

# **CONSERVATION PROTOCOL**

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**PROTOCOL ISSUED BY  
THE MINISTER OF CONSERVATION  
PURSUANT TO NGĀTI KŌATA, NGĀTI RĀRUA, NGĀTI  
TAMA KI TE TAU IHU, AND TE ĀTIAWA O TE WAKA-A-MĀUI  
CLAIMS SETTLEMENT ACT 2014**

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**A PROTOCOL ISSUED BY THE CROWN THROUGH THE  
MINISTER OF CONSERVATION REGARDING INTERACTION WITH  
TE ĀTIAWA O TE WAKA-A-MĀUI ON SPECIFIED ISSUES**

**Department of Conservation Protocol**

1. Under the Deed of Settlement dated 21 December 2012 between **Te Ātiawa o Te Waka-a-Māui (Te Ātiawa)** and the Crown (the "**Deed of Settlement**"), the Crown agreed that the Minister of Conservation (the "**Minister**") would issue a Protocol (the "**Protocol**") setting out how the Department of Conservation (the "**Department**") will consult with the **Te Ātiawa o Te Waka-a-Māui** [Trustees] (the "**Governance Entity**") on matters specified in the Protocol. These matters are:
  - (a) implementation and communication;
  - (b) business planning;
  - (c) Management Plans;
  - (d) cultural materials;
  - (e) taonga minerals and landforms;
  - (f) historic resources - wāhi tapu;
  - (g) species management;
  - (h) marine mammals;
  - (i) freshwater fisheries;
  - (j) marine reserves;
  - (k) pest control;
  - (l) Resource Management Act 1991;
  - (m) visitor and public information;
  - (n) concession applications;
  - (o) statutory land management; and
  - (p) consultation.
  
2. Both the Department and Te Ātiawa o Te Waka-a-Māui (Governance Entity) are committed to establishing and maintaining a positive and collaborative relationship that gives effect to the principles of the Treaty of Waitangi as provided for in section 4 of the Conservation Act 1987. Those principles provide the basis for an ongoing relationship between the parties to the Protocol to achieve and maintain over time the conservation policies, actions and outcomes sought by both the Governance Entity and the Department, as set out in this Protocol.



3. The purpose of the Conservation Act 1987 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.
4. Te Ātiawa has great responsibilities to the lands, waters and all its resources. The landscape defines Te Ātiawa and our customary use of traditional resources is the context in which Te Ātiawa most often engage with the natural world thus providing for the transmission of intergenerational knowledge, the maintenance of identity and the manifestation of our custodial responsibilities.
5. Te Ātiawa o Te Waka-a-Māui is a primary tangata whenua within their rohe, and Te Ātiawa sees the environment as an ancestral landscape that encapsulates sites of significance. Te Ātiawa o Te Waka-a-Māui views the land and water as an indivisible whole. The land is connected to the water resources which flow in, on or under it, as is the water related to the land that surrounds it. Both the lands and waters are in turn connected to the people as the mana whenua in this rohe.
6. Te Ātiawa o Te Waka-a-Māui as a primary Tangata Whenua undertakes the responsibility as Kaitiaki under tikanga Māori to preserve, protect, and manage natural and historic resources with spiritually important dimensions within their rohe for future generations. The use of the lands, waters and associated resources is conducted under special codes in accordance with responsibilities as kaitiaki. These principles ensure the maintenance of these taonga, and the avoidance of overuse, greed and disrespect.

#### **PURPOSE OF THE PROTOCOL**

7. The purpose of this Protocol is to assist the Department and Te Ātiawa o Te Waka-a-Māui (the Governance Entity) to exercise their respective responsibilities with the utmost cooperation to achieve and maintain over time the conservation policies, actions and outcomes sought by both.
8. This Protocol sets out a framework that enables the Department and Te Ātiawa to establish a constructive and lasting working relationship that gives effect to section 4 of the Conservation Act. It provides for Te Ātiawa to have meaningful input into policy, planning and decision-making processes in the Department's management of conservation lands and fulfilment of statutory responsibilities within the Te Ātiawa Protocol Area.
9. Te Ātiawa and the Department consider that this Protocol should contribute to achieving the following aspirations of Te Ātiawa:
  - (a) acknowledgment and recognition by the Department of the customary, traditional, spiritual and historical interests of Te Ātiawa within their Protocol Area;
  - (b) the development by Te Ātiawa of capacity and capability to exercise an effective kaitiaki role over and participate in the management of lands and resources of customary, traditional, spiritual and historical significance to Te Ātiawa; and



- (c) acknowledgement and recognition of Te Ātiawa Kaitiakitanga which finds continuity in Maori kin based communities as it weaves together ancestral, environmental and social threads of identity, purpose and practice.

