

**A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF  
CONSERVATION REGARDING DEPARTMENT OF CONSERVATION/ RONGOWHAKAATA  
INTERACTION ON SPECIFIED ISSUES**

**1 INTRODUCTION**

- 1.1 Under the Deed of Settlement dated 30 September 2011 between Rongowhakaata, the governance entity and the Crown (the "Deed of Settlement"), the Crown agreed that the Minister of Conservation (the "Minister") would issue a Protocol ("the Protocol").
- 1.2 The Protocol sets out the manner in which the Department of Conservation ("the Department") will interact with the governance entity in relation to matters specified in the Protocol. These matters are:
- 1.1.1 Purpose of the Protocol – Part 2
  - 1.1.2 DOC Protocol Area – Part 3
  - 1.1.3 Terms of Issue – Part 4
  - 1.1.4 Implementation and Communication – Part 5
  - 1.1.5 Business Planning – Part 6
  - 1.1.6 Cultural Materials – Part 7
  - 1.1.7 Historic Resources - Wahi Tapu – Part 8
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  - 1.1.9 Marine Mammals – Part 10
  - 1.1.10 Species Management – Part 11
  - 1.1.11 Freshwater Fisheries – Part 12
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  - 1.1.14 Resource Management Act 1991 – Part 15
  - 1.1.15 Visitor and Public Information – Part 16
  - 1.1.16 Concession Applications – Part 17
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- 1.1.19 Consultation – Part 20
  - 1.1.20 Contracting for Services – Part 21
  - 1.1.21 Protocol Review – Part 22
  - 1.1.22 Definitions – Part 23
  - 1.1.23 Provision of Information – Part 24
- 1.3 The governance entity has a responsibility in relation to the preservation, protection and management of natural and historic resources in the protocol area as kaitiaki according to Rongowhakaata tikanga. The Department acknowledges this kaitiakitanga role and the burden of maintaining that role.
- 1.4 Rongowhakaata consider that this Protocol provides a process or opportunity by which the Crown seeks to restore its reputation as a Treaty partner

#### *Section 4 Conservation Act and Department's Functions*

- 1.5 Section 4 of the Conservation Act 1987 (the "Act") states that the Act shall be interpreted and administered as to give effect to the principles of the Treaty of Waitangi. Both the Department and governance entity are committed to establishing and maintaining a positive and collaborative relationship that gives effect to the principles of the Treaty of Waitangi. Those principles provide the basis for an ongoing relationship between the parties to the Protocol to achieve over time the conservation policies, actions and outcomes sought by both the governance entity and the Department.
- 1.6 The purpose of the Act is to enable the Department "to manage for conservation purposes, all land, and all other natural and historic resources" under that Act and to administer the statutes in the First Schedule to the Act (together, the "Conservation Legislation"). The Minister and Director-General, or their delegates, are required to exercise particular functions, powers and duties under that legislation.
- 1.7 A primary function of the Department is to manage for conservation purposes various lands, and natural and historic resources. As part of this, one of the Department's key aims is conserving the full range of New Zealand's ecosystems, maintaining or restoring the ecological integrity of managed sites, and ensuring the survival of threatened species, in particular those most at risk of extinction.

## **2 PURPOSE OF THE PROTOCOL**

- 2.1 The purpose of this Protocol is to assist the Department and the governance entity to exercise their respective responsibilities with the utmost co-operation to achieve over time the conservation policies, actions and outcomes sought by both.
- 2.2 This Protocol sets out a framework that enables the Department and the governance entity to establish a constructive working relationship that gives effect to section 4 of the Act. It provides for the governance entity to have meaningful input into certain policy, planning and decision-making processes in the Department's management of Crown conservation lands and fulfilment of statutory responsibilities within the DOC Protocol Area.



- 2.3 This Protocol also provides for the Department and the trustees of the Nga Uri o Te Kooti Rikirangi Settlement Trust to establish a constructive working relationship in relation to sites that are important to Nga Uri o Te Kooti Rikirangi because of their significance in the life of Te Kooti Rikirangi.

### **3 DOC PROTOCOL AREA**

- 3.1 The Protocol applies across the DOC Protocol Area which means the area identified in the map included in Attachment A of this Protocol.

### **4 TERMS OF ISSUE**

- 4.1 This Protocol is issued pursuant to section 24 of the Rongowhakaata Claims Settlement Act 2012 (the "Settlement Legislation") and clause 6.10 of the Deed of Settlement. The provisions of the Settlement Legislation and the Deed of Settlement specifying the terms on which this Protocol is issued are set out in Attachment B of the Protocol.

