

MED PROTOCOL

(Clause 9.10)

PROTOCOL ISSUED BY THE CROWN THROUGH THE MINISTER OF ENERGY REGARDING CONSULTATION WITH NGAA RAURU KIITAHİ BY THE MINISTRY OF ECONOMIC DEVELOPMENT ON THE ADMINISTRATION OF CROWN OWNED MINERALS

1 INTRODUCTION

- 1.1 Under the Deed of Settlement dated [] between Ngaa Rauru Kiitahi and the Crown (the "Deed of Settlement") the Crown agreed that the Minister of Energy (the "Minister") would issue a Protocol (the "MED Protocol") setting out how the Ministry of Economic Development (the "Ministry") will interact with the Ngaa Rauru Kiitahi Governance Entity (the "Governance Entity") on matters specified in the MED Protocol.
- 1.2 Both the Ministry and Ngaa Rauru Kiitahi are seeking a healthy and constructive relationship based on the principles of Te Tiriti o Waitangi/the Treaty of Waitangi, which enhances the ability of Ngaa Rauru Kiitahi to exercise Ngaa Raurutanga.
- 1.3 Ngaa Raurutanga is the term used by Ngaa Rauru Kiitahi to describe the values, rights and responsibilities that Ngaa Rauru Kiitahi holds according to custom, including those values, rights and responsibilities recognised by Te Tiriti o Waitangi/the Treaty of Waitangi.
- 1.4 Ngaa Rauru Kiitahi describes its association with the land as inclusive of Mana Atua (its spiritual and cultural connections to the land), Mana Whenua (its land as an economic base) and Mana Tangata (its social organisation on the land). Those concepts are reinforced for Ngaa Rauru Kiitahi in its whakapapa, which has origins in Io Matua Kore (Mana Atua), Kahui Rere/Kahui Maunga, and Aotea Waka (Mana Tangata).
- 1.5 The purpose of the Crown Minerals Act 1991 (the "Act") is to restate and reform the law relating to the management of Crown Owned Minerals. Section 4 of the Act requires all persons exercising functions and powers under the Act to have regard to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi.
- 1.6 The Minister is responsible under the Act for the preparation of minerals programmes, the grant of minerals permits, and monitoring the effect and implementation of minerals programmes and minerals permits. The Ministry administers the Act on behalf of the Minister.
- 1.7 Ngaa Rauru Kiitahi carries responsibilities arising from kaitiakitanga and Ngaa Raurutanga in relation to the MED Protocol Area. These derive from the status of Ngaa Rauru Kiitahi as tangata whenua in the MED Protocol Area and are inextricably linked to whakapapa and have important cultural and spiritual dimensions. These matters are relevant to the Crown's exercise of its functions under the Act in the MED Protocol area.

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- 1.8 This Protocol will affect the Ministry's administration of the Act in the MED Protocol Area.

2 PURPOSE OF THIS PROTOCOL

- 2.1 With the intention of creating a constructive relationship between Ngaa Rauru Kiitahi and the Ministry in relation to mineral resources administered in accordance with the Act in the MED Protocol Area, this MED Protocol sets out how the Ministry will exercise its functions, powers, and duties in relation to the matters set out in this MED Protocol.
- 2.2 The Governance Entity will have the opportunity for meaningful input into the policy, planning and decision-making processes relating to the matters set out in this Protocol in accordance with the Act and the relevant Minerals Programmes issued under the Act.

3 PROTOCOL AREA

- 3.1 This MED Protocol applies across the MED Protocol Area which means the area identified in the map included in Attachment A of this MED Protocol together with the adjacent waters.

4 TERMS OF ISSUE

- 4.1 This Protocol is issued pursuant to section [] of [*insert the name of the Settlement Legislation*] ("the Settlement Legislation") and clause 9.10 of the Deed of Settlement, and is subject to the Settlement Legislation and the Deed of Settlement.
- 4.2 This MED Protocol must be read subject to the terms of issue set out in Attachment B.

