A PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF CONSERVATION REGARDING DEPARTMENT OF CONSERVATION INTERACTION WITH NGĀTI WHĀTUA ŌRĀKEI ON SPECIFIED ISSUES

1. INTRODUCTION

1.1 Under the Deed of Settlement dated 5 November 2011 between Ngāti Whātua Ōrākei and the Crown, the Crown, through the Minister of Conservation, agreed to issue a Protocol setting out how the Department of Conservation ("the Department") will interact with the Ngāti Whātua Ōrākei governance entity on specified issues.

1.2 Both the Department and Ngāti Whātua Ōrākei 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 the 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, as set out in this Protocol.

1.3 The purpose of the Conservation Act 1987 is to enable the Department to manage natural and historic resources under that Act and to administer the Acts in the First Schedule to the Act. The Minister and Director-General are required to exercise particular functions, powers and duties under that legislation.

2. PURPOSE OF THE PROTOCOL

2.1 The purpose of this Protocol is to assist the Department and Ngāti Whātua Ōrākei 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 The Protocol sets out a framework that enables the Department and Ngāti Whātua Ōrākei to establish a healthy and constructive working relationship that is consistent with section 4 of the Conservation Act. It provides for Ngāti Whātua Ōrākei to have meaningful input into certain policy, planning and decision-making processes, management of conservation lands and fulfilment of statutory responsibilities within the Protocol Area.

3. PROTOCOL AREA

3.1 This Protocol applies across the 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 22 of the Ngāti Whātua Ōrākei Claims Settlement Act 2012 and clause 5.3 of the Deed of Settlement. A summary of the provisions of the Settlement Legislation and the Deed of Settlement specifying the terms on which this Protocol is issued is set out in Attachment B of the Protocol.

5. IMPLEMENTATION AND COMMUNICATION

5.1 The Department will seek to establish and maintain communication with Ngāti Whātua Ōrākei 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 Providing a primary departmental contact for the governance entity being the Area Manager who will act as a liaison person with other departmental staff;

5.1.3 Providing reasonable opportunities for the governance entity to meet with Departmental managers and staff;

5.1.4 Holding alternate meetings at the Area Office and a Ngāti Whātua Ōrākei marae or other venue chosen by the governance entity to review implementation of the Protocol every six months, unless otherwise agreed. Ngāti Whātua Ōrākei may, when such meetings are held at a Ngāti Whātua Ōrākei marae or other venue chosen by the governance entity, arrange for an annual report back to the Ngāti Whātua Ōrākei people at such meetings; and

5.1.5 Training relevant staff on the content of the Protocol and briefing the Auckland Conservation Board members on the content of the Protocol.

5.2 Within the first year of this Protocol being issued, and on a continuing basis, the Department and the governance entity will identify practical ways in which:

5.2.1 Ngāti Whātua Ōrākei can exercise kaitiakitanga over ancestral lands, natural and historic resources and other taonga managed by the Department;

5.2.2 The Department can manage wahi tapu, and taonga tapu and other places of historic or cultural significance to Ngāti Whātua Ōrākei in a manner which respects Ngāti Whātua Ōrākei tikanga and values;

5.2.3 The Department can acknowledge the governance entity's interest in training and employment opportunities with the Department and the governance entity's role as a trainer for the Department; and

5.2.4 Ngāti Whātua Ōrākei can actively participate in conservation management and activities including the Department's volunteer and conservation events programmes.

6. SPECIFIC PROJECTS

6.1 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.

6.2 The decision on whether any specific projects will be funded in any business year will be made by the Conservator and Deputy Director-General, after following the co-operative processes set out above.

6.3 If the Department decides to proceed with a specific project requested by the governance entity, the governance entity and Department will meet again, if required, to finalise a work plan and timetable for implementation of the specific projects in that business plan.

6.4 If the Department decides not to proceed with a specific project requested by the governance entity, the Department will advise the governance entity of the reason(s) for this.

7. CULTURAL MATERIALS

7.1 Cultural materials for the purpose of this Protocol are plants, plant materials, and materials derived from animals or birds for which the Department is responsible in the Protocol Area. Some of these materials are of importance to Ngāti Whātua Ōrākei in maintaining its culture, including medicinal practices, toi mahi and gathering of mahinga kai in accordance with Ngāti Whātua Ōrākei tikanga.

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 The Minister and/or Director General will:

7.3.1 Consider requests from the governance entity for the customary use of cultural materials in accordance with the relevant legislation;

7.3.2 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 where materials become available as a result of road kill; and

7.3.3 Consult with the governance entity in circumstances where there are competing requests from persons or entities other than Ngāti Whātua Ōrākei for the use of cultural materials, for example for scientific research purposes.

