d)(i)-(vii) of the Upper Waikato River Act.

16.3 In addition, the Parties have agreed to the processes in Schedule Three to assist Council in its decision making in relation to those processes specified in s49(2)(i)-(vii) of the Upper Waikato River Act.

17. MONITORING AND ENFORCEMENT

17.1 The Parties processes for monitoring and enforcement are more fully described in Schedule Four and Figure Three.

18. CUSTOMARY ACTIVITIES

18.1 A process between the Parties relating to customary activities is to be developed and will form part of Schedule Two – RMA Planning Documents.

19. EXTENSION TO JMA

19.1 The Parties acknowledge that s54 of the Upper Waikato River Act provides for the Council and the Trust to extend the JMA to cover duties, functions or powers that are in addition to those provided for in the Schedules (**Other Matters**). The Parties agree that they will enter into discussions to extend the JMA to cover Other Matters such as (but not limited to):

- (a) Research opportunities;
- (b) Joint projects;
- (c) Secondments and internships; and
- (d) Staff education and awareness training.

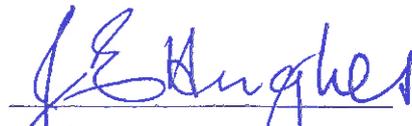
19.2 The progression and timing of Other Matters will be subject to both Parties approval by their respective board/council.

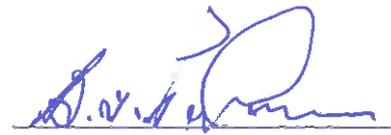
EXECUTED BY:

Signed for and on behalf of the Raukawa Settlement Trust by the Raukawa Charitable Trust trustees:


George Rangitua
Chairman

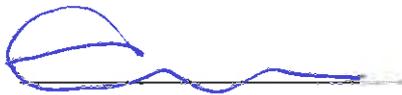

Kataraina Hodge


Jennifer Hughes


Basil Pakaru


Caroline Dally-Rangitohiri

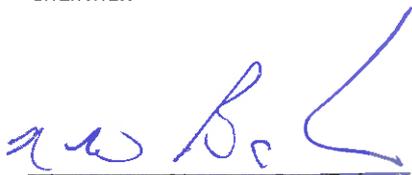

Gaylene Roberts


Connie Hui

Signed for and on behalf of the Waikato Regional Council:

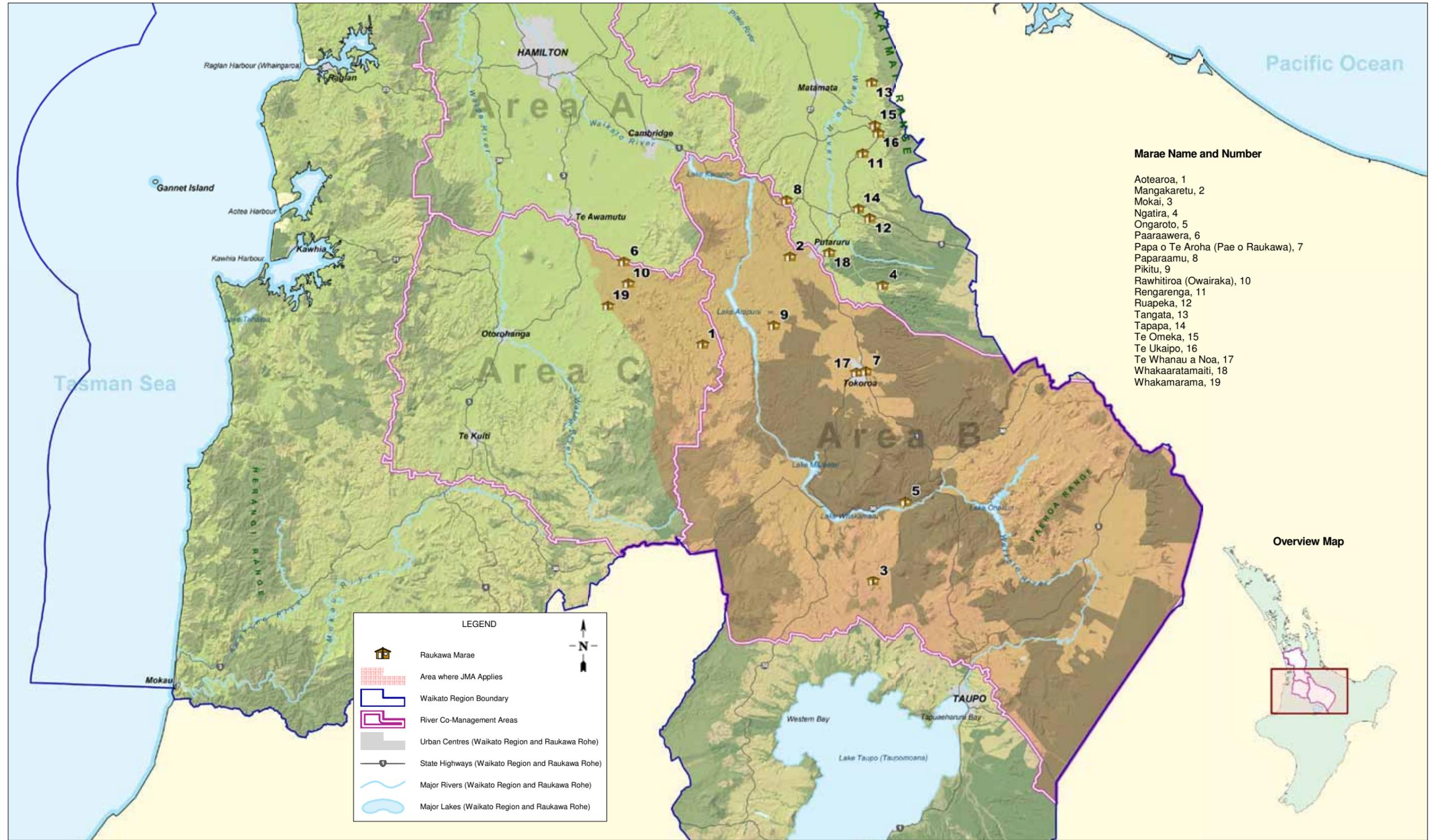

Peter Buckley
Chairman


Simon Friar


William (Norm) Barker


Stuart Kneebone

SCHEDULE ONE - MAP OF AREA

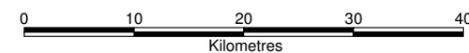


Raukawa/Waikato Regional Council Joint Management Agreement

Created by: A Jeffries
Projection: NZTM
Date: 27 Mar. 2012

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Request No.: 22947
File name: 22947_JMA Raukawa

For Waikato Regional Council staff only



ACKNOWLEDGEMENTS AND DISCLAIMERS

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SCHEDULE TWO

PLANNING DOCUMENTS PROCESSES

1. SCOPE

- 1.1 The following process reflects the requirements of s48(2) of the Upper Waikato River Act which apply to preparing, reviewing, changing or varying a RMA planning document. The Council is responsible for preparing planning documents that guide and control activities that may impact on the Waikato River and its catchment. The Upper Waikato River Act provides for Raukawa involvement in the preparation, review, change or variation of a RMA Planning Document.
- 1.2 Although there is provision in the RMA for affected parties to participate in the planning process co-management requires Raukawa and Council to work together as partners and co-managers of the Waikato River. The Upper Waikato River Act provides for Raukawa involvement in certain parts of the planning process such as when deciding on the need for a plan review or change through to the potential for Raukawa to be involved in the decision making process.
- 1.3 Schedule 7 of the LGA 2002 does not apply to the Council and the Trust when carrying out the duties and functions or exercising the powers under this part of the JMA.
- 1.4 It is important to Raukawa that their customary activities are provided for in plans and policy documents and having Raukawa involved in the plan development process from concept through to adoption will enable this to happen in an effective manner.
- 1.5 There are linkages between the monitoring and enforcement activities described in Schedule Four and the activities described in this Schedule. Monitoring activities, including state of the environment monitoring, plan monitoring and resource consent monitoring are critical to inform the plan review process documented below.