## PROTOCOL AREA

10. The Protocol applies across the **Te Ātiawa o Te Waka-a-Māui** Protocol Area which means the area identified in the map included in Attachment A of this Protocol.

## TERMS OF ISSUE

11. This Protocol is issued pursuant to section 33(1)(a) of the Ngāti Kōata, Ngāti Rāua, Ngāti Tama ki Te Tau Ihu, and Te Ātiawa o Te Waka-a-Māui Claims Settlement Act 2014 (the "**Settlement Legislation**") and clause 5.29.1 of the Deed of Settlement. The provisions of the Settlement Legislation and the Deed of Settlement specifying the summary of the terms on which this Protocol is issued are set out in Attachment B of the Protocol.

## IMPLEMENTATION AND COMMUNICATION

12. The Department will seek to establish and maintain effective and efficient communication with Te Ātiawa on a continuing basis by:
- (a) maintaining information on the Governance Entity's office holders, and their addresses and contact details;
  - (b) providing a primary departmental contact for each District Office for the Governance Entity who will act as a liaison person with other departmental staff;
  - (c) providing opportunities for the Governance Entity to meet with departmental managers and staff;
  - (d) training relevant staff and briefing Conservation Board members on the content of the Protocol; and
  - (e) holding alternate meetings hosted by the Department and a Te Ātiawa marae or other venue chosen by the Governance Entity to discuss issues that may have arisen every six months, unless otherwise agreed.
13. The parties may also:
- (a) annually review implementation of the Protocol; and
  - (b) led by the Governance Entity, arrange for an annual report back to the Te Ātiawa iwi and hapu of the Governance Entity in relation to any matter associated with the implementation of this Protocol.
14. The Department will where reasonably necessary inform conservation stakeholders about this Protocol and the Te Ātiawa o Te Waka-a-Māui settlement and provide ongoing information as required.
15. The Department will advise the Governance Entity of any departmental policy directions and the receipt of any research reports relating to matters of interest to Te Ātiawa within the Protocol Area, and provide copies or the opportunity for the Governance Entity to study those reports (subject to clause 80).

## BUSINESS PLANNING

16. The Department's annual business planning process determines the Department's conservation work priorities and the Department will as part of the annual business planning meeting with Te Ātiawa in clause 18(a) present a synopsis of the Department's proposed work programme and its implementation as it relates to the Protocol Area for Te Ātiawa's information and subsequent feedback.
17. Te Ātiawa o Te Waka-a-Māui seeks to pursue projects in the future that will enhance the rohe of Te Ātiawa and preserve the whenua and indigenous species for future generations.
18. The process for the Te Ātiawa o Te Waka-a-Māui to identify and/or develop specific projects for consideration by the Department is as follows:
  - (a) the Department and Te Ātiawa will on an annual basis identify priorities for undertaking specific projects requested by Te Ātiawa. 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.
  - (b) the decision on whether any specific projects will be funded in any business year will be made by the Director, Conservation Partnerships, after following the co-operative processes set out above.
  - (c) if the Department decides to proceed with a specific project request by Te Ātiawa, both parties may meet again to finalise a work plan and a timetable before implementation of the specific project in that business year, in accordance with the resources which have been allocated in the business plan.
  - (d) if the Department decides not to proceed with a specific project it will communicate to Te Ātiawa the factors that were taken into account in reaching that decision.
19. The Department will consider inviting Te Ātiawa to participate in specific projects, including the Department's volunteer and conservation events which may be of interest to Te Ātiawa.

## MANAGEMENT PLANNING

20. The Department will provide opportunities for the Governance Entity to input into the Conservation Management Strategy reviews or Management Plans, if any, within the Protocol Area.
21. The Department will advise Te Ātiawa in the event that any vacancies occur on boards or committees within the Protocol Area where the Minister or Department is responsible for making appointments and where public nominations are sought; but this shall not preclude Te Ātiawa persons being appointed to fill those vacancies.

## CULTURAL MATERIALS

22. 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 Protocol Area and which are important to Te Ātiawa in maintaining and expressing its cultural values and practices.