### **5 IMPLEMENTATION AND COMMUNICATION**

- 5.1 The Department shall establish and maintain effective and efficient communications with the governance entity on a continuing basis by:
- 5.1.1 maintaining information on the governance entity's office holders, and their addresses and contact details;
  - 5.1.2 appointing a primary departmental contact for the governance entity who will act as a liaison person with other departmental staff;
  - 5.1.4 providing reasonable opportunities for the governance entity to meet with departmental managers and staff;
  - 5.1.5 holding alternate meetings at the Area Office and a governance entity marae or other venue chosen by the governance entity to discuss issues that may have arisen every six months, unless otherwise agreed. The parties may also, led by the governance entity, arrange for an annual report back to the affiliate iwi and hapu of the governance entity in relation to any matter associated with the implementation of this Protocol; and
  - 5.1.6 training relevant staff and briefing Conservation Board members on the content of the Protocol.
- 5.2 At the first meeting under clause 5.1.5 (which will occur within 12 months of the Settlement Date) the Department and governance entity will discuss implementation of the Protocol.
- 5.3 The Department and the governance entity shall, where relevant, inform conservation stakeholders about this Protocol and the Rongowhakaata settlement, and provide ongoing information as required.
- 5.4 The Department shall advise the governance entity of any departmental policy directions and the receipt of any research reports relating to matters of interest to Rongowhakaata, within the DOC Protocol Area, and provide copies of such documents to the governance entity to study those reports.

- 5.5 The Department shall invite the governance entity to participate in specific departmental projects, including education, volunteer and conservation events that may be of interest to Rongowhakaata.
- 5.6 The Department shall advise the governance entity of any upcoming relevant training opportunities within the DOC Protocol Area related to conservation management that may be of interest to Rongowhakaata.
- 5.7 The Department shall advise the governance entity of contestable funds that the Department services and administers relating to the protection of biodiversity, for example the Matauranga Kura Taiao Fund.
- 5.8 It is acknowledged that the relationship between the Department and the governance entity will also be through the Central Leadership Group established under clauses 6.31 to 6.37 of the Deed of Settlement.

#### *Requests for Cultural/Spiritual Practices*

- 5.9 When the Department requests cultural and/or spiritual practices to be undertaken by Rongowhakaata, within the DOC Protocol Area the Department will make a payment, subject to prior mutual agreement, on a fair and reasonable basis, towards the costs of undertaking such practices.

## **6 BUSINESS PLANNING**

- 6.1 The Department's annual business planning process determines the Department's conservation work priorities.
- 6.2 The Gisborne Whakatane Area Office Manager will meet with the governance entity on an annual basis to present a synopsis of the Department's proposed work programme as it relates to the DOC Protocol Area.
- 6.3 The Department shall provide opportunities for the governance entity to be involved in any relevant Conservation Management Strategy reviews or Management Plans, within the DOC Protocol Area.
- 6.4 The process for the governance entity to identify and/or develop specific projects for consideration by the Department is as follows:
  - 6.4.1 the Department and the governance entity will on an annual basis identify priorities for undertaking specific projects requested by the governance entity. The identified priorities for the upcoming business year will be taken forward by the Department into its business planning process and considered along with other priorities;
  - 6.4.2 the decision on whether any specific projects will be funded in any business year will be made by the relevant Department Manager and East Coast Bay of Plenty Conservator after following the co-operative processes set out above;
  - 6.4.3 if the Department decides to proceed with a specific project requested by the governance entity the governance entity and the Department may meet again to finalise a work plan, timetable and funding before implementation of the specific project in that business year, in accordance with the resources which have been allocated in the business plan; and

6.4.4 if the Department decides not to proceed with a specific project it will communicate to the governance entity the factors that were taken into account in reaching that decision.

6.5 The Department will approach the governance entity with potential departmental projects in the DOC Protocol Area to seek the governance entity's views on those projects, and to discuss if the governance entity would wish to be involved in or to contribute to those projects.

## **7 CULTURAL MATERIALS**

7.1 For the purpose of this Protocol, cultural materials are plants, plant materials, and materials derived from animals, marine mammals or birds for which the Department is responsible within the DOC Protocol Area and which are important to the governance entity in maintaining and expressing its cultural values and practices.

7.2 Current legislation means that generally some form of concession or permit is required for any gathering and possession of cultural materials.

7.3 In relation to cultural materials, the Minister and/or Director-General shall:

7.3.1 consider and, where appropriate, approve, reasonable requests from the governance entity for access to and use of cultural materials within the DOC Protocol Area when required for cultural purposes, in accordance with the relevant legislation;

7.3.2 advise the governance entity when requests under clause 7.3.1 are not approved and the reasons for this;

7.3.3 consult the governance entity when a request is received from any person or entity for the use of cultural materials;

7.3.4 agree, where appropriate, for the governance entity to have access to cultural materials which become available as a result of departmental operations such as track maintenance or clearance, or culling of species, or where materials become available as a result of accidental death or otherwise through natural causes;

7.3.5 assist, as far as reasonably practicable, the governance entity to obtain plant stock for propagation to reduce the need for plant stock to be gathered from land administered by the Department and to provide advice to the governance entity in the establishment of its own cultivation areas; and

7.3.6 provide, as far as reasonably practicable, ongoing advice to the governance entity for the management and propagation of the plant stock.