2. VISION AND STRATEGY FOR THE WAIKATO RIVER

- 2.1 The Parties recognise Te Ture Whaimana - the Vision and Strategy as the primary direction-setting document for the Waikato River and activities within its catchment affecting the Waikato River.
- 2.2 The Council has a statutory duty to include the Vision and Strategy in the Regional Policy Statement (RPS) and give effect to it in all other RMA Planning Documents.
- 2.3 Below are additional processes agreed between the Parties.

3. PLANNING AND POLICY PROCESSES AND PROCEDURES

- 3.1 **Process for Preparation, Review, Change or Variation to a Planning Document (s48(2) of the Upper Waikato River Act)**

Section 48 of the Upper Waikato River Act sets out matters that the JMA must address in relation to preparing, reviewing, changing or varying RMA Planning Documents in matters relating to the Vision and Strategy for the Waikato River. This includes the formation of a Joint Working Party (JWP). The JWP responsibilities, function and membership are detailed below. In addition to the JWP, the Parties have agreed to establish a meeting (**Operational Meeting**) that will undertake some of the work in relation to RMA Planning Documents. The work of the Operational Meeting will be overseen by the JWP. The co-

governance committee also has a governance role in relation to this Schedule.

The JWP have functions in relation to other aspects of the JMA, including monitoring and enforcement as set out in Schedule Four.

The JWP and Operational Meeting will work according to the principles set out in Part A of the JMA (Clause 4.2). The process for reaching decisions will be through:

- (a) The highest level of good faith engagement and in the spirit of cooperation; and
- (b) Consensus decision making as a general rule with participants committed to endeavour at all times to reach a consensus on the matters to be discussed and decided upon.

3.2 Joint Working Party (s48(2)(a) of the Upper Waikato River Act)

A standing JWP will be convened upon commencement of the JMA. Membership of the working party will include, but is not limited to, senior managers responsible for policy development and resource information at Council and senior managers at the Trust. The JWP will meet a minimum of twice per annum and more regularly as required.

For the purposes of Schedule Two, the role of the JWP is described in s48(2)(a)-(d) of the Upper Waikato River Act. The JWP will undertake this role by carrying out the following activities:

- (a) Submit joint reports and recommendations to the co-governance committee in matters relating to planning documents relevant to the Vision and Strategy for the Waikato River;
- (b) Oversee the work being undertaken by the Operational Meeting;
- (c) Resolve any conflicts arising from the Operational Meeting;
- (d) Identify any potential improvements in relation to the plan development processes and possible changes to the JMA; and
- (e) Recommend to the co-governance committee and/or Council the process to be adopted and the general form and content of a RMA Planning Document to be drafted for notification or consultation.

3.3 Operational Meeting

A standing Operational Meeting will be convened upon the commencement of the JMA. Attendees at the Operational Meeting will include appropriate senior staff from the Policy and Resource Information groups of Council and the Environment group at the Trust. The Operational Meeting will occur no less than four times per year and is to be identified for priority attendance.

The purpose of the Operational Meeting will be to work together to discuss topics relating to planning and policy in order to make recommendations to the JWP.

The agenda of the Operational Meetings in regards to planning and policy will include, but not be limited to, the matters described below. Some agenda items will only be required once a plan change, review or variation has been initiated.

- (a) Respective current work and activities being undertaken relating to the Vision and Strategy for the Waikato River;
- (b) Emerging issues, including the results of monitoring activity and plan effectiveness reviews;
- (c) How customary activities are addressed in RMA Planning Documents (s45(2) of the Upper Waikato River Act);
- (d) The process for responding to the issues, including identification of the need for plan changes or variations;

- (e) Process for preparing a plan change or review that has been approved (s48(2)(a)(i) of the Upper Waikato River Act);
- (f) Form and content of any approved plan change, review or variation (s48(2)(a)(ii) of the Upper Waikato River Act); and
- (g) Recommendations to be made to the JWP.

In addition, the Operation Meeting will also discuss matters relating to monitoring which are described in Schedule Four. For efficiency this does not preclude the JWP and the Operational Meeting groups meeting together. Outcomes and actions from the Operational Meetings will be reported to a meeting of the JWP.

4. PROCESS

4.1 Identifying the Need for a Plan Change, Review or Variation to the Extent that it Relates to the Vision and Strategy (s48(2)(b) of the Upper Waikato River Act)

The process for preparing a planning review, change or variation starts with identification of the need for the review. This means identifying an issue that is not currently being addressed or not managed sufficiently at present, and agreeing that changes to a planning document may be the appropriate response.

Agreed Process

The Operational Meeting will discuss respective work programmes and emerging issues, including information arising as a result of monitoring activities and plan effectiveness reviews. This will help to identify any issues that need to be addressed and whether the most appropriate method of addressing them is through a plan change, variation or review in relation to the Vision and Strategy. Where, during the course of the Operational Meetings, it is identified that a plan change, variation or review may be required, a report will be prepared for the JWP.

The report will include the following:

- (a) The need for the preparation, change, review or variation including the urgency;
- (b) The suggested scope of the potential plan change, variation or review; and
- (c) The recommended process for the preparation, review, change or variation of the RMA Planning Document, including indicative timing.

The JWP will assess the report provided by the Operational Meeting, request changes as appropriate, and prepare a joint report for the co-governance committee. The co-governance committee will review the report and decide whether to make a recommendation to Council. If the co-governance committee agrees with the needs for a plan review, change or variation, it will make a recommendation to Council to proceed with the plan review. The JWP is responsible for presenting the report to Council.

4.2 Planning for a Plan Review, Change or Variation

Once the Council has decided to initiate a plan preparation, change, review or variation, it is important that the process for preparation of the planning document includes Raukawa to ensure that any new policy helps to achieve the Vision and Strategy and is developed in line with co-management principles. This will also help to reflect Raukawa values and respect tikanga and kawa.

Agreed Process

Where the Council resolves to pursue a plan change, variation or review of a planning document as it relates to the Vision and Strategy, the JWP will instruct the Operational Meeting to undertake further project planning. The Operational Meeting will discuss in more detail the process for preparing the document and the form and content, which will be developed from the initial consideration of the report presented to the JWP.

The Operational Meeting will prepare a report for the JWP which will address at a minimum:

- (a) The proposed general form and content of the RMA Planning Document based on feedback from the JWP and Council and justification;
- (b) Recommended approach to developing the planning document and specifically, the role of Raukawa in the plan development process;
- (c) Suggested timeframes and project milestones; and
- (d) Suggested protocols for agreeing content.