23. Current legislation means that generally some form of concession or permit is required for any gathering and possession of cultural materials.
24. In relation to cultural materials, the Minister and/or Director-General will:
- (a) work in collaborative partnership with the Governance Entity to develop and agree a process to authorise members of Te Ātiawa to access and use cultural materials within the Protocol Area when required for cultural purposes, in accordance with the relevant legislation. Where it is consistent with conservation objectives and relevant legislation, multi-site and/or multi-take authorisations may be granted;
  - (b) consult with Te Ātiawa in circumstances where there are competing requests between Te Ātiawa and Non Te Ātiawa persons or entities other than those of Te Ātiawa for the use of cultural materials, for example for scientific research purposes;
  - (c) agree, where appropriate and taking into consideration the interest of other representatives of tangata whenua, for Te Ātiawa 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;
  - (d) identify areas administered by the Department which may be suitable as sites where revegetation planting of indigenous plants suitable for cultural use and establishment of pa harakeke may be appropriate; and
  - (e) provide, as far as reasonably practicable, advice to Te Ātiawa for the management and propagation of plant stock for propagation to reduce the need for plants to be gathered from land administered by the Department and to provide advice to Te Ātiawa in the establishment of its own cultivation areas.
25. Where long lived indigenous trees may become available for cultural use under clause 24(c), the Department will as soon as practicable notify Te Ātiawa and discuss:
- (a) possible cultural uses for any useable timber;
  - (b) the practicality and cost of recovering any timber;
  - (c) who will bear the cost of recovering the timber; and
  - (d) the possibility of planting replacement endemic tree species.
26. The Department and Te Ātiawa shall discuss the development of procedures for monitoring levels of use of cultural materials in accordance with the relevant legislation and appropriate tikanga.

#### **TAONGA MINERALS AND LANDFORMS**

27. Te Ātiawa asserts it has an interest in upholding and protecting the mana and mauri of taonga minerals and limestone karst and cave landforms within its rohe.
28. In recognition of Te Ātiawa's association with its taonga minerals within its rohe the Department will inform Te Ātiawa of any plans or policy statements on which the

Department will be actively working that directly affects those minerals and limestone karst and cave landforms.

## HISTORIC RESOURCES - WĀHI TAPU

29. Te Ātiawa asserts it has kaitiaki responsibilities to the lands, waters and associated resources, particularly over the listed important sites in Appendix B, which Te Ātiawa are culturally accountable as traditional custodians.
30. Te Ātiawa consider that their wāhi 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.
31. As referred to in clause 5.28 of the Deed of Settlement, places that are sacred or significant to Te Ātiawa o Te Waka-a-Māui within Te Tai Tapu, include, but are not limited to, those places listed in Appendix C.
32. The Department has a statutory role to conserve historic resources in protected areas and will, within the resources available, endeavour to do this for sites of significance to Te Ātiawa in association with the Governance Entity and according to Te Ātiawa tikanga.
33. The Department accepts that non-disclosure of locations of places and other places known to Te Ātiawa may be an option that the Governance Entity chooses to take to preserve the wāhi tapu nature of places. There may be situations where the Governance Entity will ask the Department to treat information it provides on wāhi tapu sites in a confidential way.
34. The Department and the Governance Entity will work together to establish processes for dealing with information on wāhi tapu sites in a way that recognises both the management challenges that confidentiality can present and provides for the requirements of Te Ātiawa.
35. The Department will work with the Governance Entity at the District Office level to respect Te Ātiawa values attached to identified wāhi tapu and other places of significance on lands administered by the Department by:
  - (a) 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 Te Ātiawa can exercise kaitiakitanga over ancestral lands, natural and historic resources and other taonga managed by the Department within the Protocol Area;
  - (b) managing sites of historic significance to Te Ātiawa 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 Te Ātiawa;
  - (c) informing the Governance Entity if koiwiare found within the Protocol Area and;
  - (d) assisting in recording and protecting wāhi tapu and other places of cultural significance to Te Ātiawa where appropriate, to seek to ensure that they are not desecrated or damaged.

## **SPECIES MANAGEMENT**

36. 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.
37. In recognition of the cultural, spiritual, historical and/or traditional association of the governance entity with species found within the Protocol Area for which the Department has responsibility, the Department shall in relation to any species that Te Ātiawa may identify as important to them (including, but not limited to, the Fluttering and Sooty Shearwater (Titi), the Duvaucel's and Common Gecko on The Brothers and Powelliphanta snails, godwits, King Shag and banded dotterel (tuturiwhatu) throughout the Protocol Area).
  - (a) where a national recovery programme is being implemented (including translocations) within the Protocol Area, where reasonably practicable, inform and provide opportunities for Te Ātiawa to participate in that programme;
  - (b) advise Te Ātiawa 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 Protocol Area;
  - (c) where research and monitoring projects are being carried out by the Department within the Protocol Area, where reasonably practicable, provide Te Ātiawa with opportunities to participate in those projects; and
  - (d) advise Te Ātiawa of the receipt of any completed research reports relating to any species within the Protocol Area and provide copies of such report to Te Ātiawa.

