

<b>TAONGA TŪTURU PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER FOR ARTS, CULTURE AND HERITAGE REGARDING ENGAGEMENT WITH NGĀTI MANAWA ON TAONGA TŪTURU ISSUES</b>
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## **1 INTRODUCTION**

- 1.1 Under the Deed of Settlement dated 12 December 2009 between Ngāti Manawa and the Crown (the “Deed of Settlement”), the Crown agreed that the Minister for Arts, Culture and Heritage (the “Minister”) would issue a protocol (the “Taonga Tūturu Protocol”) setting out how the Minister and the Chief Executive for the Ministry for Culture and Heritage (the “Chief Executive”) will interact with the Governance Entity on matters specified in the Taonga Tūturu Protocol. These matters are:
  - 1.1.1 Newly found Taonga Tūturu;
  - 1.1.2 The export of Taonga Tūturu from New Zealand;
  - 1.1.3 The Protected Objects Act 1975 and any amendment (the “Act”);
  - 1.1.4 Registration as a collector of Taonga Tūturu;
  - 1.1.5 Board Appointments;
  - 1.1.6 National Monuments, War Graves, and Historical Graves;
  - 1.1.7 History publications relating to Ngāti Manawa;
  - 1.1.8 Information Exchange;
  - 1.1.9 Consultation;
  - 1.1.10 Review and Amendment;
  - 1.1.11 Dispute Resolution; and
  - 1.1.12 Changes to legislation affecting this protocol.
- 1.2 The Minister and the Chief Executive, or other such persons acting in those capacities, and Ngāti Manawa are seeking a relationship consistent with the Treaty of Waitangi and its principles. Those principles guide this Protocol and provide the basis for the relationship between the parties to this Taonga Tūturu Protocol, as set out in this Protocol.
- 1.3 The Chief Executive recognises that Ngāti Manawa has significant interests in relation to the preservation, protection, and management of Taonga Tūturu. This is inextricably linked to whakapapa, and has important cultural and spiritual dimensions.
- 1.4 The purpose of the Act is to provide for the better protection of certain objects by, among other things, regulating the export of Taonga Tūturu, and by establishing and recording the ownership of Ngā Taonga Tūturu found after the commencement of the Act, namely 1 April 1976.
- 1.5 The Minister and Chief Executive have certain functions, powers and duties in terms of the Act. In exercising such functions, powers and duties, the Minister and Chief Executive will provide the Governance Entity the opportunity for input into the policy and decision-making processes as set out in this Protocol.

## 2 BACKGROUND

- 2.1 Ngāti Manawa appreciates and regards all taonga as precious and consider that there is an inherent responsibility to ensure that they manage these taonga in such a way that their customs are respected and observed.
- 2.2 Ngāti Manawa values its ability to interact with its taonga and to continue to exercise and practice Ngāti Manawatanga. An essential component is the maintenance of balance and the continuing good health of Ngāti Manawa taonga to sustain the identity, traditional knowledge and practices of Ngāti Manawa for the benefit of current and future generations.
- 2.3 Ngāti Manawa considers that the historical and cultural access, use, and management of its taonga has been substantially affected at local, regional, and national levels due to a number of factors. This Protocol's provisions attempt to mitigate these factors.

## 3 NGĀTI MANAWA GUIDING PRINCIPLES

*Ko Tāwhiuau te maunga  
Ko Rangitaiki te awa  
Ko Rangipo te wehenga o te tuna  
Ko Ngāti Manawa te iwi  
Ko Tangiharuru te tangata*

*Tāwhiuau is the mountain  
Rangitaiki is the River  
Rangipo is the departure place of the eels  
Ngāti Manawa are the people  
Tangiharuru is the Chief*

*Manawa tu, Manawa oho, Manawa Rere, Manawakotokoto*

- 3.1 Ngāti Manawa values, aspirations and associations encapsulate and express the world view of Ngāti Manawa with the essence of acknowledging the spiritual and physical relationships with the past, present for future generations. In doing so the inter-relationships and interconnectedness of these principles will continue to ensure that Ngāti Manawa continues to provide and act in and for the best interests of Ngāti Manawa at all times.
- 3.2 The following principles are interlinked and are fluid and extend across the Ngāti Manawa rohe; they are formed from reciprocity and cannot be dissected without affecting the other; they are in-separable:

**Turangawaewae:** Physical and spiritual relationships to the whenua; strong association and connection.

**Ahikāroa:** The eternal fires of occupation and whakapapa. Kainga, mahinga kai, settlements and camps hold importance as expressions of ahikāroa.

