

# PROJECT MANAGEMENT AGREEMENT

An Agreement made this                    day of                    2019 between:

**FAR NORTH DISTRICT COUNCIL** ('the Council') and

**LIVING WATERS - BAY OF ISLANDS, Bay of Islands Maritime Park Incorporated**  
("Living Waters")

## BACKGROUND

The Council owns and manages reserves ("the Reserves") under the Reserves Act 1977 ("the Act") and unformed legal roads in the Far North District, has a number of obligations relating to reserves under the Act and wishes to carry out those obligations and promote the best use and management of these reserves through a variety of projects for the benefit of the community, including ecological restoration activities.

Living Waters is the catchment arm of the volunteer-led organisation Bay of Islands Maritime Park Inc. (BOIMP). BOIMP is a Charitable Incorporated Society founded in 2007 for the purpose of protecting and restoring native biodiversity in the Bay of Islands. This is achieved by use of the type of work set out in Schedule Two.

Living Waters wishes to secure its investment of time and resources by having an agreement which recognises and sustains the works being carried out and Council has agreed to enter into this agreement.

Living Waters has submitted Management Plan(s) with agreed terms under which it will carry out restorative projects on Council-owned reserves and unformed legal roads.

## IT IS AGREED AS FOLLOWS:

### 1 That Living Waters will:

- (a) Be engaged, as a volunteer-led organisation to carry out ecological restoration activities ("the Activities") on Council's reserves and unformed legal roads and to provide assistance and guidance when appropriate.
- (b) Carry out the Activities in accordance with Living Waters' usual mode of operation where Council agrees as per Schedule One. Further reserves and unformed legal roads may be added to Schedule One with Council's written consent
- (c) Ensure that all volunteers have the required expertise to carry out the work assigned to them and will provide all necessary training and guidance, and that contractors engaged in the work are preferably on Council's list of approved contractors.
- (d) Appoint a Manager for each Reserve or groups of Reserves or length of unformed legal road to oversee the work to be carried out and choose and organise the volunteers and any contractors to take part.
- (e) Ensure the Manager commences with activities once the reserve(s) or unformed legal roads have been included in Schedule One and the Management Plan and where appropriate, also an operational plan is signed.

- (f) Not transfer, sub-contract, sub-let, sub licence, assign or otherwise dispose of the its interest under this Agreement without the prior written agreement of Council.
- (g) Provide Council with a Management Plan and where necessary a more detailed operational plan prior to undertaking Activities. This plan should identify the locations of the specified Activities prior to carrying out the work. This plan will contain the details of the Activities including invasive (alien) species to be removed, any water management and planting. Once both parties have signed the plan activities can begin.
- (h) Provide details of a Living Waters contact person to Council who Council is to correspond with over any aspect of the work being carried out.

## **2 Each Manager must:**

- (a) Take all reasonably practicable steps to protect the safety of all persons present on the Land as a result of the Manager's operations;
- (b) Record and report to the Council all accidents involving serious harm within 24 hours of their occurrence and work with the Council to complete an investigation report within 3 days of the accident occurring;
- (c) Not bring onto the Land or any land administered by the Council any dangerous or hazardous material or equipment which is not required for purposes of the Activities.
- (d) Comply in all respects with the Health and Safety Handbook provided by Living Waters and attached to this agreement in Schedule Three, and comply with Council's requirements concerning the Induction Checklist and Volunteer form, specimens of which also appear in Schedule Three.

## **3 In conducting the Activity the Manager must comply where relevant:**

- (a) With the Health and Safety at Work Act 2015 and its regulations, the Reserves Act 1977, the Wildlife Act 1953 and any other enactment (collectively the "Legislation") affecting or relating to the Land and/or the Activities; and
- (b) With bylaws made under the Legislation affecting or relating to the Land and/or Activities; and
- (c) With all notices and requisitions of any competent authority affecting or relating to the Land or affecting or relating to the conduct of the Activities
- (d) With all Council signs and notices placed on or affecting the Land; and
- (e) With all reasonable notices and directions of the Council concerning the Activities.

**4** Any breach or contravention by the Manager of any Legislation affecting or relating to the Land and/or Activity is deemed to be a breach of this Agreement.