7.4 The Department and the governance entity shall discuss the development of procedures for monitoring levels of use of cultural materials in accordance with the relevant legislation and appropriate tikanga.

## **8 HISTORIC RESOURCES – WAHI TAPU**

8.1 The governance entity consider that their wahi tapu and other places of cultural heritage significance are taonga (priceless treasures), and the Department will respect the great

significance of these taonga by fulfilling the obligations contained in this clause of the Protocol.

- 8.2 The Department has a statutory role to conserve historic resources in protected areas and shall endeavour to do this for sites of significance to the governance entity in association with the governance entity and according to tikanga.
- 8.3 The Department accepts that non-disclosure of locations of places known to the governance entity may be an option that the governance entity chooses to take to preserve the wahi tapu nature of places. There may be situations where the governance entity will ask the Department to treat information it provides on wahi tapu sites in a confidential way.
- 8.4 The Department and the governance entity shall work together to establish processes for dealing with information on wahi tapu sites in a way that recognises both the management challenges that confidentiality can present and provides for the requirements of the governance entity.
- 8.5 The Department shall work with the governance entity at the Area Office level to respect Rongowhakaata values attached to identified wahi tapu and other places of significance on lands administered by the Department by:
  - 8.5.1 discussing with the governance entity, by the end of the second year of this Protocol being issued and on a continuing basis, practical ways in which Rongowhakaata can exercise kaitiakitanga over ancestral lands, natural and historic resources and other taonga managed by the Department within the DOC Protocol Area;
  - 8.5.2 managing sites of historic significance to the governance entity according to standards of conservation practice which care for places of cultural heritage value, their structures, materials and cultural meaning, as outlined in the International Council on Monuments and Sites (ICOMOS) New Zealand Charter 1993, and in co-operation with the governance entity;
  - 8.5.3 informing the governance entity if taonga or koiwi are found within the DOC Protocol Area; and
  - 8.5.4 assisting in recording and protecting wahi tapu and other places of cultural significance to the governance entity where appropriate, to seek to ensure that they are not desecrated or damaged. For example, this may involve ensuring a new track does not traverse an area of particular sensitivity.
- 8.6 The Department shall work with the trustees of the Nga Uri o Te Kooti Rikirangi Settlement Trust at the Area Office level, in relation to sites on lands administered by the Department that are important to Nga Uri o Te Kooti Rikirangi because of their significance in the life of Te Kooti Rikirangi, in accordance with clauses 8.1 to 8.5.4 above.
- 8.7 The trustees of the Nga Uri o Te Kooti Rikirangi Settlement Trust will provide the Department of Conservation with information identifying sites on public conservation land where Te Kooti Rikirangi had a notable historical role. This information may be amended or supplemented from time to time as necessary and practicable.
- 8.8 The Department of Conservation will seek and consider the views of the trustees of the Nga Uri o Te Kooti Rikirangi Settlement Trust on historical interpretation material (including

signs, publications and website information) that the Department produces or commissions, in relation to sites it manages, where this material refers to Te Kooti Rikirangi.

## **9 NATURAL HERITAGE**

- 9.1 In recognition of the cultural, historic and traditional association of the governance entity with natural heritage resources found within the DOC Protocol Area for which the Department has responsibility, the Department shall:
- 9.1.1 inform the governance entity of the national sites and species programmes on which the Department will be actively working, and provide opportunities for the governance entity to participate in these programmes; and
  - 9.1.2 advise the governance entity of research projects and provide opportunities where reasonably practicable for the governance entity to participate in that research.