7.4 The Department will work with the governance entity to develop procedures for monitoring sustainable levels and methods of use of cultural materials in accordance with the relevant legislation.

8. HISTORIC RESOURCES / WAHI TAPU

8.1 Ngāti Whātua Ōrākei consider that Te Tiriti o Waitangi / the Treaty of Waitangi covered wahi tapu, including urupa, wahi taonga, and other places of historic significance as taonga (priceless treasures) for all the hapu and iwi of Aotearoa. The Department will respect the great significance of these taonga by fulfilling the obligations contained in this section of the Protocol.

8.2 The Department has a statutory role to conserve historic resources in protected areas and will endeavour to do this for sites of significance to Ngāti Whātua Ōrākei in association with the governance entity and according to Ngāti Whātua Ōrākei tikanga.

8.3 The Department accepts that non-disclosure of locations of places known to Ngāti Whātua Ōrākei may be an option that the governance entity chooses to take to preserve the wahi tapu nature of places. The responsibility for identifying and

assessing Ngāti Whātua Ōrākei heritage values rests largely with Ngāti Whātua Ōrākei. There may be situations where the governance entity will ask the Department to treat information it provides on wahi tapu in a confidential way. The Department and the governance entity will 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 respects the views of Ngāti Whātua Ōrākei.

8.4 To assist in this process, the governance entity will notify the Area Manager of any concerns with the Department's management of wahi tapu areas and the Department will take all reasonable steps to address the situation.

8.5 The Department will work with the governance entity at the Area Office level to respect Ngāti Whātua Ōrākei values attached to identified wahi tapu, wahi taonga and places of historic significance on lands administered by the Department by:

8.5.1 Managing sites of historic significance to Ngāti Whātua Ōrākei 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;

8.5.2 Undertaking protection and conservation of wahi tapu and other sites of significance in co-operation with Ngāti Whātua Ōrākei;

8.5.3 Consulting with the governance entity before any work is carried out by a party other than the Department or the governance entity (eg a community restoration trust) on land administered by the Department;

8.5.4 Ensuring as far as possible that when another entity (e.g. community trust) is undertaking work on land managed by the Department the work undertaken is consistent with the standards of conservation practice outlined in the ICOMOS New Zealand Charter 1993;

8.5.5 Informing the governance entity if wheua tangata are found; and

8.5.6 Assisting in recording and protecting wahi tapu and other places of cultural significance to Ngāti Whātua Ōrākei where appropriate, to ensure that they are not desecrated or damaged.

9. INDIGENOUS FLORA AND FAUNA

9.1 One of the Department's primary objectives is to ensure the survival of 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.

9.2 In recognition of Ngāti Whātua Ōrākei's cultural, spiritual, historic and traditional association with indigenous flora and fauna occurring naturally within the Protocol Area for which the Department has responsibility, the Department will in relation to any of those species that Ngāti Whātua Ōrākei may identify as important to them through the processes provided under clauses 5 and 6:

9.2.1 Where a national recovery programme is being implemented within the Protocol Area, inform and, where it is practicable to do so, provide opportunities for the governance entity to participate in that programme;

9.2.2 Provide opportunities for the governance entity to input into any Conservation Management Strategy 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;

9.2.3 Inform the governance entity before commencing any research and monitoring projects being carried out by the Department within the Protocol Area, and, where reasonably practicable, provide opportunities for the governance entity to participate in those projects.

9.2.4 Advise the governance entity of the receipt of any research reports relating to indigenous species within the Protocol Area, and provide copies or the opportunity for the governance entity to study those reports.

10. MARINE MAMMALS

10.1 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.

10.2 The Department believes that there are opportunities to meet the cultural interests of Ngāti Whātua Ōrākei 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 Protocol Area, and for the recovery by Ngāti Whātua Ōrākei of bone and other material for cultural purposes from dead marine mammals.

10.3 In achieving these objectives, the Protocol also aims to enable the Department to give effect to the principles of Te Tiriti o Waitangi / the Treaty of Waitangi as expressed in section 4 of the Conservation Act as well as assisting the conservation of cetacean species by contribution to the collection of specimens and scientific data of national and international importance.

10.4 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 is unsuccessful. The decision to euthanase is the responsibility of the Department's stranding control officer. The Department will make every effort to inform the governance entity before any decision to euthanase. If Ngāti Whātua Ōrākei representatives are not available at the time a decision is made to euthanase, it will be the responsibility of the stranding control officer to make decisions in the best interests of the marine mammals and public safety.