**Mana Motuhake:** The rights and ability to control, manage, direct and influence Ngāti Manawa's future to its full potential. Prestige and identity linked to all things and associated with obligations and responsibility for the benefit of all Ngāti Manawa.

**Kaitiakitanga:** The inherent and inherited responsibility for the sustainable use and care of resources where relationships are based on reciprocity between mana tangata, mana whenua, mana atua, mana ora. Welfare of the resource first and foremost; for



the benefit of the resource and the people and the respect and commitment each have for one another.

**Tino Rangatiratanga;** Expressed as an act, relationship, association, thought and authorises and empowers ones rights and responsibilities to act and behave with the utmost respect in a given situation. Ngāti Manawa responsibilities and aspirations extend beyond any individual, organisation and generation.

**Whakapapa:** The physical and spiritual relationships with mana atua, mana tangata and mana whenua. Values of connectivity through past, present and future relationships.

**Mauri:** Life force, ethos imbues in all things animate and inanimate. If the mauri is damaged, so too will be the mauri of the people.

**Tikanga:** Parameters by which activities are conducted to ensure the safeguarding and health of those values that Ngāti Manawa hold steadfast eg: policies and procedures, terms and conditions. Appropriate behaviour and conduct for the wellbeing and intent of the situation. Ngāti Manawa has its own tikanga in respect of the kaitiakitanga of their waters which dictates the way they manifest their management, interests and rights over and in their taonga.

**Wairua:** Spirituality imbued in all things requiring acknowledgement and response. Upholding the wairua.

**Manaakitanga:** To care, nurture and ensure the collective wellbeing and interest of Ngāti Manawa. The collective takes precedence over personal gain and self interest.

**Mana Whenua:** Ancestral rights that are not only based on lands and resources.

#### **4 RELATIONSHIP PRINCIPLES**

4.1 Ngāti Manawa, the Minister, and the Chief Executive agree to abide by the following relationship principles when implementing this Protocol and exercising their various roles and functions under this Protocol:

4.1.1 Working together to preserve, promote, protect and enhance taonga tūturu;

4.1.2 Working in a spirit of co-operation;

4.1.3 Ensuring early engagement on matters relating to this Protocol;

4.1.4 Operating a 'no-surprises' approach;

4.1.5 Acknowledging that the relationship is evolving, not prescribed;

4.1.6 Respecting the independence of the parties and their individual mandates, roles and responsibilities within the Protocol Area as defined in clause 5.1;

4.1.7 Recognising and acknowledging that the parties benefit from working together by sharing their vision, knowledge and expertise; and

4.1.8 Recognising and acknowledging the need to safeguard traditional knowledge and cultural expressions associated with Ngāti Manawa taonga tūturu.

4.2 Underpinning the settlement between the Crown and Ngāti Manawa is the principle of honour and integrity. Both parties entered into the deed of settlement in good faith relying on the commitments of each other contained in the Deed with the intention of

achieving a full, fair and durable settlement of the claims of Ngāti Manawa. The principle of honour and integrity is to be reflected in the implementation of this protocol.

## **5 PROTOCOL AREA**

- 5.1 This Protocol applies across the Taonga Tūturu Protocol Area which is identified in the map included in Attachment A of this Protocol together with adjacent waters (the "Protocol Area").

## **6 TERMS OF ISSUE**

- 6.1 The Taonga Tūturu Protocol is issued pursuant to section 34 of the Ngāti Manawa Claims Settlement Act 2012 ("the Settlement Legislation") that implements clause 5.7 of the Deed of Settlement, and is subject to the Settlement Legislation and the Deed of Settlement.
- 6.2 This Protocol must be read subject to the terms of issue set out in Attachment B.