The JWP will assess the recommendations made by the Operational Meeting and request any changes. The JWP will then agree the project planning information and the review will commence. If there are significant changes to the scope at this stage, it will be referred back to Council to approve the revised scope. The JWP will recommend to the co-governance committee and/or the Council 4.2 (a) to (d) above.

4.3 Developing the Plan Preparation, Change, Review or Variation Document.

It is important that Raukawa has the potential to be involved in the development of the RMA Planning Document, working in partnership with the Council to ensure that the document gives effect to the Vision and Strategy. The extent of this involvement will vary depending on the nature of the planning document but could involve technical input, advice on matters of significance to Raukawa and involvement in the project team.

Agreed Process

The preparation of the planning document will be undertaken in accordance with the process agreed by the JWP. This will be different for every planning document prepared in order to ensure that the process is the most appropriate in the given situation.

The JWP will oversee the development of the document. This may include regular reporting from the project team, resolving any issues arising and reviewing drafts and making suggestions.

The JWP will make a recommendation to the co-governance committee and/or the Council on the content of the RMA Planning Document.

4.4 Notification of the Plan Change, Review or Variation Document

Once the RMA Planning Document has been completed, it will be notified and then follow the process set out in Schedule 1 of the RMA. By having Raukawa involvement throughout the process, the RMA Planning Document should have a stronger emphasis on achieving the Vision and Strategy and more comprehensively address matters of relevance to Raukawa.

Agreed Process

The JWP will be responsible for reviewing the draft plan review, change or variation and requesting changes as appropriate. The JWP will then prepare a report for the co-governance committee. The co-governance committee will review the report and decide whether to make a recommendation to Council. If the co-governance committee is satisfied with the document, it will make a joint recommendation to Council to notify the plan. The JWP is responsible for presenting the report to Council.

4.5 Discuss Potential for Trust to Participate in Making Decisions

In addition to being involved in preparation of any RMA Planning Documents, it is also important that discussions occur regarding the potential for Raukawa be involved in making decisions on a RMA Planning Document under clause 10 (provisions and matters raised in submissions) of Schedule 1 of the RMA. This will help to ensure that matters of relevance to Raukawa are adequately represented and that issues relating to Raukawa are considered as part of the decision making process.

Agreed Process

At an appropriate stage of the plan development process the JWP will meet to discuss representation on the hearings panel as it relates to the Vision and Strategy. The JWP will submit a report to the co-governance committee which will include recommendations on:

- (a) Form of panel including number of decision makers and use of commissioners or councillors;
- (b) Criteria for the panel members to be appointed; and
- (c) Criteria for chairperson to be appointed.

4.6 Private Plan Changes

Private plan changes are requests made by a third party to the Council under clause 21 of Schedule 1 of the RMA. The Council can choose to process a private plan change as if it were a plan change proposed by Council, or as if it were a resource consent. The process will therefore depend on the approach taken for each request.

Agreed Process

Where a request is made to the Council under clause 21 of Schedule 1 of the RMA that has relevance to the Waikato River or its catchment, the JWP will meet to discuss the request and the potential and opportunities for Raukawa participation in the process.

The process for Raukawa to be involved in private plan changes is likely to be similar to the process for resource consents and may include:

- (a) Involvement in pre-application processes;
- (b) Assessing the information provided in the plan change request;
- (c) Recommending to Council that further information in relation to matters of relevance to the Vision and Strategy are requested of the applicant if required; and
- (d) Providing the opportunity for Raukawa involvement in the decision making process.

These aspects will be considered by the JWP.

4.7 Customary Activities

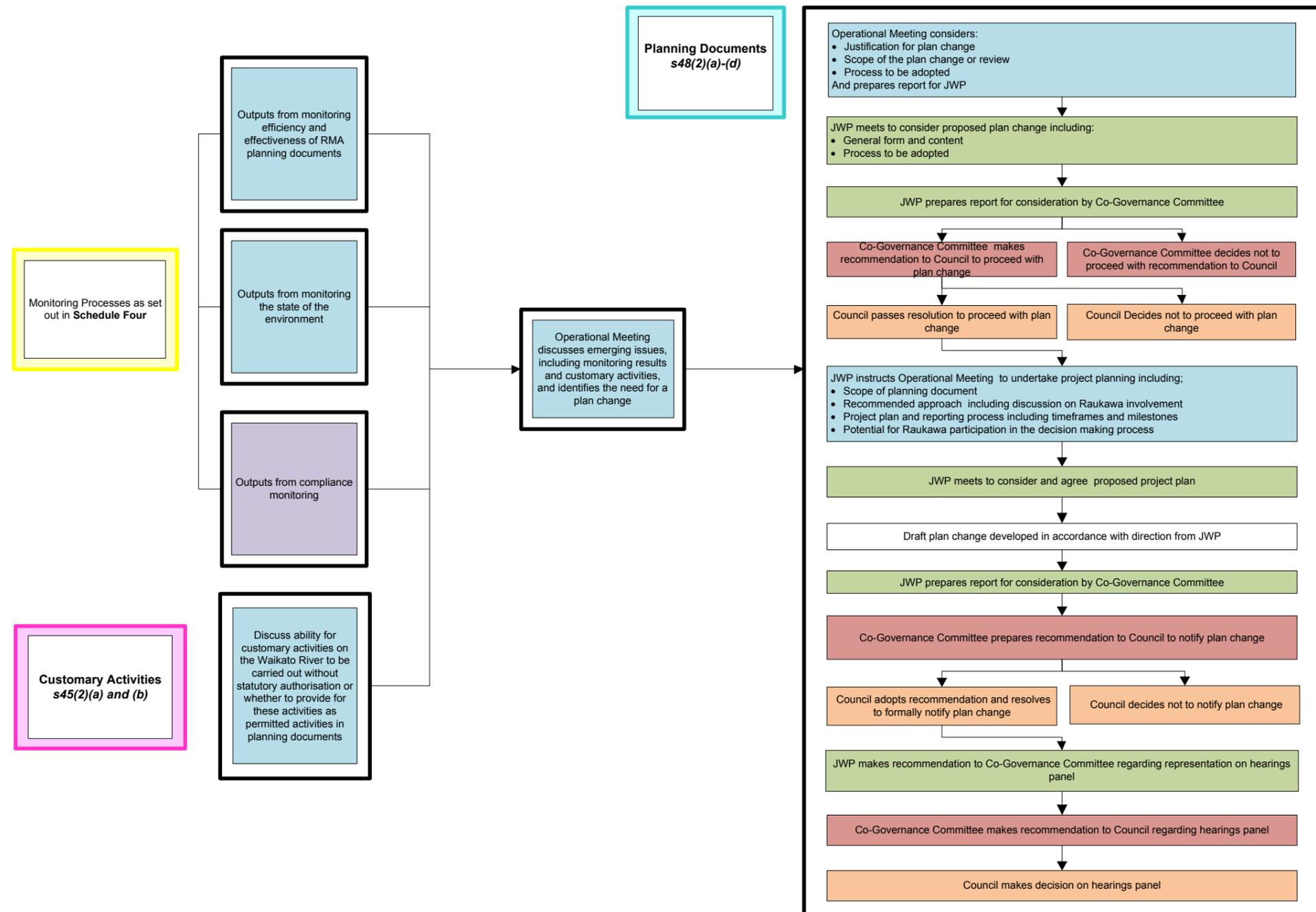
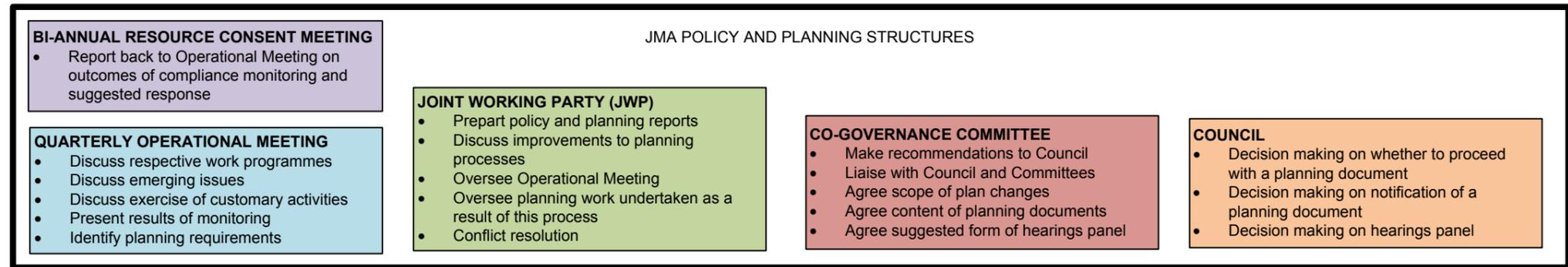
Section 45(2) of the Upper Waikato River Act provides for the Council and the Trust to explore whether customary activities can be carried out without the need for authorisation and whether these activities could be allowed as permitted activities.