10.5 Both the Department and Ngāti Whātua Ōrākei 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 animals, including their availability to Ngāti Whātua Ōrākei, will depend on the species.

10.6 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:

10.6.1 Common dolphins (Delphinus delphis)

10.6.2 Long-finned pilot whales (Globicephala melas)

10.6.3 Sperm whales (Physeter macrocephalus).

10.7 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.

10.7.1 All baleen whales

10.7.2 Short-finned pilot whale (Globicephala macrorhynchus)

10.7.3 Beaked whales (all species, family Ziphiidae)

10.7.4 Pygmy sperm whale (Kogia breviceps)

10.7.5 Dwarf sperm whale (Kogia simus)

10.7.6 Bottlenose dolphin (Tursiops truncatus)

10.7.7 Maui's dolphin (Cephalorhynchus hectori maui)

10.7.8 Dusky dolphin (Lagenorhynchus obscurus)

10.7.9 Risso's dolphin (Grampus griseus)

10.7.10 Spotted dolphin (Stenella attenuata)

10.7.11 Striped dolphin (Stenella coeruleoalba)

10.7.12 Rough-toothed dolphin (Steno bredanensis)

10.7.13 Southern right whale dolphin (Lissodelphis peronii)

10.7.14 Spectacled porpoise (Australophocoena dioptrica)

10.7.15 Melon-headed whale (Peponocephala electra)

10.7.16 Pygmy killer whale (Feresa attenuata)

10.7.17 False killer whale (Pseudorca crassidens)

10.7.18 Killer whale (Orcinus orca)

10.7.19 Any other species of cetacean previously unknown in New Zealand waters.

10.8 If Ngāti Whātua Ōrākei 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.

10.9 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. Ngāti Whātua Ōrākei 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.

10.10 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 reasonable costs incurred up to the estimated costs that would otherwise have been incurred by the Department to carry out the disposal.

10.11 The Department will:

10.11.1 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 Ngāti Whātua Ōrākei to be involved when there is a marine mammal stranding;

10.11.2 Promptly notify the key contact people of all stranding events;

10.11.3 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 Ngāti Whātua Ōrākei tikanga; and

10.11.4 Consult with the governance entity should the Department wish to prepare plans for research and monitoring of the seal population within the Protocol Area.

10.12 In areas of overlapping interest, Ngāti Whātua Ōrākei, will work with the Department and the relevant iwi to agree on a process to be followed when managing marine mammal strandings.

11. RESOURCE MANAGEMENT ACT 1991

11.1 Ngāti Whātua Ōrākei and the Department both have concerns with the effects of activities controlled and managed under the Resource Management Act 1991. Areas

of common interest may include riparian management, effects on freshwater fish habitat, water quality management, and protection of indigenous vegetation and habitats.

11.2 From time to time, the governance entity and the Department will seek to identify further issues of likely mutual interest for discussion. It is recognised that their concerns in any particular resource management issue may diverge and that the Department and the governance entity will continue to make separate submissions in any Resource Management Act processes.

11.3 In carrying out advocacy under the Resource Management Act the Department will:

11.3.1 Discuss with the governance entity the general approach that may be taken by Ngāti Whātua Ōrākei and the Department in respect of advocacy under the Resource Management Act, and seek to identify their respective priorities and issues of mutual concern;

11.3.2 Have regard to the priorities and issues of mutual concern identified in making decisions in respect of advocacy under the Resource Management Act; and

11.3.3 Make non-confidential resource information available to the governance entity to assist in improving their effectiveness in resource management advocacy work.

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 Fisheries) and the Conservation Act 1987. The Conservation Act deals specifically with the conservation of non-commercial freshwater fisheries and habitat. The whitebait fishery is administered under the Whitebait Fishing Regulations 1994, made under the Conservation Act 1987.

12.2 The Department and the governance entity will work together to ensure that the Department is aware of relevant tikanga relating to freshwater fisheries.

12.3 The Department will work at an Area Office level to provide for active participation by 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 focusing on fish passage, minimum flows, protection 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 where the Department is 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; and

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.

13. PEST CONTROL

13.1 A key objective of and function of the Department is to prevent, manage or control threats to natural, historic and cultural values from pests. This needs to be done in a way that maximises the value from limited resources available to do this work.

