

**A PROTOCOL ISSUED BY THE CROWN THROUGH THE  
MINISTER OF ENERGY  
REGARDING CONSULTATION WITH NGATI TAMA BY  
THE MINISTRY OF ECONOMIC DEVELOPMENT  
ON THE ADMINISTRATION OF CROWN OWNED MINERALS**

**1. INTRODUCTION**

- 1.1 Under the Deed of Settlement dated 20 December 2001 between Ngati Tama 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 Ngati Tama Governance Entity (the "Governance Entity") on matters specified in the MED Protocol.
- 1.2 Both the Ministry and Ngati Tama are seeking a healthy and constructive relationship based on the principles of the Treaty of Waitangi.
- 1.3 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 the Treaty of Waitangi.
- 1.4 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.
- 1.5 This MED Protocol will affect the Ministry's administration of petroleum under the Act in the MED Protocol Area.

**2. PURPOSE OF THIS MED PROTOCOL**

- 2.1 With the intent of creating a constructive relationship between Ngati Tama and the Ministry in relation to petroleum 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. The Governance Entity will have the opportunity for input into the policy, planning, and decision-making processes relating to the matters set out in this MED Protocol in accordance with the Act and the relevant minerals programme in respect of petroleum pursuant to section 18 of the Act (the "Minerals Programme for Petroleum").



### 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 MED Protocol is issued pursuant to section 20 of the Ngati Tama Claims Settlement Act 2003 ("the Settlement Legislation") which implements clause 9.1.8 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 Programme for Petroleum**

- 5.1.1 on the preparation of new Minerals Programmes for 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; and

#### **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.



- 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 the Treaty of Waitangi, particularly as those principles are set out in the Minerals Programmes for Petroleum from time to time, and taking into account the circumstances of each case.

## 6. IMPLEMENTATION AND COMMUNICATION

- 6.1 The Crown has an obligation under the Act (as provided for in the Minerals Programme for Petroleum) to consult with parties whose interests may be affected by petroleum exploration. The Crown agrees that if petroleum exploration in the MED Protocol Area may affect the interests of Ngati Tama the Ministry will consult with the Governance Entity in accordance with this MED Protocol and in accordance with the Minerals Programme for Petroleum.
- 6.2 The basic principles that will be followed by the Ministry in each case are:
- 6.2.1 ensuring that there is early consultation with the Governance Entity at the onset of the decision making processes in relation to any matters under clause 5 of this MED 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 MED Protocol;
  - 6.2.3 ensuring that sufficient time is given for the participation of the Governance Entity in the decision making process and the consideration of submissions by the Governance Entity in relation to any of the matters described in clause 5 of this MED 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 MED Protocol.
- 6.3 The Ministry will seek to fulfil its obligations under this MED Protocol by:
- 6.3.1 maintaining information on the Governance Entity's address and contact details as provided from time to time by the Governance Entity;






- 6.3.2 as far as reasonably practicable, ensuring relevant employees within the Ministry are aware of the purpose, content and implications of this MED Protocol;
- 6.3.3 nominating relevant employees to act as contacts with the Governance Entity in relation to issues concerning this MED Protocol; and
- 6.3.4 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 MED Protocol.


ISSUED on this *16th* day of December 2003

**SIGNED** for and on behalf of **HER MAJESTY THE QUEEN** in right of New Zealand by Hon Harry Duynhoven, Associate Minister of Energy

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In the presence of:

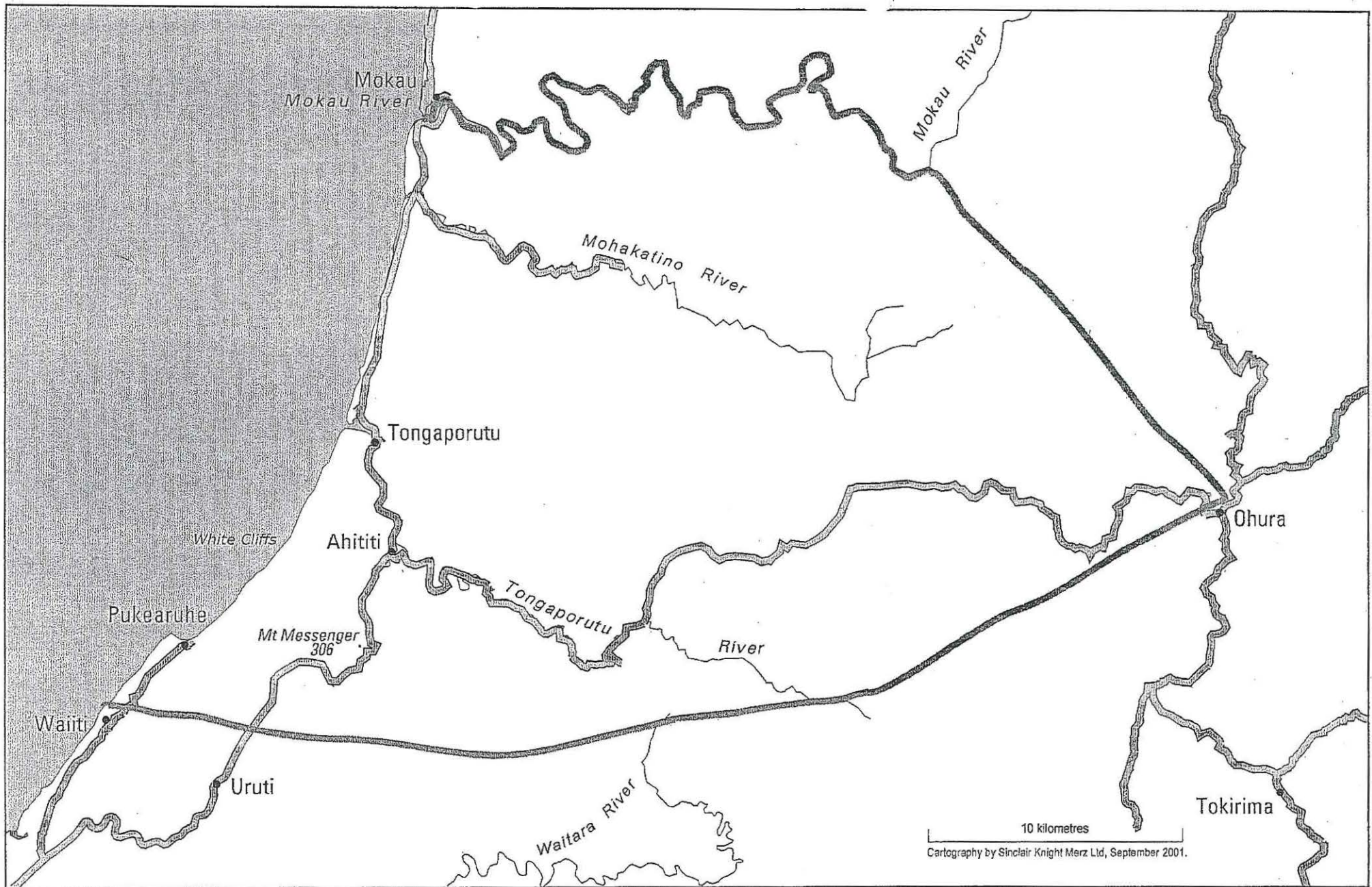
**WITNESS**

  
Name: *John Lawrence*  
Occupation: *M.P.*  
Address: *Parliament Buildings*  
*Wellington*

**ATTACHMENT A**  
**MAP OF MED PROTOCOL AREA**

*(The map follows this page.)*

*SP*



MED PROTOCOL AREA FOR NGATI TAMA

*Handwritten signature*



## ATTACHMENT B

### TERMS OF ISSUE

#### 1. DEFINITIONS

In this MED Protocol:

**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 Minerals** 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 Te Runanga o Ngati Tama Trust, established by deed of trust dated 20 January 2003 in accordance with clause 3.3 of the Deed of Settlement;

**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;

**Ngati Tama** has the meaning set out in clause 1.4 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 as in sections 10 and 11 of the Act, includes any petroleum as so defined which has been mined or otherwise recovered from its natural condition, or which has been so mined or otherwise recovered but which has been returned to a natural reservoir for storage purposes in the same or an adjacent area; and

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

## **2. AUTHORITY TO ISSUE, AMEND OR CANCEL PROTOCOLS**

2.1 Section 20 of the Settlement Legislation provides that:

2.1.1 subject to clause 2.1.2 (b), the Minister may issue a Protocol and may amend or cancel that Protocol; and

2.1.2 a Protocol may be amended or cancelled at the initiative of:

- (a) the Governance Entity; or
- (b) the Minister only after consulting with, and having particular regard to the views of, the Governance Entity.

## **3. PROTOCOLS SUBJECT TO RIGHTS AND OBLIGATIONS**

3.1 Section 21 of the Settlement Legislation provides that the Protocol will not:

3.1.1 restrict the ability of the Crown to:

- (a) perform its functions and duties, and exercise its powers, in accordance with the law and government policy; and
- (b) introduce legislation (including amending legislation) and change government policy; or

3.1.2 detract from the responsibilities of the Minister or the Ministry; or

3.1.3 restrict the legal rights of Ngati Tama.

3.2 This MED Protocol does not restrict the ability of the Crown to interact or consult with any person or persons the Crown considers appropriate including, without limitation, any other iwi, hapu, marae, whanau, or other representatives of tangata whenua.





#### **4. NOTING OF PROTOCOLS**

4.1 Section 26 of the Settlement Legislation provides that:

4.1.1 the existence of the MED Protocol (once issued and as amended from time to time) together with a summary of the terms of issue of the MED Protocol, must be noted in the relevant minerals programmes when amended from time to time; and

4.1.2 the noting of the MED Protocol issued under clause 9.1.8 of the Deed of Settlement;

(a) is for the purpose of public notice only; and

(b) is not an amendment to the relevant minerals programme.

#### **5. ENFORCEABILITY OF PROTOCOLS**

5.1 Section 22 of the Settlement Legislation provides that:

5.1.1 the Crown must comply with its obligations under a Protocol as long as it is in force; and

5.1.2 if the Crown fails, without good cause, to comply with its obligations under a Protocol, the Governance Entity may, subject to the Crown Proceedings Act 1950, enforce the Protocol, but may not recover damages, or any form of monetary compensation (other than any costs related to the bringing of proceedings awarded by a Court), from the Crown.

5.2 The provisions included in the Settlement Legislation under clause 9.2.1(d) and (e) of the Deed of Settlement will not apply to any guidelines developed in relation to a Protocol.

#### **6. BREACH OF PROTOCOL NOT BREACH OF DEED**

6.1 The Deed of Settlement provides that a failure by the Crown to comply with a Protocol is not a breach of the Deed of Settlement.

#### **7. LIMITATION OF RIGHTS**

7.1 Section 23 of the Settlement Legislation provides that this MED Protocol does not have the effect of granting, creating or providing evidence of any estate or interest in, or any rights of any kind whatsoever relating to, any Crown Owned Minerals held, managed or administered under the Act or any other relevant legislation.