Agreed Process

Customary activities will be discussed in the Operational Meeting. Raukawa representatives in the Operational Meeting will provide information on the types of customary activities that need to be considered. These activities will be discussed in terms of whether they are provided for in RMA Planning Documents and whether activities could be provided for as permitted activities or whether a statutory authorisation from the Council is required. Where it is determined a plan change or variation is required to address or permit these activities, the process will then be the same as for any other plan preparation, change, variation or review (as set out above).

FIGURE ONE

POLICY AND PLANNING PROCESSES



SCHEDULE THREE

RESOURCE CONSENT PROCESSES

1. SCOPE

- 1.1 The following criteria reflect the requirements of s49(2) of the Upper Waikato River Act and apply to applications under the RMA (s88, s127 changes and reviews under s128) for activities listed in s49(1) of the Upper Waikato River Act. The criteria are additional to the procedures agreed in the engagement protocol (**Engagement Protocol**) below.
- 1.2 The Parties acknowledge that these criteria are subject to s57 of the Upper Waikato River Act which enables the Council to act on its own account and not in accordance with the JMA where to do so would cause statutory timeframes to be breached.
- 1.3 The Parties further acknowledge that Raukawa is itself a major stakeholder in the Waikato River catchment and that the Trust reserves the right to participate as an adversely affected party irrespective of this JMA. This acknowledgement does not, in itself, confer affected party status in terms of the RMA.

2. VISION AND STRATEGY FOR THE WAIKATO RIVER

- 2.1 The Parties recognise Te Ture Whaimana - the Vision and Strategy as the primary direction-setting document for the Waikato River and activities within its catchment affecting the Waikato River.
- 2.2 In relation to resource consents, the Council has a statutory duty to have particular regard to the Vision and Strategy when processing applications.
- 2.3 Below are additional processes agreed between the Parties.

3. RESOURCE CONSENT PROCESSES AND PROCEDURES

3.1 Engagement Protocol for Implementing s49(2)(a) to (c) of the Upper Waikato River Act

This Engagement Protocol shall apply to resource consents (including s127 changes and s128 reviews) that impact on the Waikato River (as defined by s49 of Upper Waikato River Act namely ss13 and 14 of the RMA including its tributaries, lakes, wetlands, beds and banks).

Resource consents are legally required to be processed within specified timeframes, namely:

- (a) Non-notified applications – 20 (twenty) Working Days;
- (b) Limited notified applications – 50 (fifty) Working Days;
- (c) Publicly notified applications where s41B not applicable – 70 (seventy) Working Days; and
- (d) Publicly notified applications where s41B applicable – 85 (eighty five) Working Days.

This protocol has been designed to enable engagement between the Council and the Trust on consent applications, whilst meeting the statutory timeframes noted above. It is recognised by both Parties that compliance with the statutory timeframes is paramount. For this reason, it is also acknowledged that an effective process relies on the Parties operating in good faith, being cognisant of, and responsive to each other's requirements and acting without undue delay. Notwithstanding that, it is acknowledged that the

pressure of statutory timeframes may be less critical where applications are on hold under s92, 91 or 95C of the RMA or where the timeframe has been extended under s37A of the RMA.

Table 1: Engagement Protocol

	Provision
1	<p>Within 1 (one) Working Day of receiving an application as complete under s88 of the RMA or otherwise as soon as reasonably practicable, the Council will provide to the Trust a summary of resource consent applications received. The summary shall include the following information (if relevant):</p> <ul style="list-style-type: none"> • Name of Consent Applicant(s); • Consent applied for; • File/consent number; • Brief description of each activity applied for; • Type of activity; • Location of property/activity; • Land owner and occupier details; • Whether consultation has occurred with Iwi; If so, which Iwi; • Whether written approval provided by Iwi; • Whether application to be notified or non-notified (if a decision has been made); • Relevant RUG Consent Officer contact details; and • If a s127 of the RMA change of conditions or s128 of the RMA review, the reason for the change/review
2	<p>The information provided by the Council may be sent via e-mail to the Trust’s nominated email address.</p>
3	<p>If the Trust determines that further detail/information on, or a copy of, the application is required, the Trust will advise the RUG Consent Officer accordingly copying the message to rugq@ew.govt.nz. If no advice is received in relation to a particular application, the RUG Consent Officer can assume that the Trust has no further interest in that application. The need for consultation at the marae or hapū level should however continue to be determined on a case-by-case basis.</p>
4	<p>If the RUG Consent Officer receives advice pursuant to number 3 above, and subject to the detail/information being a matter within the jurisdiction of the RMA and relevant to the application, he/she will, where possible, provide the details/information, or copy of the application, as requested. If the Council does not hold the information requested the RUG Consent Officer will determine a way forward. This may include:</p> <ul style="list-style-type: none"> • Requesting information from the applicant or commissioning a report (informally or via s92 of the RMA); • Requesting the applicant to seek the written approval of tangata whenua; • Determining, in consultation with the Trust, that the information is not necessary or appropriate in the circumstances (for example, the matter may be able to be addressed through the imposition of appropriate conditions); • A meeting between relevant Council staff, the Trust and the applicant; or • Any other outcome agreed with the Trust.