## **MARINE MAMMALS - STRANDINGS**

38. Te Ātiawa has a tikanga responsibility in relation to the preservation, protection and disposal of marine mammals within the Protocol Area to ensure cultural protocols are observed in the interaction with and handling of these mammals.
39. The Department's approach to strandings must be consistent with the Marine Mammals Protection Act 1978 and the Marine Mammals Regulations 1992, and is guided by the Marine Mammal Action Plan and, at a Conservancy level, Marine Mammal Stranding Contingency Plans.
40. The Protocol will assist Te Ātiawa and the Department to co-operate in managing strandings in the core area of interest.
41. 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 while meeting the cultural interests of Te Ātiawa, such as the recovery by Te Ātiawa of bone (including teeth and/or baleen) and other material for cultural purposes from dead marine mammals.
42. There may be circumstances during a stranding in which euthanasia is required, for example if the animal is obviously distressed or refloating has been unsuccessful and live animals have irretrievably stranded.



43. Before euthanasia is carried out, Te Ātiawa representatives may wish to perform certain rituals. For this reason, it is important that all reasonable efforts are made to inform Te Ātiawa well in advance of any decision to euthanise. However, in the interests of humane treatment of the marine mammals, if Te Ātiawa representatives are not present at the time, a decision to euthanise, is the sole responsibility of an officer or person authorised by the Minister of Conservation.
44. Upon the death of a stranded marine mammal, Te Ātiawa, with the advice of an officer or person authorised by the Minister of Conservation will assess the following:
  - (a) cultural requirements, such as parts to be retained;
  - (b) scientific requirements such as, identification, sampling or autopsy in accordance with clauses 47 and 48, and Schedule 1; and
  - (c) the degree and nature of work required to recover the above, and who will undertake it.
45. Both Te Ātiawa and the Department accept responsibility for working together to ensure that the entire stranding management process, including the safe and proper disposal of cadaver and clean-up of the beach after the stranding meets all public health and safety standards and quality conservation management guidelines. However, legislative responsibility rests with authorised officers or persons.
46. Both the Department and Te Ātiawa acknowledge the scientific importance of information gathered at strandings and the role of the Department in assisting the conservation of marine mammal species by contributing to the collection of specimens and scientific data of national and international importance. Decisions concerning the exact nature of the scientific samples required and the subsequent disposal of any dead animals, including their availability to Te Ātiawa, will depend on the species.
47. Category 1 Species (see Schedule 1) are known to strand most frequently on New Zealand shores. In principle these species should be available to Te Ātiawa for the recovery of teeth, bone and baleen once scientific data and samples have been collected (usually on site). If there are reasons why this principle should not be followed, they must be discussed between the parties to the Protocol.
48. Category 2 Species (see Schedule 1) 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 a higher priority. In most instances, possession by Te Ātiawa of materials from category 2 species will follow an autopsy, which may occur on site. Depending on the species involved the autopsy team may request the removal of all or part of the animal for the purpose of an autopsy or for the retention of the skull or animal. The Department must discuss such requests with and seek the support of Te Ātiawa first.
49. The Department will endeavour to ensure that any decision on an application for marine mammal material (such as the retention by the autopsy team or Te Papa/Museum of New Zealand of parts or whole animals) from the Protocol Area will be made with the support of Te Ātiawa.
50. The Minister, in approving the provision of any marine mammal from the Protocol Area to Te Papa/Museum of New Zealand or the New Zealand Wildlife Health Centre (Massey University), makes the provision on the condition that if those agencies no

longer require that marine mammal (at some future date) the skeletal remains will be returned to Te Ātiawa.

51. If Te Ātiawa does not wish to recover the bone or otherwise participate the Governance Entity will notify the Department whereupon the Department will take sole responsibility for disposing of the cadaver.
52. Subject to the prior agreement of the Director, Conservation Partnerships, where disposal of a dead marine mammal is carried out by Te Ātiawa, the Department will meet the reasonable costs incurred up to the estimated costs that would otherwise have been incurred by the Department to carry out the disposal.
53. Te Ātiawa will provide the Department with contact information for authorised key contact people who will be available at short notice to make decisions on the desire of Te Ātiawa to be involved when there is a marine mammal stranding.
54. The Department will:
  - (a) make all reasonable efforts to promptly notify the key contact people of all stranding events;
  - (b) 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 Te Ātiawa tikanga; and
  - (c) consult with Te Ātiawa if developing or contributing to research and monitoring of marine mammal populations within the Protocol Area.
55. Te Ātiawa will promptly notify the Department's District Office contact person of any stranding event.
56. In areas of overlapping interest, Te Ātiawa will work with the relevant iwi and the Department to agree on a process to be followed when managing marine mammal strandings.