## **10 MARINE MAMMALS**

- 10.1 Rongowhakaata has a tikanga responsibility, which is acknowledged by the Department, in relation to the preservation, protection and disposal of marine mammals within the DOC Protocol Area to ensure cultural protocols are observed in the interaction with and handling of these mammals.
- 10.2 The Department administers the Marine Mammals Protection Act 1978 and the Marine Mammals Regulations 1992. These provide for the establishment of marine mammal sanctuaries, for permits in respect of marine mammals, the disposal of sick or dead specimens and the prevention of marine mammal harassment. All species of marine mammal occurring within New Zealand and New Zealand's fisheries waters are absolutely protected under the Marine Mammals Protection Act 1978. Under that Act the Department is responsible for the protection, conservation and management of all marine mammals, including their disposal and the health and safety of its staff and any volunteers under its control, and the public.
- 10.3 The Protocol also aims at assisting the conservation of cetacean species by contribution to the collection of specimens and scientific data of national and international importance.
- 10.4 The Department believes that there are opportunities to meet the cultural interests of Rongowhakaata, and to facilitate the gathering of scientific information. This Protocol is intended to meet both needs by way of a co-operative approach to the management of whale strandings and to provide general guidelines for the management of whale strandings in the DOC Protocol Area, and for the recovery by Rongowhakaata, of bone and other material for cultural purposes from dead marine mammals.
- 10.5 There may be circumstances during a stranding in which euthanasia is required, for example if the animal is obviously distressed or if it is clear that a refloating operation will be unsuccessful. The decision to euthanise, which will be made in the best interests of marine mammals and public safety, is the responsibility of an officer or person authorised by the Minister. The Department will make every effort to inform the governance entity before any decision to euthanise.
- 10.6 Both the Department and Rongowhakaata, acknowledge the scientific importance of information gathered at strandings. Decisions concerning the exact nature of the scientific samples required and the subsequent disposal of any dead mammals, including their availability to the governance entity, will depend on the species.

10.7 The following species ("category 1 species") are known to strand most frequently on New Zealand shores. In principle these species should be available to the governance entity for the recovery of bone once scientific data and samples have been collected. If there are reasons why this principle should not be followed, they must be discussed between the parties to this Protocol. Category 1 species are:

10.7.1 common dolphins (*Delphinus delphis*)

10.7.2 long-finned pilot whales (*Globicephala melas*)

10.7.3 sperm whales (*Physeter macrocephalus*).

10.8 The following species ("category 2 species") are either not commonly encountered in New Zealand waters, or may frequently strand here but are rare elsewhere in the world. For these reasons their scientific value has first priority. In most instances, bone from category 2 species will be made available to the governance entity after autopsy if requested:

- all baleen whales
- short-finned pilot whale (*Globicephala macrorhynchus*)
- beaked whales (all species, family Ziphiidae)
- pygmy sperm whale (*Kogia breviceps*)
- dwarf sperm whale (*Kogia simus*)
- bottlenose dolphin (*Tursiops truncatus*)
- Maui's dolphin (*Cephalorhynchus hectori maui*)
- dusky dolphin (*Lagenorhynchus obscurus*)
- Risso's dolphin (*Grampus griseus*)
- spotted dolphin (*Stenella attenuata*)
- striped dolphin (*Stenella coeruleoalba*)
- rough-toothed dolphin (*Steno bredanensis*)
- southern right whale dolphin (*Lissodelphis peronii*)
- spectacled porpoise (*Australophocoena dioptrica*)
- melon-headed whale (*Peponocephala electra*)
- pygmy killer whale (*Feresa attenuata*)
- false killer whale (*Pseudorca crassidens*)



- killer whale (*Orcinus orca*)
  - any other species of cetacean previously unknown in New Zealand waters.
- 10.9 If the governance entity does not wish to recover the bone or otherwise participate the governance entity will notify the Department whereupon the Department will take responsibility for disposing of the carcass.
- 10.10 Because the in-situ recovery of bones involves issues relating to public safety, including the risk of infection from dead and decaying tissue, it needs to be attempted only by the informed and skilled. Governance entity bone recovery teams will also want to ensure that the appropriate cultural tikanga is understood and followed. However, both parties acknowledge that generally burial will be the most practical option.
- 10.11 Subject to the prior agreement of the Conservator, where disposal of a dead stranded marine mammal is carried out by the governance entity, the Department will meet the costs incurred up to the estimated costs which would otherwise have been incurred by the Department to carry out the disposal.
- 10.12 The Department will:
- 10.12.1 reach agreement with the governance entity on authorised key contact people who will be available at short notice to make decisions on the desire of the governance entity to be involved when there is a marine mammal stranding;
  - 10.12.2 promptly notify the key contact people of all stranding events;
  - 10.12.3 discuss, as part of the disposal process, burial sites and, where practical, agree sites in advance which are to be used for disposing of carcasses in order to meet all the health and safety requirements and to avoid the possible violation of Rongowhakaata tikanga; and
  - 10.12.4 consult with the governance entity in developing or contributing to research and monitoring of marine mammal populations within the DOC Protocol Area.