5	<p>Subject to the receipt of further details/information pursuant to number 4 above, the Trust shall consider the information and advise the Council via email and/or letter confirming the Trust's position being:</p> <ul style="list-style-type: none"> • No issue (has no direct impact on iwi obligations); • Support for the application (conditional or not); • Opposition to the application unless certain conditions are met; or • Full opposition. <p>The advice shall also include:</p> <ul style="list-style-type: none"> • The name of the Trust's staff member responsible for the statement including all contact details; and • Reason(s) for the Trust's position. <p>And may include:</p> <ul style="list-style-type: none"> • Recommendations (if any) and reason(s); • Suggested pathway forward if there are outstanding matters; and/or • The Trust's views on notification and reason(s) for its views.
6	<p>Upon receiving the Trust's advice as per number 5 above the RUG Consent Officer shall formally acknowledge receipt via email and/or letter and advise of the process forward.</p>
7	<p>If there are outstanding matters to deal with, the Trust and the Council will identify a timeframe to deal with the matter.</p>

3.2 Criteria to Assist Council Decision Making (s49(2)(d) of the Upper Waikato River Act)

Pre-Application Processes (s49(2)(d)(i) of the Upper Waikato River Act)

There are no statutory requirements that require consultation prior to lodging an application. Applications simply have to comply with the requirements of the Forms Regulations and s88 of the RMA both of which relate to completion of the appropriate forms and provision of adequate information.

The Parties agree, however that pre-consultation with iwi is considered best practice and will lead to better environmental outcomes. The Parties will endeavour to encourage and support consultation with the Trust prior to lodgement.

Agreed Process

The Parties agree that where there is pre-application engagement with applicants, the following will occur:

- (a) In considering what applications may be of interest or may affect Raukawa, the Council will take account of the following:
 - Direct advice from the Trust;
 - The Raukawa Environmental Management Plan;
 - Raukawa Objectives for the Waikato River;
 - The Upper Waikato River Integrated Management Plan; and
 - The Vision and Strategy for the Waikato River.
- (b) The Council will assist applicants to identify the appropriate Trust contacts so as to facilitate contact and consultation.
- (c) Where the Council considers consultation with the Trust is appropriate, it will strongly encourage applicants to do so before the application is formally lodged.

- (d) The Council will seek to facilitate the Trust's participation in pre-lodgement meetings for significant applications.
- (e) The Council will advise applicants as to the need for assessment of environmental effects to specifically address impacts of the proposal on Raukawa.
- (f) The Council will advise prospective applicants that an assessment of the proposal against the Vision and Strategy for the Waikato River should, as appropriate, be undertaken in circumstances where the proposal may have an adverse effect on the River.

3.3 Direct Referral to the Environment Court (s49(2)(d)(ii) of the Upper Waikato River Act)

Any applicant may request direct referral of their resource consent application to the Environment Court. The Council has discretion to grant or decline such a request. If it is granted, the application is referred to the Environment Court and the Council must prepare a report on the application to be provided to the Court. If the Council refuses the request, it must process the application in the usual way.

Agreed Process

- (a) At its earliest convenience, the Council will notify the Trust that a request for direct referral to the Environment Court has been received for an application.
- (b) The Council will engage with the Trust as to its views on the request for referral.
- (c) When making a decision on a request for direct referral, the Council will take account of any views of the Trust.
- (d) The Council will formally advise the Trust of its decision and the reasons for the decision.

3.4 Check for Completeness of Applications (s49(2)(d)(iii) of the Upper Waikato River Act)

This is to check that s88(2) of the RMA has been complied with. That is, the application has been completed in the prescribed form and that it includes an adequate Assessment of Environmental Effects (AEE) prepared in accordance with Schedule 4 of the RMA. If not, the application may be rejected as incomplete and returned to the applicant. The processing timeframe (set out in the RMA) is not started. It is important to note that this is a check of "basic completeness" rather than accuracy or adequacy. In other words, it is not for checking the quality of the assessment of the effects of the proposal on, for example, water quality, but rather merely to check that water quality has been addressed in the AEE in some form.

Agreed Process

- (a) Where the Council receives an application where there is a potential adverse effect on values and interest of Raukawa but the matter is not addressed in the AEE, that matter will be taken into account in determining completeness under s88 of the RMA.
- (b) Where an application has the potential to have significant adverse effects on the values and interests of Raukawa and that matter is not addressed in the AEE, the application will not be accepted.

3.5 Deferral of Applications Pending Additional Resource Consent Applications (s49(2)(d)(iv) of the Upper Waikato River Act)

This enables the Council to defer processing/hearing an application if a proposal requires additional resource consents and those applications have not been made. The processing timeframe "clock" stops during the period between the request and the receipt of additional applications. The question of what consents are required for a proposal is a matter of fact. There is little or no room for discretion. A decision to request further applications is not a decision that would be made differently according to whether the proposal raised issues of interest to Raukawa or not.

Agreed Process

- (a) For applications that the Trust has indicated an interest in, the Council shall advise the Trust of any deferral under s91 of the RMA.

3.6 Requests for Further Information (s49(2)(d)(v) of the Upper Waikato River Act)

Section 92 of the RMA relates to both Council requests of the applicant for further information as well as the Council itself commissioning a report on some aspect of the application where the Council considers the application may have significant adverse effects. In essence, s92 of the RMA provides an ability to fill information gaps in the AEE provided by the applicant. In both cases the processing clock stops.

Agreed Process

- (a) Where an application contains insufficient information to enable an assessment against the Vision and Strategy, the Council will seek or commission further information.
- (b) For applications that the Trust has indicated an interest in, the Council shall consult with the Trust prior to any s92 of the RMA requests for further information or commissioning of reports.
- (c) For applications that the Trust has indicated an interest in, when further information is obtained, or a report is commissioned, that information shall be provided to the Trust as soon as practicable.
- (d) When considering the adequacy of information provided in an AEE, the Council will have particular regard to:
 - Whether or not there is adequate assessment of effects on matters identified as being of concern to Raukawa; and
 - Any advice from the Trust as to the need for further information.

3.7 Notification Decisions on Resource Consent Applications

Notification decisions are required to be made within about 5 (five) Working Days of receipt of the application (because any notification has to be undertaken no later than Day 10). Procedurally and legally, the decision is complex, involving the application of multiple statutory tests and discretions.

Agreed Process

- (a) The Trust will advise the Council where it considers an application should be notified, giving reasons.
- (b) Where the Trust advises that in its view an application should be notified, the Council will take account of the reasons provided as part of the notification decision.
- (c) When considering whether the adverse effects of the proposal on the environment are “likely to be more than minor” (for the purposes of s95A(2)(a) of the RMA), the Council will take account of the matters raised by the Trust as part of the notification decision.
- (d) When considering whether there are any “affected persons” (for the purposes of s95B(1) of the RMA), the Council will have regard to any advice from the Trust as to which parties may be “affected persons”.
- (e) When considering whether the adverse effects of the proposal on Raukawa or other parties are “likely to be minor or more than minor” (for the purposes of s95E(1) of the RMA), the Council will take account of any matters raised by the Trust as part of the notification decision.
- (f) When considering whether an application should be publicly notified (pursuant to s95A(1) of the RMA) or where there are special circumstances that warrant the public notification of an application (pursuant to s95A(4) of the RMA), the Council will have regard to any matters raised by the Trust in

particular where the application may be inconsistent with:

- The Vision and Strategy for the Waikato River;
- Raukawa Objectives for the Waikato River;
- Raukawa Environmental Management Plan; and
- Upper Waikato River Integrated Management Plan.