## **7 THE ROLE OF THE CHIEF EXECUTIVE UNDER THIS PROTOCOL**

### **General**

- 7.1 The Chief Executive has certain functions, powers and duties in terms of the Act and will consult, notify and provide information to the Governance Entity within the limits of the Act. From the date this Protocol is issued the Chief Executive will:
- 7.1.1 notify the Governance Entity in writing of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manawa origin found anywhere else in New Zealand;
  - 7.1.2 provide for the care, examination, recording and custody of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manawa origin found anywhere else in New Zealand;
  - 7.1.3 notify the Governance Entity in writing of its right to lodge a claim with the Chief Executive for ownership of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manawa origin found anywhere else in New Zealand;
  - 7.1.4 notify the Governance Entity in writing of its right to apply directly to the Maori Land Court for determination of the actual or traditional ownership, rightful possession or custody of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manawa origin found anywhere else in New Zealand, or for any right, title, estate, or interest in any such Taonga Tūturu; and
  - 7.1.5 notify the Governance Entity in writing of any application to the Maori Land Court from any other person for determination of the actual or traditional ownership, rightful possession or custody of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manawa origin found anywhere else in New Zealand, or for any right, title, estate, or interest in any such Taonga Tūturu.

### **Applications for Ownership**

- 7.2 If the Governance Entity lodges a claim of ownership with the Chief Executive and there are no competing claims for any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manawa origin found anywhere else in New Zealand, the



Chief Executive will, if satisfied that the claim is valid, apply to the Registrar of the Māori Land Court for an order confirming ownership of the Taonga Tūturu.

- 7.3 If there is a competing claim or claims lodged in conjunction with the Governance Entity's claim of ownership, the Chief Executive will consult with the Governance Entity for the purpose of resolving the competing claims, and if satisfied that a resolution has been agreed to, and is valid, apply to the Registrar of the Māori Land Court for an order confirming ownership of the Taonga Tūturu.
- 7.4 If the competing claims for ownership of any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manawa origin found anywhere else in New Zealand, cannot be resolved, the Chief Executive at the request of the Governance Entity may facilitate an application to the Māori Land Court for determination of ownership of the Taonga Tūturu.

#### **Applications for Custody**

- 7.5 If no ownership application is made to the Māori Land Court for any Taonga Tūturu found within the Protocol Area or identified as being of Ngāti Manawa origin found elsewhere in New Zealand by the Governance Entity or any other person, the Chief Executive will:
- 7.5.1 consult the Governance Entity where there is any request from any other person for the custody of the Taonga Tūturu;
- 7.5.2 consult the Governance Entity before a decision is made on who may have custody of the Taonga Tūturu; and
- 7.5.3 notify the Governance Entity in writing of the decision made by the Chief Executive on the custody of the Taonga Tūturu.

#### **Export Applications**

- 7.6 For the purpose of seeking an expert opinion from the Governance Entity on any export applications to remove any Taonga Tūturu of Ngāti Manawa origin from New Zealand, the Chief Executive will register the Governance Entity on the Ministry for Culture and Heritage's Register of Expert Examiners.
- 7.7 Where the Chief Executive receives an export application to remove any Taonga Tūturu of Ngāti Manawa origin from New Zealand, the Chief Executive will consult the Governance Entity as an Expert Examiner on that application, and notify the Governance Entity in writing of his or her decision.

#### **Implementation**

- 7.8 The Chief Executive will meet with the Governance Entity to develop and agree a strategy to implement this Protocol as soon as possible after this Protocol is issued. This strategy may include but is not limited to:
- 7.8.1 any matters raised in this Protocol;
- 7.8.2 reporting processes to be put in place, if agreed by both parties;
- 7.8.3 recognition of the special relationship that Ngāti Manawa has with its taonga tūturu;
- 7.8.4 informing the Ministry of the relevant provisions in the Ngāti Manawa Iwi Management Plan;

7.8.5 developing a communications protocol; and;

7.8.6 establishing review processes and associated timeframes for this Protocol.

7.9 The implementation strategy described in clause 7.8 of this Protocol will have effect from the date agreed by both parties and specified in the strategy.