## 11 SPECIES MANAGEMENT

- 11.1 One of the Department's primary objectives is to ensure the survival of indigenous species and their genetic diversity. An important part of this work is to prioritise recovery actions in relation to the degree of threat to a species. The Department prioritises recovery actions at both a national and local level.
- 11.2 In recognition of the cultural, spiritual, historical and/or traditional association of the governance entity with species found within the DOC Protocol Area for which the Department has responsibility, the Department shall in relation to any species that the governance entity may identify as important to them through the processes provided under clauses 5 and 6 of this Protocol:
- 11.2.1 where a national recovery programme is being implemented within the DOC Protocol Area, where reasonably practicable, inform and provide opportunities for the governance entity to participate in that programme;

- 11.2.2 advise the governance entity in advance of any Conservation Management Strategy amendments or reviews or the preparation of any statutory or non-statutory plans, policies or documents that relate to the management of those species within the DOC Protocol Area;
- 11.2.3 where research and monitoring projects are being carried out by the Department within the DOC Protocol Area, where reasonably practicable provide the governance entity with opportunities to participate in those projects; and
- 11.2.4 advise the governance entity of the receipt of any completed research reports relating to any species within the DOC Protocol Area and provide copies of such reports to the governance entity.

## **12 FRESHWATER FISHERIES**

- 12.1 Freshwater fisheries are managed under two sets of legislation: the Fisheries Act 1983 and 1996 (administered by the Ministry of Agriculture and Forestry) and the Act (administered by the Department). The Department's functions include the preservation of freshwater fisheries and habitats. The whitebait fishery is administered by the Department under the Whitebait Fishing Regulations 1994, made under the Act.
- 12.2 The Department shall consult with the governance entity, and provide for its participation where reasonably practicable in the conservation and management (including research) of customary freshwater fisheries and freshwater fish habitats.
- 12.3 The Department shall work at the Gisborne Whakatane Area Office level to provide for the active participation of the governance entity in the conservation, management and research of customary freshwater fisheries and freshwater fish habitats by:
  - 12.3.1 seeking to identify areas for co-operation in advocacy, consistent with clause 15.3.1 of this Protocol, focusing on fish passage, minimum flows, protection and enhancement of riparian vegetation and habitats, water quality improvement and in the restoration, rehabilitation or enhancement of customary freshwater fisheries and their freshwater habitats;
  - 12.3.2 consulting with the governance entity in developing or contributing to research and monitoring programmes that aim to improve the understanding of the biology of customary freshwater fisheries and their environmental and habitat requirements;
  - 12.3.3 considering the governance entity as a possible science provider or collaborator for research projects funded or promoted by the Department in the same manner as other potential providers or collaborators; and
  - 12.3.4 processing applications for the transfer and release of freshwater fish species, including eels, according to the criteria outlined in section 26ZM of the Act.

## **13 MARINE RESERVES**

- 13.1 Marine Reserves are managed under the Marine Reserves Act 1971. The purpose of the Marine Reserves Act is to preserve for scientific study areas of New Zealand's territorial sea that contain underwater scenery, natural features or marine life of such distinctive quality, or which are so typical or beautiful or unique that their continued preservation is in the national interest.

- 13.2 Within the DOC Protocol Area, the Department will work at both the Conservancy and Area Office level to:
- 13.2.1 notify the governance entity prior to undertaking any investigative work towards an application by the Department, or upon receipt of any application by a third party, for the establishment of a marine reserve;
  - 13.2.2 provide the governance entity with any assistance it may request from the Department in the preparation of an application for the establishment of a marine reserve;
  - 13.2.3 provide the governance entity with all information, to the extent reasonably practicable, regarding any application by either the Department or a third party for the establishment of a marine reserve;
  - 13.2.4 seek input from the governance entity on any application for a marine reserve within the DOC Protocol Area and use reasonable efforts to address any concerns expressed by the governance entity;
  - 13.2.5 involve the governance entity in any marine protection planning forums affecting the DOC Protocol Area; and
  - 13.2.6 involve the governance entity in the management of any marine reserve created.

#### **14 PEST CONTROL**

- 14.1 A key objective and function of the Department is to prevent, manage and control threats to natural, historic and cultural heritage values from terrestrial, aquatic and marine pests. This is to be done in a way that maximises the value from limited resources available to do this work.
- 14.2 The Department shall:
- 14.2.1 seek and facilitate early consultation with the governance entity on pest control activities within the DOC Protocol Area, particularly in relation to the use of poisons;
  - 14.2.2 provide the governance entity with opportunities to review and assess programmes and outcomes; and
  - 14.2.3 where appropriate, consider co-ordinating its pest control programmes with those of the governance entity when the governance entity is an adjoining landowner.

#### **15 RESOURCE MANAGEMENT ACT 1991**

- 15.1 The governance entity and the Department both have concerns with the effects of activities controlled and managed under the Resource Management Act 1991.
- 15.2 From time to time, the governance entity and the Department will seek to identify issues of likely mutual interest for discussion. It is recognised that the Department and the governance entity will continue to make separate submissions in any Resource Management Act processes.