5 CONSULTATION

- 5.1 The Minister will ensure that the Governance Entity is consulted by the Ministry:

New minerals programmes in respect of petroleum

- 5.1.1 on the preparation of new minerals programmes in respect of petroleum which relate, whether wholly or in part, to the MED Protocol Area;

Petroleum exploration permit block offers

- 5.1.2 on the planning of any proposed petroleum exploration permit block offer, which relates, whether wholly or in part, to the MED Protocol Area;

Other petroleum exploration permit applications

- 5.1.3 when any application for a petroleum exploration permit is considered, which relates, whether wholly or in part, to the MED Protocol Area, except where the application relates to a block offer over which consultation has already taken place under clause 5.1.2;

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Amendments to petroleum exploration permits

- 5.1.4 where any application to amend a petroleum exploration permit, by extending the land or minerals to which the permit relates, is considered, where the application relates, wholly or in part, to the MED Protocol Area;

New minerals programme in respect of minerals other than petroleum

- 5.1.5 on the preparation of new minerals programmes in respect of Crown Owned Minerals, other than petroleum, which relate, whether wholly or in part, to the MED Protocol Area;

Permit block offers for Crown owned minerals other than petroleum

- 5.1.6 on the planning of a competitive tender allocation of a permit block (being a specific area with defined boundaries available for allocation as a permit in accordance with the Minerals Programme for Coal, and the Minerals Programme for Minerals other than coal and petroleum), which relates, whether wholly or in part, to the MED Protocol Area;

Other permit applications for Crown owned minerals other than petroleum

- 5.1.7 when any application for a permit in respect of Crown Owned Minerals other than petroleum is considered, which relates, whether wholly or in part, to the MED Protocol Area;
- 5.1.8 except where the application relates to a competitive tender allocation of a permit block offer over which consultation has already taken place under clause 5.1.6;

Amendments to permits for Crown owned minerals other than petroleum

- 5.1.9 when any application to amend a permit in respect of Crown Owned Minerals other than petroleum, by extending the land or minerals covered by an existing permit, is considered; and
- 5.1.10 where the application relates, wholly or in part, to the MED Protocol Area.
- 5.2 Each decision on a proposal referred to in clause 5.1 will be made having regard to any matters raised as a result of consultation with the Governance Entity, and having regard to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi, particularly as those principles are set out in the relevant minerals programme from time to time, and taking into account the circumstances of each case.

6 CONSULTATION

- 6.1 The Crown has an obligation under the Act (as provided for in the minerals programmes) to consult with parties whose interests may be affected by exploration for Crown Owned Minerals. The Crown agrees the Ministry will consult with the Governance Entity in accordance with this Protocol and in accordance with the relevant minerals programme if exploration in the MED Protocol Area may affect the interests of Ngaa Rauru Kiiitahi.

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- 6.2 The basic principles that will be followed by the Ministry in consulting with the Governance Entity in each case are:
- 6.2.1 ensuring that the Governance Entity is consulted as soon as reasonably practicable following the identification and determination by the Ministry of the proposal or issues in relation to any matters under clause 5 of this Protocol;
 - 6.2.2 providing the Governance Entity with sufficient information to make informed decisions and submissions in relation to any of the matters described in clause 5 of this Protocol;
 - 6.2.3 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 described in clause 5 of this Protocol; and
 - 6.2.4 ensuring that the Ministry 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 described in clause 5 of this Protocol.
- 6.3 Where, in response to the Ministry's obligation to consult under clause 5 of this Protocol, the Governance Entity has requested that land from an application or proposed block offer be excluded, or has made other requests affecting the grant of a permit application or an amendment to a permit, the Governance Entity will be informed in writing of the Minister's decision concerning the request(s).
- 6.4 The Ministry will seek to fulfil its obligations under this Protocol by:
- 6.4.1 maintaining information on the Governance Entity's address and contact details as provided from time to time by the Governance Entity;
 - 6.4.2 as far as reasonably practicable, ensuring relevant employees within the Ministry are aware of the purpose, content and implications of this Protocol and of information provided by the Governance Entity concerning the values and practice of Ngaa Raurutanga;
 - 6.4.3 nominating relevant employees to act as contacts with the Governance Entity in relation to issues concerning this Protocol;
 - 6.4.4 providing the Governance Entity with the names of the relevant employees who will act as contacts with the Governance Entity in relation to issues concerning this Protocol; and
 - 6.4.5 meeting with or briefing the Governance Entity or its representatives in relation to issues concerning this Protocol at least annually.