13.2 The Department will:

13.2.1 Seek and facilitate early consultations with the governance entity on pest control activities within the Protocol Area, particularly in relation to the use of poisons; and

13.2.2 Provide the governance entity with opportunities to review and assess programmes and outcomes.

14. VISITOR AND PUBLIC INFORMATION

14.1 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. In providing public information and interpretation services and facilities for visitors on the land it manages, the Department will recognise the importance to Ngāti Whātua Ōrākei of their cultural, traditional and historic values and the association of Ngāti Whātua Ōrākei with the land the Department administers within the Protocol Area.

14.2 The Department will work with the governance entity at the Area Office level to encourage respect for Ngāti Whātua Ōrākei values by:

14.2.1 Seeking to raise public awareness of positive conservation partnerships developed between the governance entity, the Department and other stakeholders, for example, by way of publications, presentations and seminars;

14.2.2 Consulting on the provision of interpretation and visitor facilities (if any) at wahi tapu, wahi taonga and other places of historic or cultural significance to Ngāti Whātua Ōrākei within the Protocol Area; and

14.2.3 Ensuring that information on new panels, signs and visitor publications includes Ngāti Whātua Ōrākei perspectives and references to the significance of the sites to Ngāti Whātua Ōrākei where appropriate, including the use of traditional Ngāti Whātua Ōrākei place names.

15. CONCESSION APPLICATIONS

15.1 The Department will work with the governance entity to identify categories of concessions that may impact on the cultural, spiritual or historical values of Ngāti Whātua Ōrākei.

15.2 In relation to the concession applications within the categories identified under clause 15.1, the Minister will:

15.2.1 Consult with the governance entity with regard to any applications or renewals of applications within the Protocol Area;

15.2.2 When a concession is publicly notified, the Department will at the same time provide separate written notification to the governance entity;

15.2.3 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 Ngāti Whātua Ōrākei tikanga and values and encourage communication between the concessionaire and the governance entity if appropriate; and

15.2.4 Ensure as far as possible when issuing and renewing concessions that give authority for other parties to manage land administered by the Department, that those parties:

(a) Be required to manage the land according to the standards of conservation practice outlined in the ICOMOS New Zealand Charter 1993; and

(b) Be encouraged to consult with the governance entity before using cultural information of Ngāti Whātua Ōrākei.

16. APPOINTMENTS TO BOARDS

16.1 The Department will recommend that the Minister consult the governance entity when carrying out consultation with tangata whenua for the purpose of appointing tangata whenua members to the Hauraki Gulf Forum under s 16(2)(e) of the Hauraki Gulf Marine Park Act 2000.

16.2 The Department will notify the governance entity when nominations are invited for appointments to the Auckland Conservation Board, and will provide the governance entity with any information or material that will assist in making a nomination or nominations.

17. CONSULTATION

17.1 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:

17.1.1 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;

17.1.2 Providing the governance entity with sufficient information to have informed discussions and submissions in relation to any of the matters that are the subject of the consultation;

17.1.3 Ensuring that sufficient time is given for the effective participation of the governance entity in the decision making process and the preparation of submissions by the governance entity in relation to any of the matters that are the subject of the consultation;

17.1.4 Ensuring that the Department will approach the consultation with the governance entity with an open mind, and will genuinely consider any concerns that the governance entity may have in relation to any of the matters that are the subject of the consultation.

18. REVIEW

18.1 The parties agree that this Protocol is a living document which should be updated and adapted to take account of future developments. The first review of this Protocol will take place 12 months after the proposed Tāmaki Makaurau Collective deed comes into effect in respect of any amendments to this Protocol that are necessary or appropriate in light of the proposed Collective relationship document with the Department, which Ngāti Whātua Ōrākei will be part of. If requested by either party the Protocol will be reviewed every three years thereafter.

18.2 The parties may only vary this Protocol pursuant to clause 18.1 by agreement in writing.

19. DEFINITIONS

In this Protocol:

Concession means a lease, licence, permit or easement granted under Part 3B of the Conservation Act 1987;

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

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 means Ngāti Whātua Ōrākei Trustee Limited as trustee of the Ngāti Whātua Ōrākei Trust;

Ngāti Whātua Ōrākei has the meaning set out in clauses 8.5 and 8.6 of the Deed of Settlement;

Kaitiakitanga means guardianship in accordance with tikanga;

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;

Tāmaki Makaurau Collective deed means a deed proposed to be entered into by the Crown and Ngā Mana Whenua o Tāmaki Makaurau iwi and hapu, including Ngāti Whātua o Ōrākei, and their representative entities; and

Tikanga refers to Māori traditional customs.