## **FRESHWATER FISHERIES**

57. Freshwater fisheries are managed under two sets of legislation: the Fisheries Act 1983 and 1996 (administered by the Ministry of Fisheries) and the Conservation Act 1987 (administered by the Department of Conservation). 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 Conservation Act.
58. The Department shall consult with Te Ātiawa and provide for its participation where reasonably practicable in the conservation and management (including research) of customary freshwater fisheries (in particular fresh water mussels, whitebait, koura and eels) and freshwater fish habitats.



59. The Department shall work at District Office level (or where appropriate, at Conservancy level) to provide for the active participation of the Te Ātiawa in the conservation, management and research of customary freshwater fisheries and freshwater fish habitats by:
- (a) seeking to identify areas for co-operation in advocacy, such as proposals for taiapure and mataitai under Fisheries legislation, and areas consistent with clause 66 (a) 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;
  - (b) consulting with Te Ātiawa 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;
  - (c) considering Te Ātiawa 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
  - (d) processing applications for the transfer and release of freshwater fish species, including eels, according to the criteria outlined in section 26ZM of the Conservation Act 1987.

#### **MARINE RESERVES**

60. 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.
61. Within the Protocol Area, the Department will work at both the Conservancy and District Office level to:
- (a) notify Te Ātiawa 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;
  - (b) provide Te Ātiawa with any assistance it may request from the Department in the preparation of an application for the establishment of a marine reserve;
  - (c) provide Te Ātiawa 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;
  - (d) seek input from Te Ātiawa on any application for a marine reserve within the Protocol Area and use reasonable efforts to address any concerns expressed by Te Ātiawa;
  - (e) involve Te Ātiawa in any marine protection planning forums affecting the Protocol Area; and
  - (f) involve Te Ātiawa in the management of any marine reserve created.



## PEST CONTROL

62. A key objective and function of the Department is to prevent, manage and control threats to natural, historic and cultural heritage values from animal and weed pests.
63. This is to be done in a way that maximises the value from limited resources available to do this work. The Department will:
  - (a) seek and facilitate early consultation with the Governance Entity on pest control activities within the Protocol Area, particularly in relation to the use of poisons;
  - (b) provide the Governance Entity with reasonable opportunities to review and assess programmes and outcomes; and
  - (c) where appropriate, consider co-ordinating its pest control programmes with those of the Governance Entity when the Governance Entity is an adjoining landowner.

## RESOURCE MANAGEMENT ACT 1991

64. Te Ātiawa and the Department both have concerns with the effects of activities controlled and managed under the Resource Management Act 1991.
65. 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.
66. In carrying out advocacy under the Resource Management Act 1991, the Department will:
  - (a) discuss with the Governance Entity the general approach that may be taken by Te Ātiawa and the Department in respect of advocacy under the Resource Management Act, and seek to identify their respective priorities and issues of mutual concern;
  - (b) 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
  - (c) Make non-confidential resource information available to the Governance Entity to assist in improving their effectiveness in resource management advocacy work.

## VISITOR AND PUBLIC INFORMATION

67. 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.
68. In providing public information, interpretation services and facilities for visitors on the land it manages, the Department acknowledges the importance to Te Ātiawa of their cultural, traditional and historic values, and the association of Te Ātiawa with the land the Department administers within the Protocol Area.



69. The Department will work with the Governance Entity at the District Office level to encourage respect for Te Ātiawa cultural heritage values by:
- (a) 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;
  - (b) ensuring that information contained in the Department's publications is accurate and appropriate by:
    - (i) obtaining the consent of the Governance Entity for disclosure of information from it, and
    - (ii) consulting with the Governance Entity prior to the use of information about Te Ātiawa values for new interpretation panels, signs and visitor publications.

### **CONCESSION APPLICATIONS**

70. For the purpose of the protocol Te Ātiawa has identified that concessions and access arrangements for exploration or mining of its taonga minerals on land administered by the Department (to the extent that the Department or Minister has authority to enter into such arrangements) as a category of concession that paragraph 72 will apply to.
71. 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 other categories of concessions that may impact on the cultural, spiritual or historic values of Te Ātiawa.
72. In relation to the concession applications within the categories identified by the Department and Governance Entity under clause 70 and 71, the Minister will:
- (a) encourage applicants to consult with Te Ātiawa in the first instance;
  - (b) consult with the Governance Entity with regard to any applications or renewals of applications within the Protocol Area, and seek the input of the Governance Entity by:
    - (i) providing for the Governance Entity to indicate within 2 working days whether an applications for a One Off Concession has any impacts on Te Ātiawa cultural, spiritual and historic values; and
    - (ii) providing for the Governance Entity to indicate within ten working days whether other applications have any impacts on Te Ātiawa cultural, spiritual and historic values; and
    - (iii) if the Governance Entity indicates that an application has any such impacts, allowing a reasonable specified timeframe (of at least a further ten working days) for comment;
  - (c) when a concession is publicly notified, the Department will at the same time provide separate written notification to the Governance Entity;
  - (d) prior to issuing concessions to carry out activities on land managed by the Department within the Protocol Area, and following consultation with the Governance Entity, the Minister will advise the concessionaire of Te Ātiawa

tikanga and values and encourage communication between the concessionaire and the Governance Entity if appropriate; and