- 15.3 In carrying out advocacy under the Resource Management Act 1991, the Department shall:
- 15.3.1 discuss with the governance entity the general approach that may be taken by Rongowhakaata, and the Department in respect of advocacy under the Resource Management Act, and seek to identify their respective priorities and issues of mutual concern;
  - 15.3.2 have regard to the priorities and issues of mutual concern identified when the Department makes decisions in respect of advocacy under the Resource Management Act; and
  - 15.3.3 make resource information available to the governance entity (subject to clause 24) to assist in improving their effectiveness in resource management advocacy work.

## **16 VISITOR AND PUBLIC INFORMATION**

- 16.1 The Department has a role to share knowledge about natural and historic heritage with visitors, to satisfy their requirements for information, increase their enjoyment and understanding of this heritage, and develop an awareness of the need for its conservation.
- 16.2 In providing public information, interpretation services and facilities for visitors on the land it manages, the Department acknowledges the importance to the governance entity of their cultural, traditional and historic values, and the association of Rongowhakaata, with the land the Department administers within the DOC Protocol Area.
- 16.3 The Department shall work with the governance entity at the Area Office level to encourage respect for Rongowhakaata cultural heritage values by:
- 16.3.1 seeking to raise public awareness of any positive conservation partnerships between the governance entity, the Department and other stakeholders, for example, by way of publications, presentations, and seminars; and
  - 16.3.2 ensuring that information contained in the Department's publications is accurate and appropriate by:
    - (a) obtaining the consent of the governance entity for disclosure of information from it, and
    - (b) consulting with the governance entity prior to the use of information about Rongowhakaata values for new interpretation panels, signs and visitor publications.

## **17 CONCESSION APPLICATIONS**

- 17.1 By the end of the second year of this Protocol being issued and on a continuing basis, the Department will work with the governance entity to identify categories of concessions that will or may impact on the cultural, spiritual or historic values of Rongowhakaata.
- 17.2 In relation to the concession applications within the categories identified by the Department and governance entity under clause 17.1, the Minister will:
- 17.2.1 encourage applicants to consult with the governance entity in the first instance;

- 17.2.2 consult with the governance entity with regard to any applications or renewals of applications within the DOC Protocol Area, and seek the input of the governance entity by:
- (a) providing for the governance entity to indicate within 2 working days whether an application for a One Off Concession has any impacts on Rongowhakaata cultural, spiritual and historic values. If no response is received within 2 working days the Department may continue to process the concession application;
  - (b) providing for the governance entity to indicate within 10 working days whether any other application has any impacts on Rongowhakaata cultural, spiritual and historic values; and
  - (c) if the governance entity indicates that an application under clause 17.2.2(b) has any such impacts, allowing a reasonable specified timeframe (of at least a further 10 working days) for comment;
- 17.2.3 when a concession is publicly notified, the Department will at the same time provide separate written notification to the governance entity;
- 17.2.4 prior to issuing concessions to carry out activities on land managed by the Department within the DOC Protocol Area, and following consultation with the governance entity, the Minister will:
- (a) advise the concessionaire of the governance entity tikanga and values and encourage communication between the concessionaire and the governance entity if appropriate; and
  - (b) encourage the concessionaire to consult with the governance entity before using cultural information of Rongowhakaata; and
- 17.2.5 ensure when issuing and renewing concessions that give authority for other parties to manage land administered by the Department, that those parties be required to manage the land according to the standards of conservation practice mentioned in clause 8.5.2.

## **18 PLACE NAMES**

- 18.1 When Crown conservation areas in the DOC Protocol Area are to be named, the Department shall seek a recommendation from the governance entity on an appropriate name including its traditional and historic significance, or any other comment.

## **19 STATUTORY LAND MANAGEMENT**

- 19.1 From time to time, the Minister may vest a reserve in a local authority or other appropriate entity; or appoint a local authority to control and manage a reserve. When such an appointment or vesting is contemplated for sites in the DOC Protocol Area, the Department will consult the governance entity.

## 20 CONSULTATION

- 20.1 Where the Department is required to consult under this Protocol, the basic principles that will be followed by the Department in consulting with the governance entity in each case are:
- 20.1.1 ensuring that the governance entity is consulted as soon as reasonably practicable following the identification and determination by the Department of the proposal or issues to be the subject of the consultation;
  - 20.1.2 providing the governance entity with sufficient information to undertake informed discussions and make submissions in relation to any of the matters that are the subject of the consultation;
  - 20.1.3 ensuring that sufficient time is given for the effective participation of the governance entity, including the preparation of submissions by the governance entity, in relation to any of the matters that are the subject of the consultation; and
  - 20.1.4 ensuring that the Department will approach the consultation with an open mind and genuinely consider any views and/or concerns that the governance entity may have in relation to any of the matters that are subject to the consultation.
- 20.2 Where the Department has consulted with the governance entity as specified in clause 20.1, the Department will report back to the governance entity on the decision made as a result of any such consultation.

