
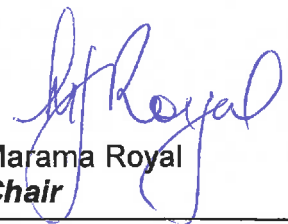


Funding Memorandum of Understanding

between
Ngāti Whātua Ōrākei Reserves Board
and
Auckland Council

Signed under delegated authority for and on behalf of Auckland Council by:	Signed for and on behalf of Ngāti Whātua Ōrākei Reserves Board by:
 Stephen Town Chief Executive	 Marama Royal Chair
Date: 12/8/19	Date: 5/8/2019

Definitions

- a) “**Act**” means the Ngāti Whātua Ōrākei Act Claims Settlement Act 2012
- b) “**Council**” means the Auckland Council established by section 6 of the Local Government (Auckland Council) Act 2009
- c) “**Financial year**” - for the Reserves Board this means 1 July to 30 June.
- d) “**Ngāti Whātua Ōrākei Trust**” means the trust established Trust established by a deed of trust dated 3 November 2011
- e) “**Reserves Board**” means Ngāti Whātua Ōrākei Reserves Board established under the Ngāti Whātua Ōrākei Claims Settlement Act 2012 to act as the administering body of the Whenua Rangatira and Pourewa Creek Recreation Reserve;
- f) “**Trustee**” means the trustee or trustees for the time being of the Ngāti Whātua Ōrākei Trust.
- g) “**Whenua Rangatira**” means the land as defined in section 59 of the Act and as shown in the map in Appendix One
- h) “**Pourewa Creek Recreation Reserve**” means the reserve defined in section 10 of the Act and as shown in the map in Appendix Two.

Background

1. The Ōrākei Act 1991 created New Zealand’s first co-governed public park – known as the Whenua Rangatira. 22 years later the Pourewa Creek Recreation Reserve was added to the existing co-governance arrangement and the Ōrākei Act was superceded by the Ngāti Whātua Ōrākei Claims Settlement Act 2012.
2. The provisions of the Act can be found online. Of particular relevance are the funding provisions in the Act which are:

46 Administration of Pourewa Creek Recreation Reserve...

(7) All costs and expenses incurred in and incidental to the administration of the reserve must be paid by the Auckland Council to the extent that any income arising from the reserve is insufficient to defray those costs and expenses.

69 Costs of management of whenua rangatira

(1) All costs and expenses incurred in and incidental to the control and management of the whenua rangatira must be paid by the Auckland Council to

the extent that any income arising from the whenua rangatira is insufficient to defray those costs and expenses.

Schedule 4, Clause 6

Remuneration of members appointed by trustee

A member of the Reserves Board who is appointed by the Trustee must be paid, in accordance with the Fees and Travelling Allowances Act 1951, out of money appropriated by Parliament for the purpose,—

- *remuneration by way of fees, salary, or allowances for the member's services as a member of the Reserves Board; and*
 - *travelling allowances and expenses in respect of time spent travelling in the service of the Reserves Board.*
3. The Whenua Rangatira and Pourewa Creek Recreation Reserve is owned by the Trustee as shown in appendix one and two.
 4. The assets on the Whenua Rangatira and Pourewa Creek Recreation Reserve, for accounting purposes, are held by Auckland Council on behalf of the Reserves Board.

Purpose

5. Auckland Council and Ngāti Whātua Ōrākei Reserves Board must be transparent with each other as part of the co-governance arrangement so that both parties can work together to deliver improved outcomes for all Aucklanders.
6. This document provides a standardised approach to financial policy and reporting guidelines for the Council and the Reserves Board. This includes:
 - documenting and communicating reporting requirements for all parties working with Ngāti Whātua Ōrākei Reserves Board.
 - clarifying roles and responsibilities for making financial decisions in conjunction with reserves board delegations, as amended from time to time.
 - ensuring a consistent approach for the delivery of Ngāti Whātua Ōrākei Reserves Board related activities.