**5** If the Manager believes appropriate, may seek to terminate or change its arrangements for a particular Reserve or group of Reserves if it either determines its work is complete and/or it is unable to provide ongoing on-site management services.

## **IT IS AGREED AS FOLLOWS:**

## 6 That Council will:

- (a) Where practicable give notice of the breach or default of this Agreement to the Manager and provide a reasonable opportunity to remedy the breach or default.
- (b) If, in Council's opinion, there is a temporary risk arising from any cause on or in the vicinity of the Land or to public safety then the Council may temporarily close access to all or part of the land.
- (c) Suspend the Agreement for specific reserves or unformed legal roads for such period as the Council determines where the Manager in charge has breached any terms of this Agreement.
- (d) Terminate this Agreement for specific reserves and unformed legal roads either in whole or in part by 14 days notice to the particular Manager or such sooner period as it appears necessary and reasonable to the Council if the Manager breaches any terms of this Agreement; and
  - (i) the Manager does not rectify the breach within 7 days of receiving notification; or such earlier time as specified by the Council; or
  - (ii) in the opinion of the Council the breach is not capable of being rectified; or
  - (iii) the Manager ceases to conduct the Activities or, in the reasonable opinion of the Council, the conduct of the Activities are manifestly inadequate; or
  - (iv) if the Manager is convicted of an offence under the Reserves Act 1977 or any statute, ordinance, regulation, bylaw, or other enactment affecting or relating to the Land or which in the Council opinion affects or relates to the Activities; or
- (e) Immediately if there is, in the opinion of the Council, a permanent risk to public safety or to the natural resources of the Land arising from the conduct of the Activities or from natural or arising in any other way, whether or not from any breach of the terms of this Agreement on the part of the Manager.
- (f) Not be liable to the Manager for any loss sustained by the Manager by reason of the suspension or termination of the Agreement.
- (g) Provide details of a Council representative who Living Waters are to correspond with over any aspect of the work being carried out.

## 7 DISPUTES

If a dispute arises between the parties in connection with this Agreement the parties must, without prejudice to any other rights or entitlements they may have, attempt to resolve the dispute by agreement using informal dispute resolution techniques such as negotiation, mediation or expert appraisal or any other alternative dispute resolution technique. The rules governing any such technique adopted are to be agreed between the parties.

## 8 REVIEW PERIOD

The parties should meet at least annually to discuss the agreement and the activities carried out and planned to be carried out on various reserves and unformed legal roads.

## 9 VARIATIONS

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Except as provided by legislation, this Agreement and any written variation and the various management and work plans agreed by the parties contains the entire understanding between the parties.

Nothing expressed or implied in this Agreement is to be construed as:

- (a) conferring on the Manager any right of exclusive occupation or use of the Land;
- (b) granting any exclusive estate or interest in the Land to the Manager;
- (c) (subject to clause 6 (b) hereof) affecting the rights of the Council and the public to have access across the Land.

This Agreement is to be governed by, and interpreted in accordance with the laws of New Zealand.

SIGNED on behalf of LIVING WATERS

in the presence of:

Date:

SIGNED for FAR NORTH DISTRICT COUNCIL

in the presence of:

Date:

**SCHEDULE ONE**

## List of Reserves and Unformed Legal Roads:

- Te Wahapu Scenic Reserve (pale blue);#5081713, plus adjoining Esplanade Reserve #5164288
- Pipiroa Scenic Reserve (yellow); #4769976
- Pipiroa Recreation Reserve (yellow) and Unformed legal road (incl walkway); #4981031 plus adjoining ULR #5228835
- Tangatapu Unformed legal road (incl walkway) part parcel #5211851 & private Reserves Act covenant (pale blue) #5152163;
- Kanuka Bay (Okiato) Unformed legal road (yellow) on Waikare Inlet margins; part parcel # 5230964
- NW Waikare Inlet Unformed part (bush margins) of legal roadway (pale blue) part parcel #5238533;
- NE Waikare Inlet Unformed part (bush margins) of legal roadway (pale blue) part parcel #5214958.
- Kawakawa River margins at Taumarere Bridge (whitebait spawning zone), unformed legal road, parcel #5211779 and part parcel #5231694 (pale blue).