#### **Other matters**

7.10 The Chief Executive will also:

7.10.1 discuss with the Governance Entity concerns and issues notified by the Governance Entity about the Act or this Protocol;

7.10.2 as far as reasonably practicable train relevant employees within the Ministry on this Protocol to ensure that they are aware of the purpose, content and implications of this Protocol;

7.10.3 maintain information provided by the Governance Entity on the office holders of the Governance Entity, their addresses, and contact details;

7.10.4 as far as reasonably practicable, provide opportunities for the Governance Entity to meet with relevant Ministry managers and staff;

7.10.5 as far as reasonably practicable, inform other organisations with whom it works, central government agencies, and stakeholders about this Protocol and provide ongoing information;

7.10.6 as soon as reasonably practical notify the Governance Entity of any Ngāti Manawa taonga tūturu held overseas, either in private or public collections, should the Chief Executive become aware of such collections; and

7.10.7 include a copy of the Protocol on the Ministry's website.

### **8 THE ROLE OF THE MINISTER UNDER THIS PROTOCOL**

8.1 The Minister has functions, powers and duties under the Act and may consult, notify and provide information to the Governance Entity within the limits of the Act. In circumstances where the Chief Executive originally consulted the Governance Entity as an Expert Examiner, the Minister may consult with the Governance Entity where a person appeals the decision of the Chief Executive to:

8.1.1 refuse permission to export any Taonga Tūturu, or Ngā Taonga Tūturu, from New Zealand; or

8.1.2 impose conditions on the approval to export any Taonga Tūturu, or Ngā Taonga Tūturu, from New Zealand.

8.2 The Ministry will notify the Governance Entity in writing of the Minister's decision on an appeal in relation to an application to export any Taonga Tūturu where the Governance Entity was consulted as an Expert Examiner.

### **9 REGISTRATION AS A COLLECTOR OF TAONGA TŪTURU**

9.1 The Chief Executive will register the Governance Entity as a Registered Collector of Taonga Tūturu.



## **10 BOARD APPOINTMENTS**

### **10.1 The Chief Executive shall:**

- 10.1.1 notify the Governance Entity of any upcoming ministerial appointments on Boards which the Minister for Arts, Culture and Heritage appoints to;
- 10.1.2 add Ngāti Manawa nominees onto the Ministry for Culture and Heritage's Nomination register for Boards, which the Minister for Arts, Culture and Heritage appoints to; and
- 10.1.3 notify Ngāti Manawa of any ministerial appointments to Boards which the Minister for Arts, Culture and Heritage appoints to, where these are publicly notified.

## **11 NATIONAL MONUMENTS, WAR GRAVES, AND HISTORICAL GRAVES**

- 11.1 The Chief Executive shall seek and consider the views of the Governance Entity on any national monument, war grave, historical grave or urupā, managed or administered by the Ministry which specifically relates to Ngāti Manawa's interests.
- 11.2 Ngāti Manawa may seek the advice of the Ministry in relation to the establishment of a memorial at Kani Rangi Park papakainga. The Chief Executive will provide Ngāti Manawa with practical advice on establishing a memorial. This may include advice on drafting a design brief, budgeting and selecting a designer.

## **12 HISTORY PUBLICATIONS RELATING TO NGĀTI MANAWA**

### **12.1 The Chief Executive shall:**

- 12.1.1 provide the Governance Entity with a list of all history publications commissioned or undertaken by the Ministry that relate substantially to Ngāti Manawa, and will supply these on request; and
- 12.1.2 discuss with the Governance Entity any work that the Ministry undertakes that deals specifically or substantially with Ngāti Manawa.

## **13 INFORMATION EXCHANGE**

- 13.1 Ngāti Manawa and the Ministry recognise the benefit of mutual information exchange. To this end the Ministry and Ngāti Manawa will as far as possible exchange that is relevant to, the management of Ngāti Manawa taonga tūturu and, intellectual property associated with Ngāti Manawa taonga tūturu.
- 13.2 The Ministry will make available to Ngāti Manawa all existing information held by, or reasonably accessible to, the Ministry where that information is requested by Ngāti Manawa for the purposes of assisting them to exercise their rights under this Protocol.
- 13.3 The obligations in clause 13.1 and 13.2 do not apply to information that the Minister is legally prevented from providing (for example, information that is the subject of an obligation of confidentiality or non-disclosure) or to information that the Minister or Chief Executive may withhold under the Official Information Act 1982.