3.8 Applications to Change Resource Consent Condition(s)(s49(2)(d)(vii) of the Upper Waikato River Act

Change applications (s127 of the RMA) are applications initiated by consent holders to change or cancel a condition(s) of consent. Section 127(3) provides that ss88 to 121 of the RMA apply. In other words such applications are to be processed in the same way as any other application. The Council procedures (including pre-application s88 completeness s91 and s 92, notifications) generally make no distinction between s127 change applications and applications made under s88 of the RMA. For this reason, the Parties have agreed that for the purposes of this JMA, no process-related criteria be identified that are not already provided for under s88 applications (and which equally apply to s127 applications).

Agreed Process

- (a) Section 127 change applications will be subject to the same requirements under this JMA as new applications.

3.9 Reviews - RMA s128 (s49(2)(d)(vii) of the Upper Waikato River Act)

Reviews of the conditions of a resource consent are initiated by the Council under s128 of the RMA reviews. Such reviews may only be undertaken where a condition of the consent enables such or, where no such condition exists, in some limited specified circumstances. Where a consent contains a review condition, it merely provides an opportunity for review, the condition cannot make a review mandatory; a decision to initiate a review must still be made. Similarly as with s127 of the RMA many of the procedures for undertaking a review are the same as for a standard application, and to that extent, the processes specified above will apply.

Agreed Process

- (a) As a general rule, consents granted by the Council within the Waikato River catchment will include a review condition in relation to the Vision and Strategy.
- (b) When considering whether to impose a condition enabling opportunity for a s128 review, the Council will have regard to any views expressed by the Trust on that matter.
- (c) The Council will annually provide the Trust with a list of high priority resource consents for which an opportunity for review of conditions is approaching.
- (d) In determining whether or not to undertake a review of conditions under s128, the Council will have regard to any information and views provided by the Trust.

3.10 Additional Matters (Non-Statutory)

The Parties agree the following procedures to compliment and assist the practical operation of the statutory processes detailed above:

- (a) Where the Trust is engaged in a particular resource consent application for those activities listed in s49(1)(a) of the Upper Waikato River Act, RUG shall provide the following information to the Trust as requested:

- A copy of the final decision, including resource consent conditions; and
 - Copies of any monitoring results, enforcement action and complaints received.
- (b) The Council will provide ongoing information in relation to resource consents granted, including monitoring, complaints and enforcement action, in the following circumstances:
- Where the Trust has provided comments on the application; and
 - For all “high priority” resource consents.
- (c) The Parties agree to discuss amendments to resource consent applications forms to improve the quality and quantity of information and to enable more in depth understanding of the actual and potential effects of the environment. Priority will be placed on applications for the following activities:
- Discharges to land and water;
 - Water take and use permits;
 - Damming and diversion;
 - Vegetation clearance; and
 - Earthworks.
- (d) The Trust will provide training to RUG staff on:
- Matters that may have an actual or potential effect on Raukawa values and interests;
 - Procedures for consultation; and
 - Others matters as agreed.
- (e) During the last quarter of each calendar year, RUG will co-ordinate the scheduling of two meetings with the Trust the following year, to be held during the first and third quarters at mutually agreeable times, for the purpose of discussing:
- Opportunities for upskilling of consultants/contractors in Raukawa values/interests;
 - Training for RUG staff in relation to Raukawa values and interests and for Raukawa staff in relation to RUG processes and practices;
 - Opportunities for inclusion of information relevant to Raukawa values and interests in induction processes;
 - Prioritisation of consents (monitoring, review of conditions);
 - System/software changes and upgrades; and
 - Other matters as agreed.
- (f) Meetings will be held as agreed between the appropriate Council and Trust staff. Matters for discussion will include:
- Applications received;
 - Decisions made;
 - Application forms;
 - Pending applications; and
 - Other matters as agreed.

FIGURE TWO

RESOURCE CONSENT PROCESSES

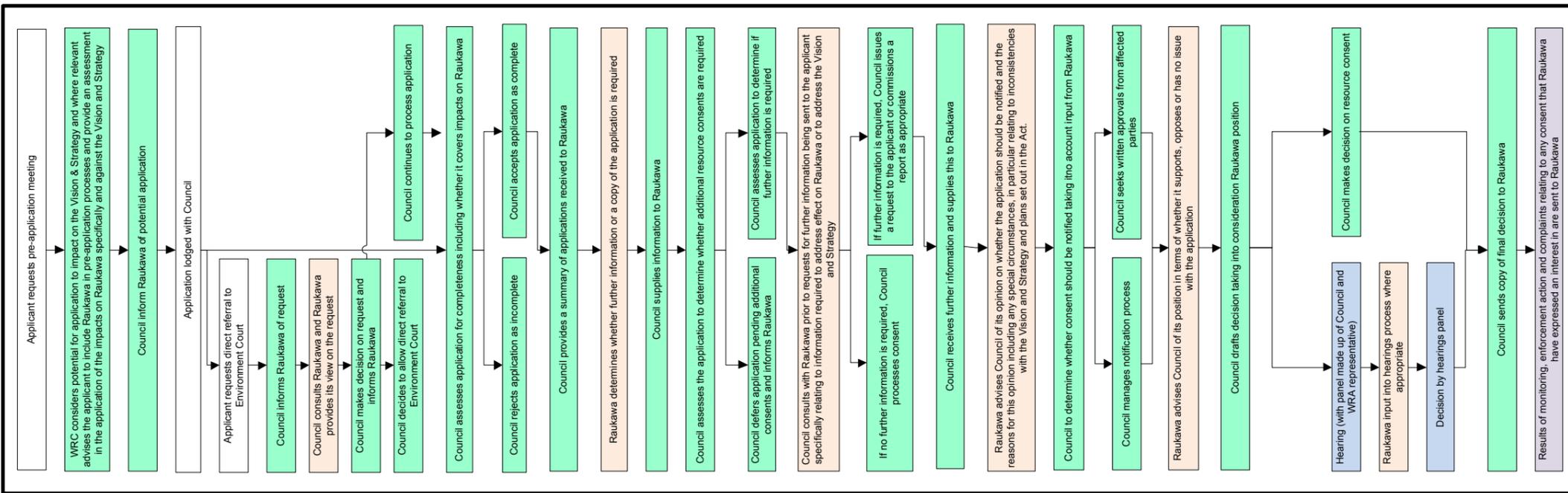
JMA RESOURCE CONSENTS STRUCTURE

- COUNCIL RESOURCE USE GROUP**
- Supply resource consent information to Raukawa in a timely manner
 - Advise applicants on the need to consider the Vision and Strategy in applications
 - Encourage applicants to involve Raukawa in pre-application processes

- RAUKAWA CHARITABLE TRUST**
- Respond to information provided by Council in a timely manner
 - Provide input and expertise relating to how resource consents may impact on achievement of the Vision and Strategy
 - Give opinions to Council regarding resource consent applications