ADD MAPS as required to support the descriptions above

## SCHEDULE TWO

Type of works:

### 1. Weed Control

When undertaking weed spraying the person applying the spray is required to address the following:

- (i) Hold a Growsafe and Approved Handler Certificate
- (ii) Wear appropriate personal protective equipment for herbicide being used.
- (iii) Follow recommended dilution rates as per herbicide label.
- (iv) Use a method of least disturbance to control the weeds so impacts are minimised on surrounding vegetation and adjacent watercourses eg. consider overspraying, erosion, type of nozzle and for larger plants consider cutting and stump killing rather than spraying.
- (v) Avoid spreading weeds by ensuring footwear is cleaned properly before entering another reserve.
- (vi) Ensure minimal damage of non-target vegetation. To minimise spray drift, spray when the wind at the site is less than 15 kph. Also consider wind direction and location of non- target species.
- (vii) Signage shall be used where the spraying may affect the public using the Reserve.
- (viii) At risk vegetative material removed from the reserve shall be disposed of in an environmentally friendly manner. Material needing such action includes invasive weeds that can sprout from fragments or cuttings or tubers e.g. ginger, banana passionfruit vines.
- (ix) Chemicals shall be stored in a lock up building.
- (x) Follow the recommended practice for weed management as per information from the Department of Conservation ("DOC"), Weed Manager or Weedbusters or Regional Council websites.

### 2. Planting

- (i) All plants must be native, appropriate to the area and site conditions. Where possible the plants should be eco-sourced from the appropriate Ecological District or Region.
- (ii) Before taking plants to reserves check plants for argentine ants and rainbow skinks by tapping/banging the bag and observing for ant presence. Contact DOC if found, before moving to site.

### 3. Predator Control - Trapping

- (i) Before installing traps or bait stations ensure warning signs are in place at potential public access points.
- (ii) No naked traps are to be placed within 3m of a public track (steep ground) or 5m (level ground). Traps should generally be out of sight. Covered traps are to be no closer than 1m to track edge, cover must be secured and have a warning notice on top.

- (iii) To safeguard kiwi and weka, traps must be set at least 70cm above the ground or have kiwi and weka proof entrances.

#### **4. Recording**

The Manager must keep accurate records of all animals and birds killed on the site during the term. Records must be provided to the Council Rep.

#### **5. Kiwi Call Counts**

If considered appropriate, the BNZ National Call Count methodology is to be used and data is to be provided to the Council Rep.

#### **6. Five Minute Bird Counts**

If considered appropriate, standard Five Minute Bird Count Protocol is to be used and data is to be provided to the Council Rep.

#### **7. Environmental Care**

In completing the Activities:

- (i) Living Waters must not cut new tracks other than those approved by the Council for trap or bait station installation and servicing.
- (ii) Living Waters must take special precautions to ensure that protected wildlife is not harmed as a result of the completion of the services, However, if any protected wildlife is harmed it must be cared for and handed in to DOC, as soon as possible, whether alive or dead, where considered appropriate after consultation with the Council Rep.
- (iii) Living Waters is to ensure that volunteers shall check footwear, clothing, packs and equipment for weed seeds before entering the forest to reduce the risk of weed spread.
- (iv) Living Waters is to help prevent the spread of Phytophthora Taxon Agathis (PTA) by cleaning shoes, tyres, equipment before and after entering forest with kauri.
- (v) The Manager is responsible for the removal of any unused materials left over from track or trap establishment and maintenance.
- (vi) Trapping of non-target species - Any dead trapped native birds must be recorded as other on the Trap Catch Form and must be placed in a snap-lock bag and marked with trap identification number and date. The parties will inform DOC and seek its advice.
- (vii) The manager must not leave carcasses on site and must remove old bait closer than 10 meters from a trap site, a public walking track, huts, streams or watercourses.

### **SCHEDULE THREE**

Health and Safety:

- Living Waters – Bay of Islands Health and Safety Plan
- Living Waters – Bay of Islands and Far North District Council volunteer health and safety induction checklist

ADD both documents