- (e) ensure when issuing and renewing concessions that give authority for other parties to manage land administered by the Department, that those parties:
  - (i) be required to manage the land according to the standards of conservation practice mentioned in clause 35(b); and
  - (ii) be encouraged to consult with the Governance Entity before using cultural information of Te Ātiawa.

## **STATUTORY LAND MANAGEMENT**

- 73. From time to time, the Minister may consider vesting a reserve in an appropriate entity; or appoint an appropriate entity to control and manage a reserve. Such vestings or appointments are subject to the test under the Reserves Act 1977 which is 'for the better carrying out of the purposes of the reserve'. When such an appointment or vesting is contemplated for sites in the Protocol Area, the Department will consult with Te Ātiawa at an early stage on their views on the proposed vesting or appointment.
- 74. The Department will consult, at an early stage, with Te Ātiawa when considering the classification, or change in classification, of a reserve within the Protocol Area.
- 75. If the Department is considering entering into a management agreement, other than a vesting or control and management appointment, with any entity in respect of any land that is the subject of a Statutory Acknowledgment or Deed of Recognition within the Protocol Area, it will consult at an early stage with Te Ātiawa about the proposed management arrangement and whether the arrangement should be subject to any conditions.

## **CONSULTATION**

- 76. 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:
  - (a) 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;
  - (b) providing the Governance Entity with sufficient information to make informed discussions and submissions in relation to any of the matters that are subject of the consultation;
  - (c) 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;
  - (d) 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.



77. Where the Department has consulted with the Governance Entity as specified in clause 76, the Department will report back to the Governance Entity on the decision made as a result of any such consultation.
78. When the Department requests cultural and/or spiritual practices to be undertaken by Te Ātiawa within the Protocol Area the Department will make a contribution, subject to prior mutual agreement, to the costs of undertaking such practices, but will not otherwise pay for consultation required or anticipated under this Protocol.

## DEFINITIONS

79. In this Protocol:

**Conservation Management Strategy** has the same meaning as in the Conservation Act 1987;

**Conservation Legislation** means the Conservation Act 1987 and the statutes in the First Schedule of the Act;

**Crown** means Her Majesty the Queen 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 and, where appropriate, means the trustees for the time being of the Te Ātiawa o Te Waka-a-Māui Trust;

**Te Ātiawa** has the meaning set out in clause 8.9.1 of the Deed of Settlement;

**Kaitiaki** means environmental guardians and cultural custodians;

**One Off Concession** means a concession granted under Part 3B of the Conservation Act 1987 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;

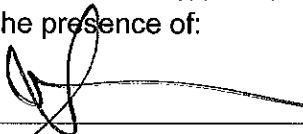
**Tikanga Māori** refers to Te Ātiawa customary practice.


**PROVISION OF INFORMATION**

80. Where the Department is to provide information to the Governance Entity under this Protocol, this information will be provided subject to the Official Information Act 1981.

**ISSUED** on 22<sup>nd</sup> day of July 2014

**SIGNED** for and on behalf of )  
**THE CROWN** by the )  
Minister of Conservation )  
in the presence of:

  
\_\_\_\_\_  
Signature of Witness

  
\_\_\_\_\_

Witness Name: Shana Harding

Occupation: Conservation Private Secretary

Address: 75 Breacher Bay Rd Wellington



## Appendix A

### Fresh Water Bodies of Significance

- Waikawa Stream
- Waitohi River
- Tuamarina River and its tributaries
- Buller River
- Lake Rotoiti
- Lake Rotoroa
- Lake Chalice
- Lake Stanley
- Lake Sylvester
- Lake Lindsay
- Kōkopu Creek
- Webb Stream
- Diamond Lakes
- Te Hoiere / Pelorus River
- Cobb River
- Maitai River (Mahitahi River)
- Motupiko River
- Motueka River
- Anatoki River
- Marahau River
- Otuwhero River
- Waimea River
- Riuwaka River
- Awaroa River
- Turimawiwi River
- Kahurangi River
- Anatori River
- Aorere River
- Tākaka River
- Heaphy River
- Wai-iti River
- Whangapeka River
- Dart River
- Pearse River
- Pokororo River
- Brown River