Financial planning, accounting and auditing

7. The Reserves Board must adopt a 10 year financial plan that is reviewed annually.
8. The Council will provide an opportunity for the Reserves Board to submit its forecast 10-year funding requirement as part of each of Council's Long Term Plans (every three years).
9. As a general guide the Reserves Board 10 Year Financial Plan must be complete by 30 November of the year before the year in which a Long Term Plan is required to be developed and submitted to the Governing Body of Council for consideration.
10. Council will provide an opportunity for the Reserves Board to present to the Governing Body in respect to its funding request prior to the adoption of a Long Term Plan.
11. The Long Term Plan will include provision, over a 10 year period, for the management of the Whenua Rangatira and Pourewa Creek Recreation Reserve as required by the Act. This will, at minimum, provide for the proper maintenance and management of the existing land and infrastructure on the Whenua Rangatira and Pourewa Creek Recreation Reserve not including leased land or infrastructure.
12. As provided for in clause of Schedule 4 of the Act the Reserves Board must:
 - “(1) No later than 4 months before the end of each financial year of the Auckland Council, the Reserves Board must give the Council an estimate of the income and expenditure of the Reserves Board, in relation to the Pourewa Creek Recreation Reserve and the whenua rangatira, in the next financial year.*
 - (2) The Reserves Board must keep full and accurate accounts of all money received and paid by it.*
 - (3) At the close of each financial year, the Reserves Board must have its accounts audited by a chartered accountant.*
 - (4) The Reserves Board must give a copy of the accounts audited under subclause (3) to the trustee and the Auckland Council, together with a report of the financial position of the Reserves Board and its financial operations during the period to which the accounts relate.”*

Funding

13. On 1 July in each year the funding provided in the Long Term Plan for the Reserves Board in respect of the relevant financial year (as modified by any subsequent Annual Plan in respect of that financial year) will be available for expenditure by or on behalf of the Reserves Board subject to clause 11 and 13 and subject to documentation and funding mechanisms being put in place as contemplated by clauses 16 (Payments) and 20 (Funding transfers).
14. The annual amount anticipated through the Long Term Plan may be varied by Council in any given year through the Annual Plan process.

Year end

15. The Reserves Board must, no later than 28 February each year, provide Auckland Council with a year end financial forecast position including any proposed carryforward of funding from the then current financial year where budgeted funding for that financial year is forecast to be unspent at the end of that financial year.
16. Where funds budgeted for one financial year are forecast to be unspent at the end of that financial year the Reserves Board may request that such unspent funds be carried forward to the next financial year.
17. Decisions on whether funds are carried forward from one financial year to the next will be made through the Annual Plan process.

Payments

18. Payments will be made using Auckland Council's procurement process and systems for all operational and capital expenses except where work is to be carried out by third parties (including the Trustee or its subsidiaries) engaged by the Reserves Board in which case the provisions outlined under "Funding Transfers" section of this agreement will apply.

Financial policy and practice

19. The Reserves Board shall hold a fraud policy and have practices in place to manage fraud.
20. The Reserves Board shall have delegations in place to ensure the efficient and effective use of funds while also ensuring there are appropriate financial controls.

Holding Bank Account

21. Council will maintain a holding bank account on behalf of the Reserves Board in accordance with the provisions in the Act. In the event that income from the Pourewa Creek Recreation Reserve and the Whenua Rangatira exceeds the costs and expenses incurred in and incidental to the control and management of the Pourewa Creek Recreation Reserve and the Whenua Rangatira at the end of any financial year, the excess income would be treated as retained earnings in the Reserve Board's accounts. This amount could, on the request of the Reserve Board, be paid into the holding bank account.

Funding transfers

22. Where Reserves Board direction is to be implemented by third parties (including the Trustee or its subsidiaries) engaged by the Reserves Board this will be the subject of separate funding agreements.

GST

23. The Reserves Board is part of the Auckland Council GST group. GST has been collected and paid by the Council on behalf of the Reserves Board.