## **14 CONSULTATION**

- 14.1 Where the Chief Executive is required to consult under this Protocol, the basic principles that will be followed in consulting with the Governance Entity in each case are:
- 14.1.1 ensuring that the Governance Entity is consulted as soon as reasonably practicable following the identification and determination by the Chief Executive of the proposal or issues to be the subject of the consultation;
  - 14.1.2 providing the Governance Entity with sufficient information to make informed decisions and submissions in relation to any of the matters that are the subject of the consultation;
  - 14.1.3 ensuring that sufficient time is given for the participation of the Governance Entity in the decision making process including the preparation of submissions by the Governance Entity in relation to any of the matters that are the subject of the consultation;
  - 14.1.4 ensuring that the Chief Executive will approach the consultation with the Governance Entity with an open mind, and will genuinely consider the submissions of the Governance Entity in relation to any of the matters that are the subject of the consultation; and
  - 14.1.5 reporting back to the Governance Entity, either in writing or in person, on any decisions made that relate to that consultation.

## **15 REVIEW AND AMENDMENT**

- 15.1 The Minister and the Chief Executive and Ngāti Manawa agree that this Protocol is a living document which should be updated and adapted to take account of future developments.
- 15.2 If requested by either party, the first review of this Protocol will take place one year from the Settlement Date. Thereafter, the Protocol will be reviewed on an annual basis, if requested by either party.
- 15.3 The parties agree that should any Taonga Tūturu Protocol issued by the Crown pursuant to a Deed of Settlement entered into by the Crown and another group contain more beneficial provisions than this Protocol, the Governance Entity shall be entitled to benefits of a similar nature.
- 15.4 Where the parties cannot reach agreement on any review or variation proposal they will use the dispute resolution processes contained in clause 16 of the Protocol.
- 15.5 Ngāti Manawa and the Crown may only vary this Protocol by agreement in writing.

## **16 DISPUTE RESOLUTION**

- 16.1 If one party considers that there has been a breach of this Protocol then that party may give written notice to the other party that they are in dispute. The following process shall be undertaken once notice is received by the other party to this Protocol:
- 16.1.1 Within 15 working days of being given written notice, the relevant contact person from the Ministry and the Governance Entity will meet to work in good faith to resolve the issue.



16.1.2 If the dispute has not been resolved within 20 working days of receipt of the notice referred to in 16.1.1, the Chief Executive and Governance Entity will meet to work in good faith to resolve the issue.

16.1.3 If the dispute has not been resolved within 30 working days of receipt of the notice referred to in clause 16.1.1 and where the matter is of such significance and the dispute remains outstanding despite the above process having been followed, provided it is not inconsistent with statutory obligations and the parties agree, the Minister and the Governance Entity will meet to work in good faith to resolve this issue. The parties recognise that this clause is subject to this Protocol's terms of issue.

## **17 CHANGES TO POLICY AND LEGISLATION AFFECTING THIS PROTOCOL**

17.1 If the Chief Executive consults with Māori generally on policy development or any proposed legislative amendment to the Act that impacts upon this Protocol, the Chief Executive will:

17.1.1 notify the Governance Entity of the proposed policy development or proposed legislative amendment upon which Māori generally will be consulted;

17.1.2 make available to the Governance Entity the information provided to Māori as part of the consultation process referred to in this clause; and

17.1.3 report back to the Governance Entity on the outcome of any such consultation.

## **18 DEFINITIONS**

18.1 In this Protocol:

**Chief Executive** means the Chief Executive of the Ministry for Culture and Heritage and includes any authorised employee of the Ministry for Culture and Heritage acting for and on behalf of the Chief Executive.

**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.

**Expert Examiner** has the same meaning as in section 2 of the Act and means a body corporate or an association of persons.

**Found** has the same meaning as in section 2 of the Act and means:

in relation to any taonga tūturu, means discovered or obtained in circumstances which do not indicate with reasonable certainty the lawful ownership of the taonga tūturu and which suggest that the taonga tūturu was last in the lawful possession of a person who at the time of finding is no longer alive; and 'finding' and 'finds' have corresponding meanings

**Governance Entity** means means the trustees of Te Rūnanga o Ngāti Manawa established by the Te Rūnanga o Ngāti Manawa trust deed dated 7 September 2002.

**Ngā Taonga Tūturu** has the same meaning as in section 2 of the Act and means 2 or more Taonga Tūturu

**Protocol** means a statement in writing, issued by the Crown through the Minister to the Governance Entity under the Settlement Legislation and the Deed of Settlement and includes this Taonga Tūturu Protocol.