7 CHANGES TO POLICY AFFECTING THIS PROTOCOL

- 7.1 If the Ministry consults with Maori generally on policy development or any proposed legislative amendment to the Act which impacts upon this Protocol, the Ministry will:

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- 7.1.1 notify the Governance Entity of the proposed policy development or proposed legislative amendment upon which Maori generally will be consulted;
- 7.1.2 make available to the Governance Entity the information provided to Maori as part of the consultation process referred to in this clause; and
- 7.1.3 report to the Governance Entity on the outcome of any such consultation.

8 DEFINITIONS

8.1 In this Protocol:

Act means the Crown Minerals Act 1991;

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;

Crown Owned Mineral means any mineral (as defined below) that is the property of the Crown in accordance with section 10 and 11 of the Act or over which the Crown has jurisdiction in accordance with the Continental Shelf Act 1964;

Governance Entity means *[Insert name and description]*;

Mineral means any naturally occurring inorganic substance beneath or at the surface of the earth, whether or not under water and includes all metallic minerals, non-metallic minerals, fuel minerals (including coal and petroleum), precious stones, industrial rocks and building stones within the meaning of the Act and a prescribed substance within the meaning of the Atomic Energy Act 1945;

Minister means the Minister of Energy;

Ministry means the Ministry of Economic Development;

Ngaa Rauru Kiitahi has the meaning set out in clause 1.5 of the Deed of Settlement;

Petroleum means:

- (a) any naturally occurring hydrocarbon (other than coal) whether in a gaseous, liquid or solid state; or
- (b) any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid or solid state; or
- (c) any naturally occurring mixture of hydrocarbons (other than coal) whether in a gaseous, liquid or solid state and one or more of the following, namely hydrogen sulphide, nitrogen, helium, or carbon dioxide,

and, except in sections 10 and 11 of the Act, includes any petroleum as so defined which has been mined or otherwise recovered but which has been returned to a natural reservoir for storage purposes in the same or an adjacent area; and

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ISSUED ON []

WITNESS

Address:

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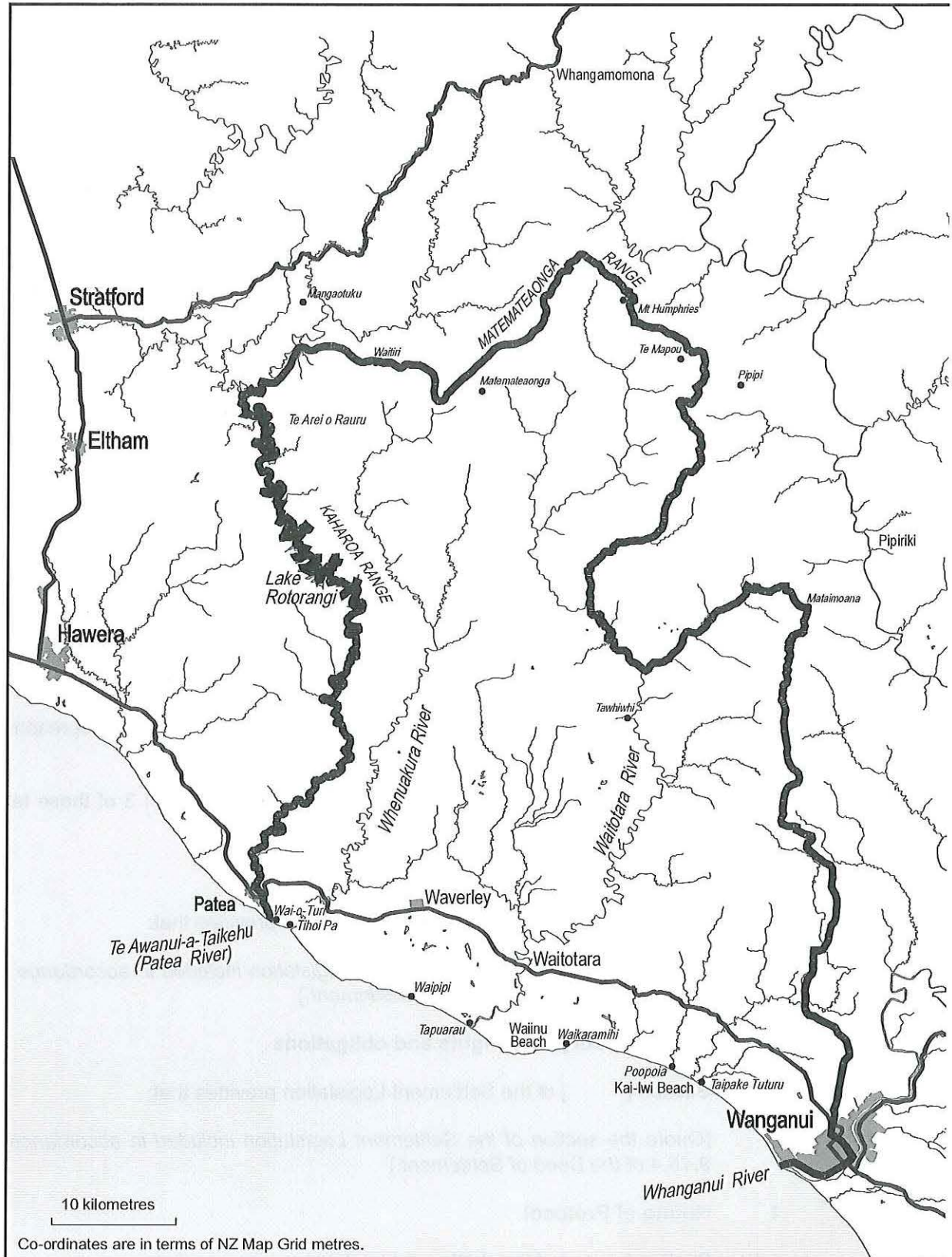
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ATTACHMENT A

MED PROTOCOL AREA

(The map follows this page.)

MED PROTOCOL AREA FOR NGAA RAURU KIITAHĪ



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 provides that:

1.1.1 a failure by the Crown to comply with a Protocol is not a breach of the Deed of Settlement (clause 9.17); and

1.1.2 this Protocol does not restrict the ability of the Crown to interact or consult with any person the Crown considers appropriate including any iwi, hapuu, marae, whanau, or other representative of tangata whenua (clause 9.18); and

1.1.3 this Protocol:

(a) is consistent with section 4 of the Crown Minerals Act 1991;

(b) does not override or diminish:

(i) the requirements of that Act;

(ii) the functions and powers of the Minister of Energy, or the Ministry of Economic Development, under that Act; or

(iii) the rights of Ngaa Rauru Kiitahi, or a Representative Entity, under that Act (clause 9.12).

1.2 Representative Entity has the same meaning in clause 1.1.3 of these terms of issue as it has in clause 1.10 of the Deed of Settlement.

2 Authority to issue, amend or cancel Protocols

2.1 Section [] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clauses 9.16.1 to 9.16.3 of the Deed of Settlement.]

3 Protocols subject to rights and obligations

3.1 Section [] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clause 9.16.4 of the Deed of Settlement.]

4 Noting of Protocol

4.1 Section [] of the Settlement Legislation provides that:

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[Quote the section of the Settlement Legislation included in accordance with clauses 9.11.1 and 9.11.2 of the Deed of Settlement.]

5 Enforcement of Protocol

5.1 Section [] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clauses 9.16.5 to 9.16.7 of the Deed of Settlement.]

6 Limitation of rights

6.1 Section [] of the Settlement Legislation provides that:

[Quote the section of the Settlement Legislation included in accordance with clause 9.11.3 of the Deed of Settlement.]

