



19 February 2010

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Hon Tau Henare  
Chair  
Maori Affairs Select Committee  
Parliament Buildings  
Private Bag 18041  
Wellington

Dear Chair

**Re: Waikato-Tainui Raupatu Claims (Waikato River) Settlement Bill**

I refer to your letter received 12 February 2010 inviting further submissions on the revised Waikato-Tainui Raupatu Claims (Waikato River) Settlement Bill by Friday 19 February 2010.

We appreciate the opportunity to provide a further written submission but I must record our disappointment in you providing only one week for further submissions to what is a substantially redrafted Bill. The timeframe has not allowed for us to consult with our membership, fully analyse the Bill, prepare a formal submission authorised by our National Council, nor to provide you with constructive recommendations. This letter provides general comment on the proposed changes and areas where we seek the Committee's consideration to ensure that arrangements are workable and meet their intent in practice.

*Support for amended co-management framework*

We support the intent of the Bill and the changes proposed to the co-management framework. The changes to the framework are significant and address many of the concerns we raised in our original submission. In particular, we support the Joint Management Agreement approach. This will enable the development of strong and relevant relationships between each council and Waikato-Tainui. Clarity is required however on the role and purpose of the "joint working parties".

In our original submission, one of our key concerns was the need for clarity and no ambiguity, particularly in how the arrangements integrate with the Resource Management Act (RMA) and the Local Government Act (LGA). The approaches and processes in the amended proposals have significantly less room for conflict and ambiguity. We draw your attention below to particular aspects where we remain concerned about how the proposals will work in practice alongside the RMA/LGA framework, or where further detail is required in the Bill to ensure the proposals will work in practice.

### *Vision and Strategy*

It is unclear how the Vision and Strategy will be deemed into the Regional Policy Statement (RPS). While we support the intent and acknowledge the wish to adopt a process which avoids the full RMA plan change process, we suggest that only those aspects of the Vision and Strategy that are RMA matters should be deemed into the RPS. To avoid any conflict or confusion, the Bill should specify which provisions will be deemed into the RPS, and how they are to be incorporated (for example as objectives, policies or methods). We also suggest that the timing for deeming those provisions, and any future review of the Vision and Strategy must work in with the review timing and cascade effect of the RPS, Regional Plans and District Plans under the RMA. This Bill also needs to be very clear about how and when the Vision and Strategy applies to district plan reviews, some of which are already well advanced, and the role of the Authority, Trust and working parties.

Given the status and impact of the Vision and Strategy, it is critical that it is developed and reviewed using a robust transparent public process. We acknowledge that the process is improved from the original Bill, but we believe this Bill still needs to include further detail to ensure a clear robust process. For example, we note the importance of an ability to challenge/appeal provisions in policy statements or plans that will restrict or allow activities. The process needs to align with both RMA and LGA processes given the potential impact of the Vision and Strategy on documents and activities under both the RMA and LGA.

### *Customary activities*

The approach for customary activities is relatively complex while also lacking the details needed to give certainty that the intent can be implemented in practice. This is an area of potential conflict between customary activities and other (existing or proposed) activities. We ask you to include more details on this aspect of the arrangements so make clear to all involved the scope of customary activities, the roles of the various parties, and the exact process for determining matters such as whether an activity is likely to have a significant adverse effect on a customary activity. Any full right of veto or ability to suspend third party activities or applications for consent is opposed. It is not consistent with the processes and framework of the RMA and LGA and could have significant environmental, economic and social consequences. We also note the potential conflict with navigation safety bylaws.

### *Hearing commissioners*

While the intent in including hearing commissioners nominated by iwi is acknowledged, the approach must work in with the requirements and processes of the RMA regarding hearings and decisions. This clause of the Bill needs further work.

### *Implementation workability*

In addition, I am aware that the Waikato local authorities have provided more detailed comments on implementation. I endorse those comment to you and seek further detail and specifics in the areas identified to ensure that the proposals will actually work in practice.

### *Costs*

The amended approach in this Bill continues to result in significant additional costs for Waikato ratepayers. These costs relate to initiating the new framework, for example development of the JMA, and the ongoing costs of implementing the new framework, for example new reporting and process costs. As outlined in our original submission,

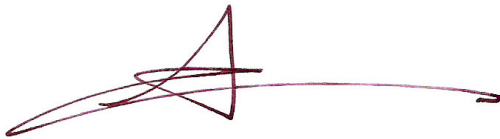
ratepayers should not have to bear the cost of a local authority having to comply with new obligations imposed by Central Government. National level resourcing is required to support the Deed of Settlement and this includes assisting local authorities and iwi to fully adopt the new framework.

*Unchanged parts of the Bill*

For those parts of the Bill that have not been amended, we refer you to our original submission of 10 February 2009. The comments in that submission stand.

Thank you again for the opportunity to provide these brief further comments on the amended Bill. We assume that the Select Committee will now proceed to hear all submissions and we do request to be heard.

Yours sincerely

A handwritten signature in red ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Eugene Bowen  
Chief Executive  
*Local Government New Zealand*