## 21 CONTRACTING FOR SERVICES

- 21.1 Where appropriate, the Department will consider using the governance entity as a provider of professional services.

## 22 PROTOCOL REVIEW

- 22.1 The Department and Rongowhakaata will meet to review the implementation of this Protocol at least once a year, if requested by either party.

## 23 DEFINITIONS

- 23.1 In this Protocol:

**Conservation Legislation** means the Act and the statutes in the First Schedule of the Act;

**Conservation Management Strategy** has the same meaning as in the Act;

**Crown** means the Sovereign in right of New Zealand and includes, where appropriate, the Ministers and Departments of the Crown that are involved in, or bound by the terms of the Deed of Settlement to participate in, any aspect of the redress under the Deed of Settlement;

**Department** means the Minister of Conservation, the Director-General and the departmental managers to whom the Minister of Conservation's and the Director-General's decision-making powers can be delegated;

**governance entity** has the meaning given to it in the Deed of Settlement;

**Kaitiaki** means environmental guardians;

**Matauranga Kura Taiao Fund:** refers to a contestable fund administered by the Department, which supports hapu/iwi initiatives to retain and promote traditional Rongowhakaata knowledge and its use in biodiversity management;

**Nga Uri o Te Kooti Rikirangi** has the meaning given to it in the Deed of Settlement;

**One Off Concession** means a concession granted under Part 3B of the Act for an activity that:

- (a) does not require a lease or licence; and
- (b) is assessed as having very low effects; and
- (c) complies with all relevant legislation, the relevant Conservation Management Strategy and Conservation Management Plans; and
- (d) where relevant, has clearly defined numbers of trips and/or landings; and
- (e) does not involve permanent structures; and
- (f) does not have a duration of more than three months; and
- (g) does not take place more than twice in any given six month period;

**Protocol** means a statement in writing, issued by the Crown through the Minister of Conservation to the governance entity under the Settlement Legislation and the Deed of Settlement and includes this Protocol;

**Rongowhakaata** has the meaning set out in clause 9.5 of the Deed of Settlement; and

**Rongowhakaata Tikanga** refers to Rongowhakaata values, attitudes and practices mai i o matau matua tipuna that contribute to the preservation, protection and enhancement of nga taonga tuku iho a Rongowhakaata;

**Settlement Date** means the date that is 20 business days after the date on which the Settlement Legislation comes into force;

**Taonga** refers to any artefact or object that is associated with Rongowhakaata culture or identity;

**Tikanga** refers to Maori traditional customs; and

**trustees of the Nga Uri o Te Kooti Rikirangi Settlement Trust** has the meaning given to it in the Deed of Settlement.

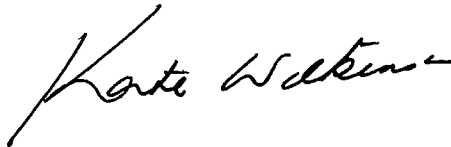


**24 PROVISION OF INFORMATION**

Where the Department is to provide information to the governance entity under this Protocol, this information will be provided subject to the provisions of the Official Information Act 1982 and the Privacy Act 1993.