## Appendix B

### Wāhi Tapu Places

- Arapaoa Island
- Queen Charlotte Sound
- Ship Cove
- Matapara / Pickersgill Island
- Awaroa
- Adele Island
- Fisherman Island
- Pariwhakaoho
- Tata Islands
- Gouland Downs
- Motupipi
- Otuwhero Inlet
- Marahau
- The Brothers
- Te Ope-a-Kupe (Anamāhanga / Port Gore)
- Puhikereru Maunga / Mount Furneaux (Anamāhanga / Port Gore)
- Titi Island Nature Reserve
- Nelson Boulder Bank
- Kaiteriteri
- Te Matau (Separation Point)
- Te Tai Tapu
- Riuwaka source
- Te Pukatea (Abel Tasman)
- Wairima (Bark Bay)
- Wainui
- Onetahua
- Tonga Island
- Tapu Bay
- Mt Arthur
- Torrent Bay
- Shag Harbour
- Brown Hutt Flat

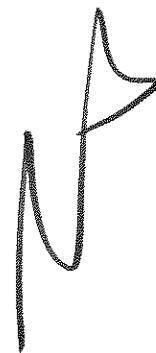


## Appendix C

### Te Tai Tapu: Wāhi Tapu Sites

1. Big River, Anaweka, Turimawivi and Anatori River mouth areas (all proximate to papakainga areas, burial caves Anatori)
2. Knuckle Hill summits (maunga, guardian of Whanganui Inlet)
3. Mt Stevens summit(highest peak, Taonga Tuku Ihi o Te Ao Turoa)
4. Lake Otuhie (mahinga kai, burial caves nearby)
5. Peninsula and islands at south west end of Whanganui inlet (papakainga, mahinga kai, waahiu taonga)
6. Brown River added along with the area by the Brown Hut as a papakainga
7. Turimawivi the 2 miles stretch which was the pa site of Te Ātiawa whānau & reports of finds in sand dunes- m25-99
8. Perry Saddle - pahi site
9. The Gorge of Cave Brook - special watering area
10. Kahurangi Point - Ovens/Flakes/Middens - pahi site
11. Te Hapū - occupation site / middens - m25 - 105
12. Whakapoui / Heaphy river - pahi site
13. Awa Ruatoa - mahinga kai and pahi
14. Rakopi - pahi
15. Te Rae - papakainga
16. Kaituna river - mahinga kai
17. Anaweka - occupation site
18. Paturau - occupation
19. Maungarakau - occupation
20. on the true right at the mouth of the Turamawivi River
21. burial at Lake Otuhie
22. The clusters of sites at Toiere and Rakopi, and neighbouring bays around the Inlet testify to the significance of these localities as does the retention in Maori ownership of the Occupation Reserves there.
23. The cave/rock shelters and associated middens just south of Sandhills Creek, especially M25-109 containing matting, kokowai, and bird, dog and rat bones
24. The cluster of ancient sites (middens, ovens, pits, terraces) associated with Wharariki.
25. The area known as Te Tai Tapu Block, is bounded on west coast between southern side of entrance of West Whanganui Inlet and Kahurangi Point; thence inland to the ridge of the Wakamarama Range;
  - a. eastern boundary follows the Wakamarama Range north to Knuckle Hill; thence to entrance of West Whanganui Inlet, is extremely important to Te Ātiawa.
  - b. Turamawivi: Valley and River in southern Te Tai Tapu block.
  - c. Anaweka: River and locality in southern Te Tai Tapu block.

- d. Kohaihai: River and valley north of Karamea, Buller; beginning of Heaphy Track.
- e. Raukawa: Raukawa Stream is near Anaweka River in southern Te Tai Tapu block.
- f. Toiere Reserve (a.k.a. Tuara) of 200 acres was set aside at Kaihoka, on the western side of West Whanganui Inlet, spanning the tongue of land on the northern side of the Inlet and the open sea.