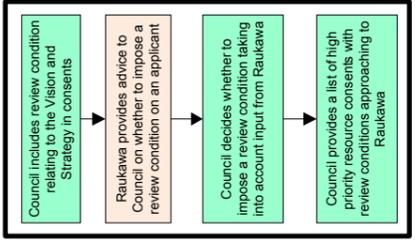
- BI-ANNUAL RESOURCE CONSENT MEETING**
- Discuss compliance monitoring and enforcement action and agree on appropriate responses including changes to resource consent processes

- WAIKATO RIVER AUTHORITY**
- Joint decision making responsibilities with Council on resource consents where a hearing is required



Resource Consents S49(2)(a)-(d)

Section 128 Process S49(2)(a)(vii)



SCHEDULE FOUR

MONITORING AND ENFORCEMENT PROCESSES

1. SCOPE

- 1.1 The following process reflects the requirements of s47(2) of the Upper Waikato River Act and applies to monitoring and enforcement relating to the Waikato River and activities within its catchment affecting the Waikato River.
- 1.2 The monitoring in this schedule refers to the activities carried out by Council under section 35(a)-(e) of the RMA. These activities include:
- (a) Monitoring the state of the environment;
 - (b) Monitoring the efficiency and effectiveness of provisions in plans and policy statements;
 - (c) Monitoring the exercise of functions, powers or duties that Council has delegated or transferred;
 - (d) Monitoring the exercise of resource consents; and
 - (e) Monitoring the exercise of protected customary rights.
- 1.3 These functions are carried out by a number of different groups within Council including Policy and Transport, Resource Information Group (RIG) and Resource Use Group (RUG) and the agreed processes in this Schedule therefore apply across a range of different participants.

2. VISION AND STRATEGY FOR THE WAIKATO RIVER

- 2.1 The Parties recognise Te Ture Whaimana - the Vision and Strategy for the Waikato River as the primary direction-setting document for the Waikato River and activities within its catchment affecting the Waikato River.
- 2.2 The Council has a statutory duty to have particular regard to the Vision and Strategy when undertaking its regulatory functions concerning the monitoring and enforcement of activities.
- 2.3 Below are additional processes agreed between the Parties.

3. MONITORING AND ENFORCEMENT PROCESSES AND PROCEDURES

- 3.1 The Upper Waikato River Act requires the JMA to provide for the Council and the Trust to meet no less than twice a year to discuss monitoring and enforcement activities. This requirement will be met through the JWP and Operational Meeting described in Schedule Two – Planning Document Processes. The general information contained within Schedule Two regarding the JWP and Operational Meeting also applies to this Schedule. Additional information regarding the purpose and operations of the JWP and Operational Meeting, specifically relating to monitoring and enforcement activities, are presented here. The requirement for monitoring resource consents will be met through the establishment of a bi-annual resource consent meeting.
- 3.2 The results of monitoring activities are used to inform future policy development and it is therefore important that there are strong links between monitoring processes and policy and planning processes. Schedule Two explains the importance of early involvement for Raukawa in the development of planning

documents. This process starts with the identification of need, which often arises as a result of monitoring activity. It is therefore important that Raukawa is also involved in planning for monitoring activities to ensure that the appropriate information is being gathered to make informed decisions. The process for this is set out in Schedule Two.

4. JOINT WORKING PARTY

- 4.1 The purpose of the JWP with regards to monitoring, which is in addition to that set out in Schedule Two, will be to oversee all monitoring related aspects of this JMA. Monitoring functions will include:
- (a) Agreeing and submitting reports and recommendations regarding monitoring priorities and activities to Council, as appropriate;
 - (b) Overseeing and agreeing the work being undertaken by the Operational Meeting, in particular the development of monitoring work programmes;
 - (c) Resolving any conflicts arising from the Operational Meeting in relation to monitoring; and
 - (d) Identifying any potential improvements in relation to monitoring processes carried out under the JMA and possible changes to the JMA.

5. OPERATIONAL MEETING

- 5.1 The purpose of the Operational Meeting in relation to monitoring will be to work together to discuss topics relating to state of the environment and plan monitoring in order to make recommendations to the JWP. The membership of the Operational Meeting will depend on the topics under discussion but representatives from all of the groups engaged in these monitoring activities will be included as appropriate.
- 5.2 Agenda items of the Operational Meetings relating to monitoring will include, but not be limited to:
- (a) Respective work programmes;
 - (b) Emerging issues, including results of monitoring;
 - (c) Priorities for plan monitoring and review (ss35(2)(b) and 35(2A) of the RMA) (s47(2)(a)(i) of the Upper Waikato River Act);
 - (d) Priorities for state of the environment monitoring (s35(2)(a) of the RMA) - (s47(2)(a)(i) of the Upper Waikato River Act); and
 - (e) Scope and process for monitoring activities including Raukawa involvement (s47(2)(a)(ii) and (iii) of the Upper Waikato River Act).
- 5.3 Bi –Annual Resource Consent Meeting
- The JWP or the Operational Meeting will not address compliance monitoring and enforcement activities as this will be carried out through a bi-annual resource consent meeting. However, any relevant findings from these activities that may require a change to a planning document will be fed back to the Operational Meeting.

6. PROCESS

6.1 State of the Environment Monitoring

Monitoring the state of the environment is necessary for Council to meet its statutory functions including obligations under National Policy Statements and National Environmental Standards and reporting to national and international bodies. The results of monitoring activities help to establish what the issues are, whether existing policy frameworks are achieving what they were intended to and what action may be needed to address the issue. Without monitoring it is impossible to know which natural resources are most at risk and what activities are causing any issues. State of the environment monitoring is therefore vital in order to plan future work programmes so that Council can meet its obligations under the RMA.

The Parties acknowledge that the Council has a long-standing monitoring network for national and regional state of the environment reporting and trend analysis. The Parties will endeavour to ensure compatibility between any new monitoring and Council's existing monitoring networks.

It is not possible to monitor all aspects of the environment at all times and the Council needs to make decisions about what the priorities for monitoring activities are. It is important that Raukawa is involved in establishing the priorities for monitoring to ensure that the outcomes are relevant to achieving the Vision and Strategy and provide the necessary information to support appropriate plan changes or other work programmes. It is important to note that state of the environment monitoring is a long term activity and its value depends on the continuity in methodologies, length of time (generally at least 10 years) and location. This will be kept in mind when agreeing priorities.

Agreed Process

The Operational Meeting will discuss the emerging issues and results of any previous monitoring activity, and develop a proposed work programme for environmental monitoring above what is currently being carried out by Council. The proposed work programme will include:

- (a) Priorities for monitoring the environment and justification including urgency and potential needs for new monitoring sites and/or parameters;
- (b) Recommended approach to carrying out monitoring activities, including the scope and methods, including mātauranga Māori;
- (c) Roles and responsibilities including the role of Raukawa in ongoing monitoring activities, including availability of human and physical resources, training need and funding;
- (d) Process for reporting monitoring findings back to the Operational Meeting; and
- (e) Timeframes for carrying out monitoring activities.

The proposed work programme will be assessed by the JWP who will review, make amendments as appropriate and finalise the document. This proposed work programme is expected to be completed within 12 (twelve) months from the signing of the JMA.

6.2 Monitoring of Plans and Policy Documents

The monitoring of planning documents involves reviewing the effectiveness of policies, rules and methods to assess whether they are achieving what they were intended to and whether there is a more efficient way of achieving the same outcomes. The results of plan monitoring will help to identify the need for plan changes, variations or reviews, through demonstrating where existing plans are not being effective.