**ISSUED on** *5 September 2012*

**SIGNED** for and on behalf of **THE SOVEREIGN** in right of New Zealand by the Minister of Conservation:



**WITNESS**



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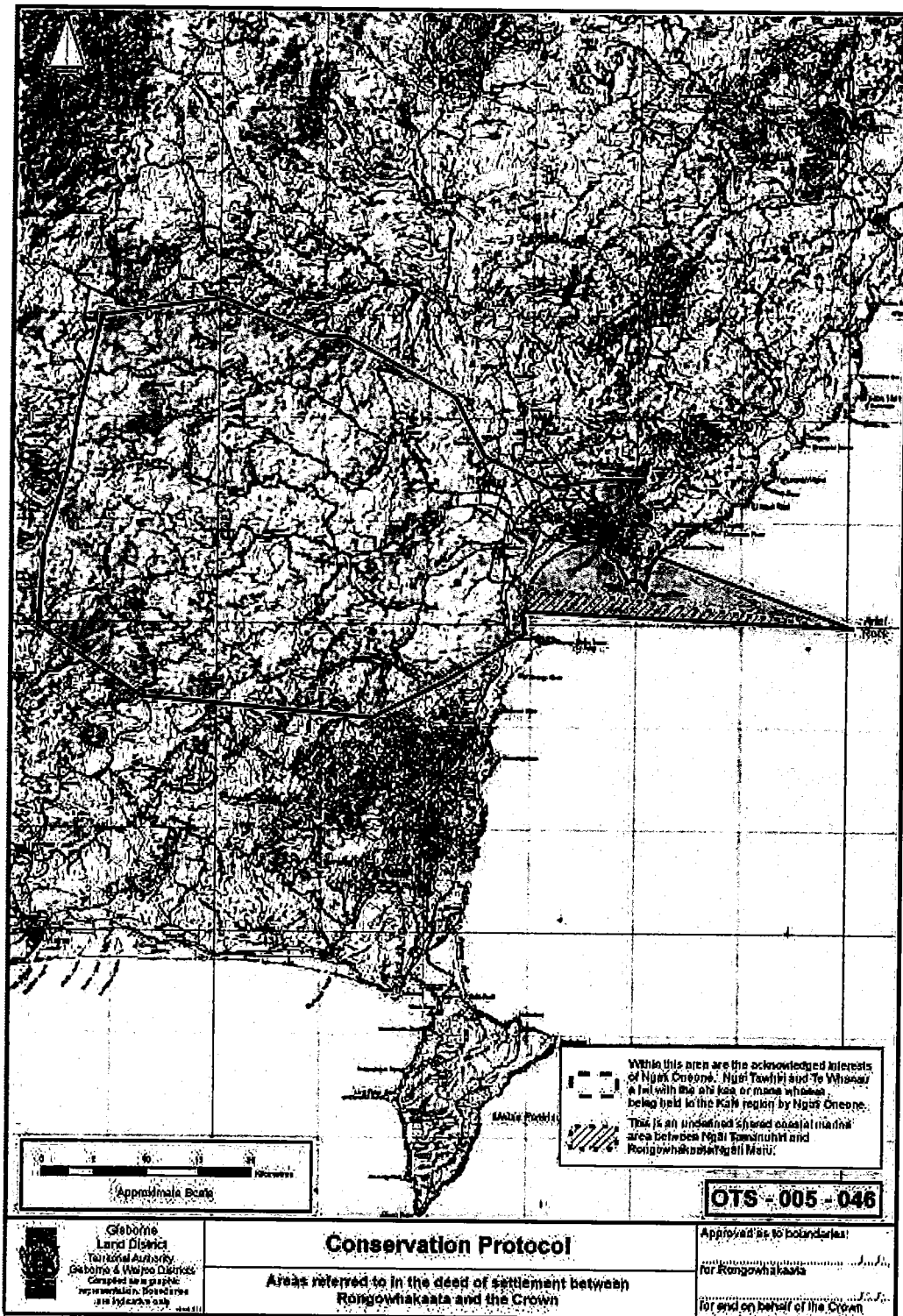
Name: *BRIAN SHEPPARD*  
Occupation: *Acting Private Secretary*  
Address: *53 Waikowhai Street  
Wellington 6035*



DOCUMENTS

2: PROTOCOLS: CONSERVATION PROTOCOL

ATTACHMENT A: DOC PROTOCOL AREA



## ATTACHMENT B: TERMS OF ISSUE

This Protocol is subject to the Deed of Settlement and the Settlement Legislation. A summary of the relevant provisions is set out below.

### 1. Amendment and cancellation

- 1.1 The Minister may amend or cancel this Protocol, but only after consulting the governance entity and having particular regard to its views (section 24).

### 2. Noting

- 2.1 A summary of the terms of this Protocol must be noted in the Conservation Documents affecting the DOC Protocol Area, but the noting:

2.1.1 is for the purpose of public notice; and

2.1.2 does not amend the Conservation Documents for the purposes of the Act or the National Parks Act 1980 (section 27).

### 3. Limits

- 3.1 This Protocol does not:

3.1.1 restrict the Crown from exercising its powers and performing its functions and duties, in accordance with the law and government policy, including:

- (a) introducing legislation; or
- (b) changing government policy; or
- (c) issuing a protocol to, or interacting or consulting with, anyone the Crown considers appropriate including any iwi, hapu, marae, whanau or representatives of tangata whenua (section 25); or

3.1.2 restrict the responsibilities of the Minister or the Department or the legal rights of Rongowhakaata (section 25); or

3.1.3 grant, create or provide evidence of an estate or interest in, or rights relating to:

- (a) the common marine and coastal area (as defined in section 7(1) of the Marine and Coastal Area (Takutai Moana) Act 2011); or
- (b) land held, managed or administered under Conservation Legislation; or
- (c) flora or fauna managed or administered under the Conservation Legislation (section 27).

**4. Breach**

- 4.1 Subject to the Crown Proceedings Act 1950, the governance entity may enforce this Protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (section 26).
- 4.2 A breach of this Protocol is not a breach of the Deed of Settlement (clause 6.13).