**Taonga Tūturu** has the same meaning as in section 2 of the Act and means:

an object that—

(a) relates to Māori culture, history, or society; and

(b) was, or appears to have been,—

(i) manufactured or modified in New Zealand by Māori; or

(ii) brought into New Zealand by Māori; or

(iii) used by Māori; and

(c) is more than 50 years old



**Ngāti Manawa** has the meaning set out in clause 13.1 of the Deed of Settlement.

ISSUED on this 4<sup>th</sup> day of May 2012

SIGNED for and on behalf of **THE SOVEREIGN** in right of New Zealand by the Minister for Arts, Culture and Heritage in the presence of:



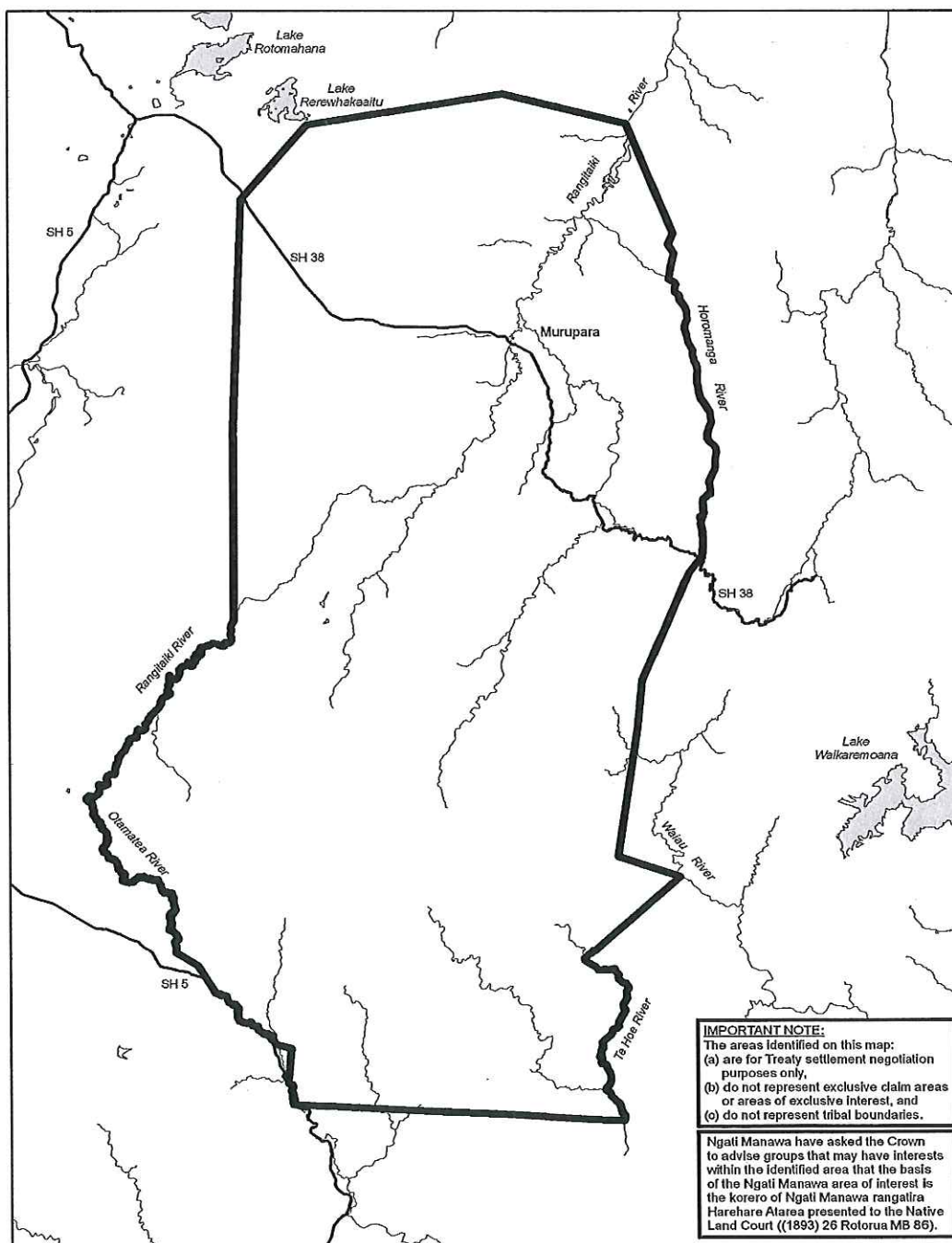
**WITNESS**

  
Name: Admish Journeaux  
Occupation: Private Secretary  
Address: 