## Schedule 1

### Marine Mammals - Categories of species for purpose of scientific samples and autopsy

#### Category 1 species are:

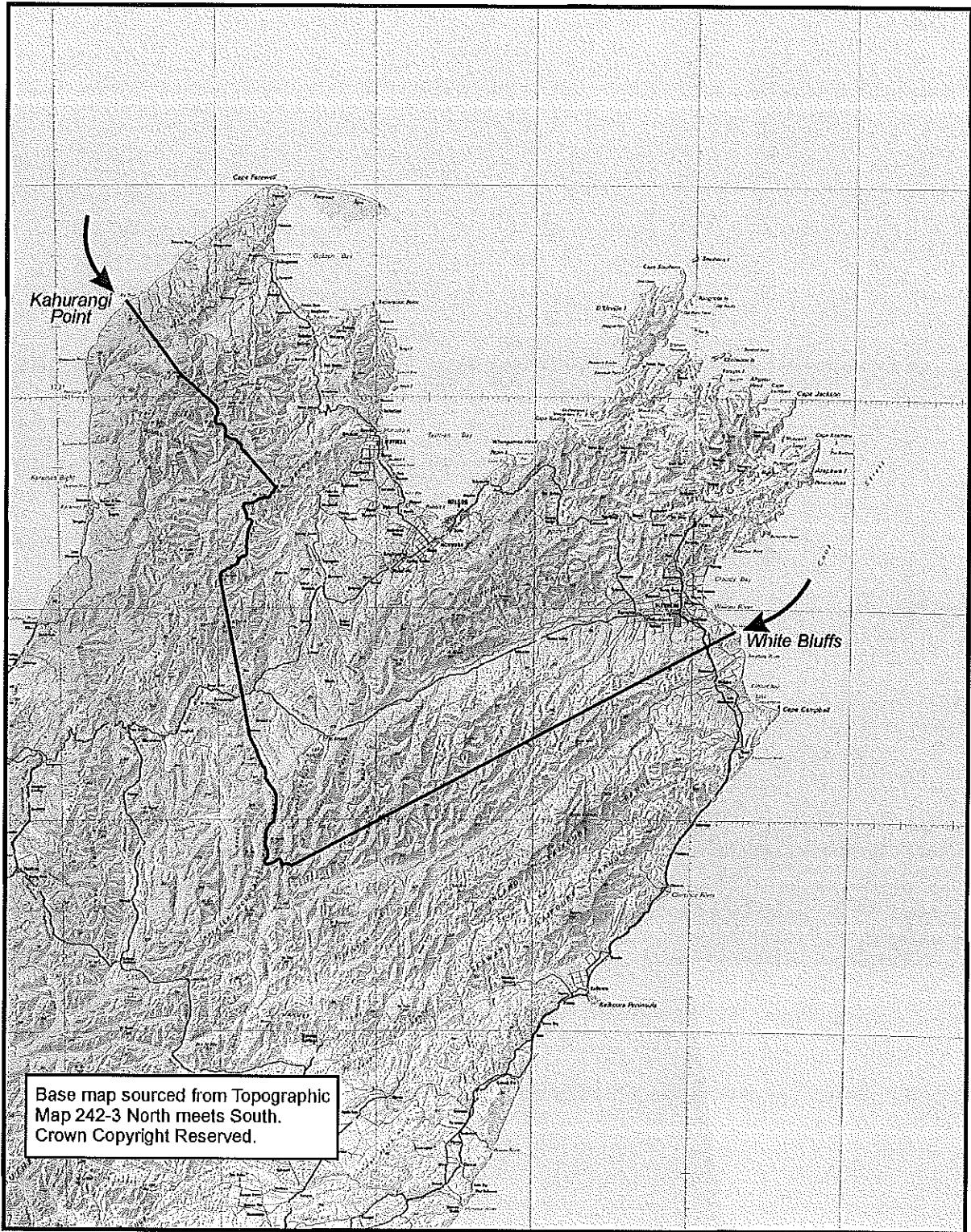
Common dolphins (*Delphinus delphis*)  
Long-finned pilot whales (*Globicephala melas*)  
Sperm whales (*Physeter macrocephalus*).

#### Category 2 species are:

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*) (North island)  
Hector's dolphin (*Cephalorhynchus hectori hectori*) (South Island)  
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 or rarely strand in New Zealand waters.



ATTACHMENT A  
CONSERVATION PROTOCOL AREA



## ATTACHMENT B

### SUMMARY OF THE 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 with the Te Ātiawa o Te Waka-a-Māui trustees and having particular regard to its views (*section 33*).

#### 2. Noting

- 2.1 A summary of the terms of this protocol must be noted in the conservation documents affecting the 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 Conservation Act 1987 or the National Parks Act 1980 (*section 37*).

#### 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, hapū, marae, whānau, or representative of tangata whenua (*section 34*); or

3.1.2 restrict the responsibilities of the Minister or the department or the legal rights of Te Ātiawa o Te Waka-a-Māui (*section 34*); or

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

- (a) land held, managed, or administered under the conservation legislation; or
- (b) flora or fauna managed or administered under the conservation legislation (*section 36*).

#### 4. Breach

- 4.1 Subject to the Crown Proceedings Act 1950, the Te Ātiawa o Te Waka-a-Māui Trust may enforce this protocol if the Crown breaches it without good cause, but damages or monetary compensation will not be awarded (*section 35*).

- 4.2 A breach of this protocol is not a breach of the deed of settlement (clause 5.33).