Dispute Resolution

24. Council and the Reserves Board agree that any differences of view or disputes between them should be addressed frankly and constructively

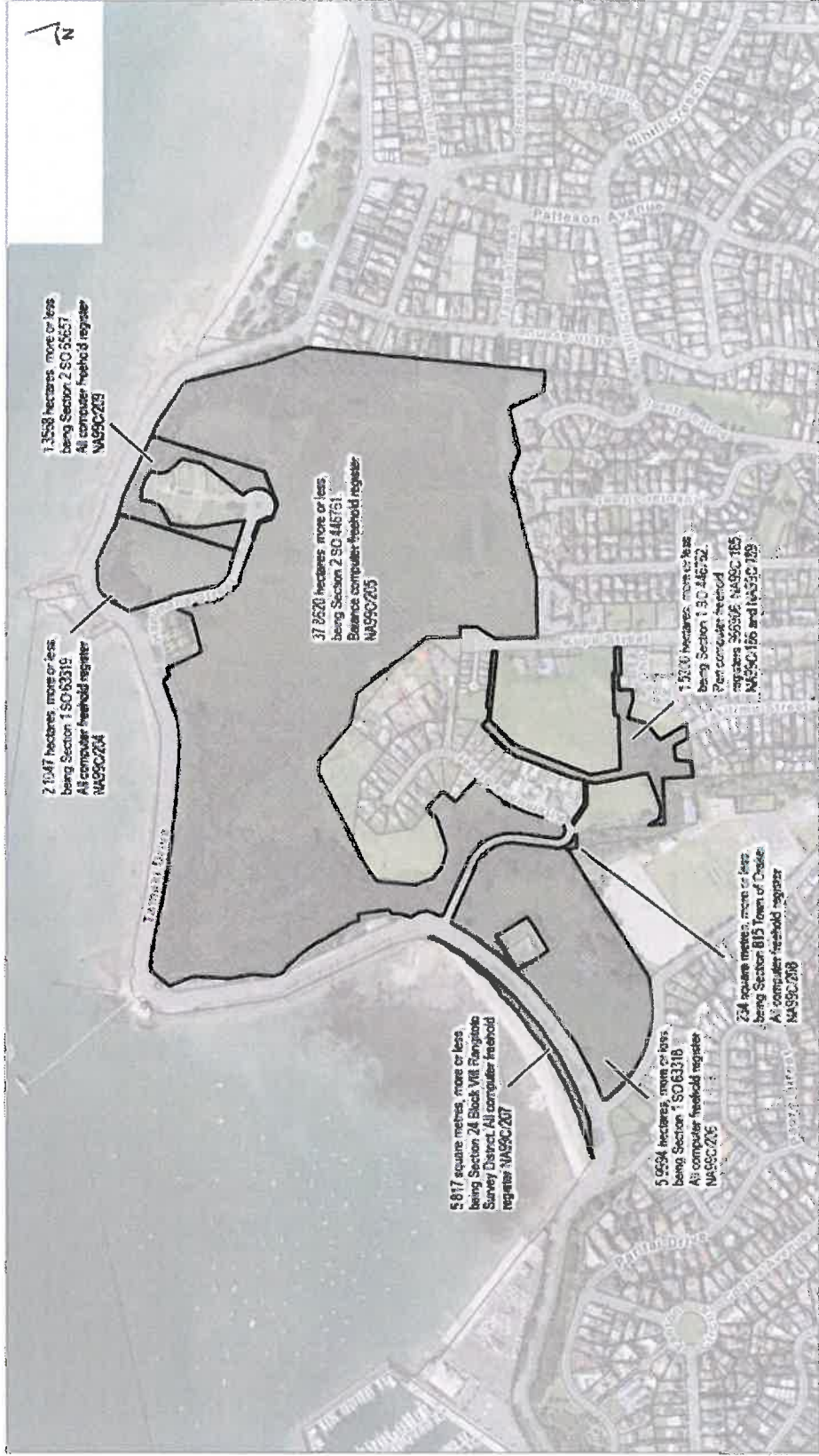
between the parties, and in the first instance, between the executive management of both parties.

25. If either party identifies a matter that requires escalation it shall be referred to the Chair of the Reserve Board and the Chief Executive of Council for discussion between them.
26. While nothing in this memorandum restricts the legal rights of either party, both Council and the Reserve Board note the desire to resolve disputes through discussion, or if necessary through mediation, without recourse to litigation.

Status of Memorandum of Understanding

27. This memorandum is not legally binding, although the parties may agree that protocols or arrangements in respect of any matter will be.
28. This memorandum, and any action under it, is subject to all applicable laws.
29. Any variation or termination of this memorandum shall require the approval of both parties.

Appendix one: Whenua Rangatira



Appendix two: Pourewa Creek Recreation Reserve