ISSUED ON 19 December 2012

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

Kate Wilkinson

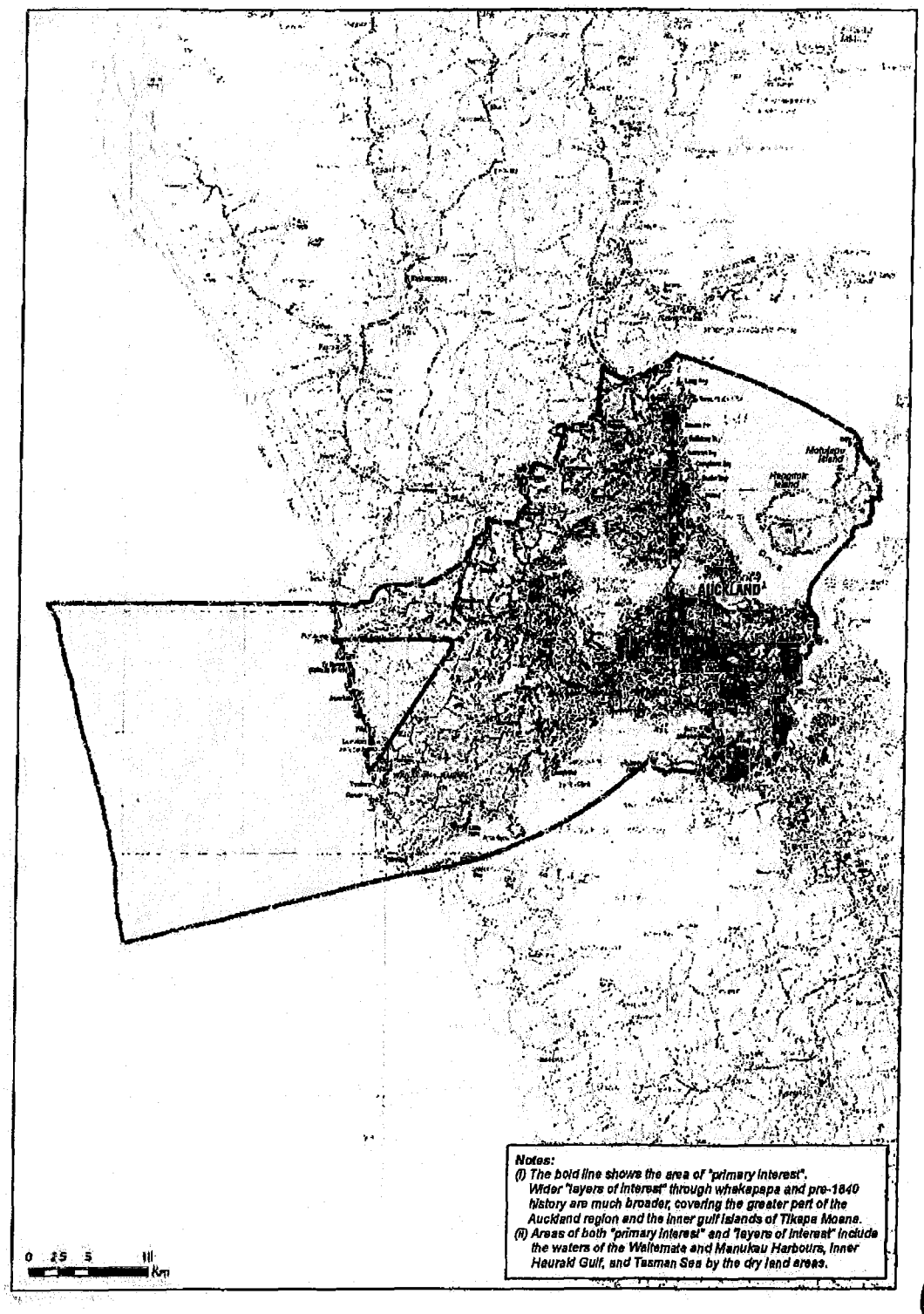
WITNESS

Name Gavin Rodley

Occupation Private Secretary

Address Wellington

ATTACHMENT A: NGĀTI WHĀTUA ŌRĀKEI AREA OF INTEREST



ATTACHMENT B – SUMMARY OF 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 22).

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 26).

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 23); or

3.1.2 restrict the responsibilities of the Minister or the Department or the legal rights of Ngāti Whātua Ōrākei (section 23); or

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

(a) land held, managed or administered under Conservation Legislation; or

(b) flora or fauna managed or administered under the Conservation Legislation; or

(c) the common marine and coastal area (as defined by section 7(1) of the Marine and Coastal Area (Takutai Moana) Act 2011) (section 25).

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 24).

4.2 A breach of this Protocol is not a breach of the Deed of Settlement (clause 5.6).