## ATTACHMENT A

### NGĀTI MANAWA TAONGA TŪTURU PROTOCOL AREA



## **ATTACHMENT B**

### **TERMS OF ISSUE**

This Protocol is issued subject to the provisions of the deed of settlement and the settlement legislation. These provisions are set out below.

#### **1 Provisions of the deed of settlement relating to this Protocol**

##### **1.1 The deed of settlement will provide that:**

- 1.1.1 a failure by the Crown to comply with a Protocol is not a breach of the Deed of Settlement (clause 5.12); and
- 1.1.2 this Protocol does not restrict the ability of the Crown to interact or consult with any person including any iwi, hapū, marae, whānau, or representative of tangata whenua (clause 5.11.4(a)(ii));
- 1.1.3 this Protocol does not override or diminish:
  - (a) the requirements of the Protected Objects Act 1975;
  - (b) the functions and powers of the Minister for Arts, Culture and Heritage or the Chief Executive for the Ministry for Culture and Heritage, under that Act; or
  - (c) the rights of Ngāti Manawa, or a Representative Entity, under that legislation (clause 5.11.4(c)).

##### **1.2 Representative Entity has the same meaning in clause 1.1.3(iii) of these terms of issue as the term "representative entity for Ngāti Manawa" has in clause 13.6 of the Deed of Settlement.**

#### **2 Authority to issue, amend or cancel protocols**

##### **2.1 Section 34 of the settlement legislation provides that:**

- 2.1.1 (1) Each responsible Minister –
  - (a) must issue a protocol to the trustees of Te Rūnanga o Ngāti Manawa in the form set out in Part 2 of the Schedule of the deed of settlement; and
  - (b) may amend or cancel that protocol.
- (2) A protocol may be amended or cancelled under subsection (1) at the initiative of either –
  - (a) the trustees of Te Rūnanga o Ngāti Manawa; or
  - (b) the responsible Minister.
- (3) The responsible Minister may amend or cancel a protocol only after consulting with, and having particular regard to the views of, the trustees of Te Rūnanga o Ngāti Manawa.



### **3 Protocols subject to rights, functions, and obligations**

#### **3.1 Section 35 of the settlement legislation provides that:**

Protocols do not restrict -

- (a) the ability of the Crown to exercise its powers and perform its functions and duties in accordance with the law and government policy, which includes (without limitation) the ability to –
  - (i) introduce legislation and change government policy; and
  - (ii) interact or consult with a person the Crown considers appropriate, including (without limitation) any iwi, hapū, marae, whānau, or other representative of tangata whenua; or
- (b) the responsibilities of the responsible Minister or a responsible department; or
- (c) the legal rights of the trustees of Te Rūnanga o Ngāti Manawa or a representative entity.

### **4 Enforcement of a protocol**

#### **4.1 Section 36 of the settlement legislation provides that:**

- (1) The Crown must comply with a protocol while it is in force.
- (2) If the Crown fails, without good cause, to comply with a protocol, the trustees of Te Rūnanga o Ngāti Manawa may, subject to the Crown Proceedings Act 1950, enforce the protocol.
- (3) Despite subsection (2) damages or any form of monetary compensation are not available as a remedy for failure by the Crown to comply with a protocol.
- (4) To avoid doubt –
  - (a) subsections (1) and (2) do not apply to guidelines developed for the implementation of a protocol; and
  - (b) subsection (3) does not affect the ability of a court to award costs incurred by the trustees of Te Rūnanga o Ngāti Manawa in enforcing the protocol under subsection (2).

### **5 Limitation of rights**

#### **5.1 Section 39 of the settlement legislation provides that:**

- 5.1.1 The taonga tūturu protocol does not have the effect of creating, granting, or providing evidence of –
  - (a) an estate or interest in taonga tūturu; or
  - (b) rights relating to taonga tūturu.