Agreed Process

The Operational Meeting will discuss the issues and identify priorities for plan monitoring on matters that affect the Waikato River or its catchment. This will include taking account of any previous policy effectiveness reviews that have been carried out by the Council.

The Operation Meeting will make recommendations to the JWP on the work programme for plan monitoring, including:

Suggested priorities for plan monitoring and justification including urgency:

- (a) Recommended approach to carrying out monitoring activities, including the scope and methods used.
- (b) Roles and responsibilities including the role of Raukawa in ongoing monitoring activities.
- (c) Process for reporting monitoring findings back to the Operational Meeting.
- (d) Timeframes for carrying out monitoring activities.

In addition, the JWP will discuss and agree the role of the Trust in the 5 (five) yearly review of policy effectiveness that must be undertaken by the Council under section 35(2A) of the RMA.

6.3 Compliance Monitoring and Enforcement Procedures

Compliance monitoring is important to ensure that activities that are permitted in the Regional Plan or authorised by resource consents are being carried out in line with the agreed conditions and to make sure that unanticipated adverse effects on the environment are not occurring.

The process for monitoring compliance and taking enforcement action is well established within Council. This JMA does not alter those processes but seeks to provide for Raukawa involvement in this process.

6.4 Bi-Annual Meetings (s47(2)(a), (b) and (e) of the Upper Waikato River Act)

(During the last quarter of each calendar year, RUG will co-ordinate the scheduling of two meetings with the Trust the following year, to be held during the first and third quarters at mutually agreeable times, for the purpose of:

- (a) Discussing and agreeing priorities for monitoring the exercise of resource consents;
- (b) Discussing and agreeing the methods for and extent of the monitoring of the exercise of resource consents;
- (c) Discussing the potential for Raukawa to participate in the monitoring of the exercise of resource consents; and
- (d) Discussing appropriate responses to address the outcomes of the monitoring of the exercise of resource consents including enforcement under the RMA including criteria for the commencement of prosecutions, applications for enforcement orders, the service of abatement notices, and the service of infringement notices; and
- (e) Discussing the potential for persons nominated by the Trust to participate in enforcement action under the RMA.

6.5 Reporting on Enforcement Action (s47(2)(c) of the Upper Waikato River Act)

At least 3 (three) weeks prior to each meeting referred to above RUG shall, subject to Privacy Act 1993 considerations, provide the Trust with a summary update of RMA enforcement actions (prosecutions, enforcement orders, abatement notices and infringement notices) taken by the Council. The summary shall include the following information; name, description, type of action, date and outcome.

6.6 Monitoring and Review of Delegated or Transferred Functions, Powers or Duties

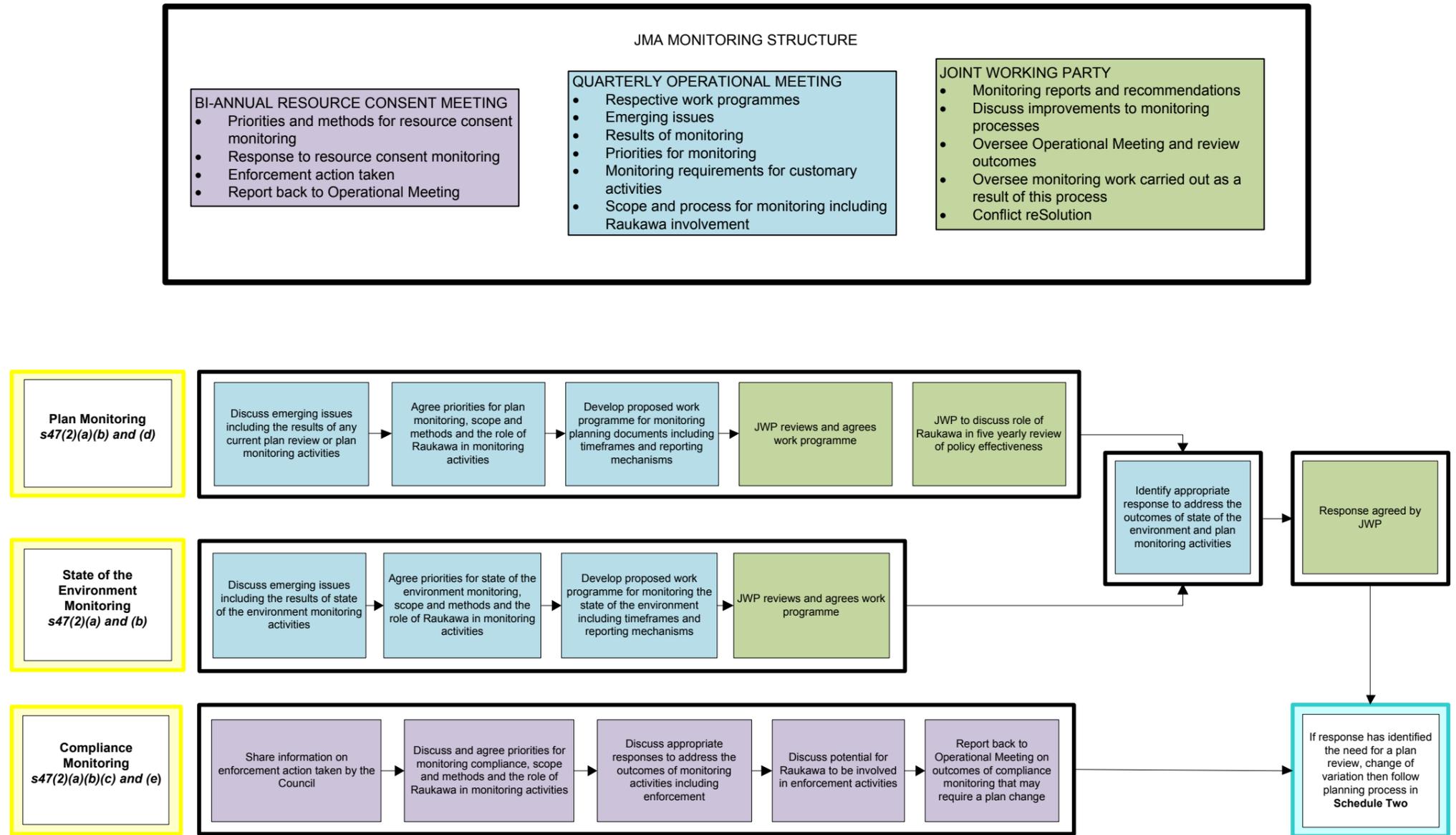
This JMA does not refer to any delegation or transfer of functions, powers or duties and there is no established process for the Parties to monitor and review this activity. Should the issue of delegation of transfer or functions, powers or duties arise, it will be discussed by the co-governance committee and a process agreed as appropriate.

6.7 Protected Customary Rights

This JMA does not outline any Protected Customary Rights (as defined in s2 of the RMA) and there is no established process for the Parties to monitor and review these rights. Should Protected Customary Rights exist pursuant to the RMA then the Parties will discuss and consider an agreed process for monitoring, if appropriate.

FIGURE THREE

MONITORING PROCESSES



JOINT MANAGEMENT AGREEMENT PROCESSES

