



1 March 2001

Bruce Mason
Researcher



Dear Bruce

Hugh Barr has asked me to send you the enclosed papers circulated in relation to a meeting held with NGOs on 23/2/01 to discuss the Department's Strategic Business Plan, Kaupapa Maori Strategy and marine issues.

The enclosed papers include:

- *Strategic Directions - a guide to staff preparing the annual conservation directions and business plans.*
- NZCA briefing paper on strategic directions.
- NZCA briefing paper on Kaupapa Maori strategic policy initiatives and attachments to the briefing:
 - *Giving Effect to the Principles of the Treaty of Waitangi in the work of the Department of Conservation*
 - *Waahi Tapu Policy Guidelines*
 - *Messages from Consultation with Maori*
 - *Customary Use of Natural Resources Consistent with Kaitiakitanga, Wise Use and Conservation Legislation.*

I have also included copies of the overheads provided at the meeting and additional background documents on the development of the Strategic Business Plan (SBP) and Wahi Tapu and Customary Use policies.

Yours sincerely

Jessica Wilson



Meeting: NGO / DOC

Date and Time: 10am-12.30pm
Friday, February 23, 2001

Venue: 9th floor
Department of Conservation
Boulcott Street
Wellington

Present:

Joris de Bres (DOC, Chair), Keith Johnston (DOC), Katie Mathison (DOC), Jessica Wilson (DOC)
Owen Cox (FMC), Barry Weeber, (Forest and Bird), Hugh Barr (Coranz), Eric Pyle (WWF)

Part: Aidan Challis, Christine Jacobson, Susan-Jane Owen, Jacky Challis (DOC)

Apologies:

Cath Wallace (ECO), Jo Breese (WWF), Mike Britton (Fish and Game)

1. Welcome

2. Procedural matters

Request from NGOs for meeting papers to be circulated earlier in future.

Action: DOC will undertake to provide papers within a reasonable timeframe in future.

3. Presentation on Strategic Directions

Keith Johnston provided a presentation on the *Strategic Directions* document and process. See overheads and papers circulated (*Strategic Directions - a guide to staff preparing the annual conservation directions and business plans* and *Revising the Department's Strategic Business Plan* (briefing paper to the NZCA)).

Keith invited NGOs' written comments on the *Strategic Directions* document by 14 March 2001. Comments should be sent to Aidan Challis. A revised, shorter version of the document is due to be given to the NZCA at its April meeting.

Actions: NGOs to provide comment on Strategic Directions by 14/3/01 to Aidan Challis.

4. Presentation on Kaupapa Maori Strategy

Keith Johnston provided a presentation on Kaupapa Maori Strategy. See overheads and papers circulated (NZCA briefing paper on Kaupapa Maori strategic policy initiatives and attachments to the briefing:

- Giving Effect to the Principles of the Treaty of Waitangi in the work of the Department of Conservation
- Waahi Tapu Policy Guidelines
- Messages from Consultation with Maori

- Customary Use of Natural Resources Consistent with Kaitiakitanga, Wise Use and Conservation Legislation.)

The Department is running a consultation process on the Strategy over this year. Comments from NGOs are welcome. The closing date for submissions is 30 November 2001. Copies of the documents will be put on the DOC website and hard copies will also be made available.

A 'toolkit' is being developed as part of the Strategy and will be made available in March.

Barry Weeber requested a summary of the process to date.

DOC will put the Strategy on the agenda for the DOC/NGO meeting in May to discuss what further consultation with NGOs may be required.

Actions: NGOs to provide comment by 30/11/01.

DOC to circulate 'toolkit' when it becomes available.

DOC to provide a summary of process to date.

DOC to put the Strategy on agenda for DOC/NGO meeting in May.

5. Marine Issues

Keith Johnston provided an update on issues relating to DOC's marine capacity:

- Peter Lawless is currently completing a report on DOC's marine capability.
- Keith is working on a framework to set priorities for the Department's marine work programme. Some 'thinkpieces' may be commissioned to inform this process.

Keith invited NGOs to provide input by Friday, 2 March, on what areas of work need to be addressed and what the Department's marine priorities should be. Responses can be sent to Jacky Challis.

Action: NGOs to provide comment on areas of work and marine priorities to Jacky Challis by 2/3/01.

Why an SBP/SOI?

SSC and
Treasury
require it

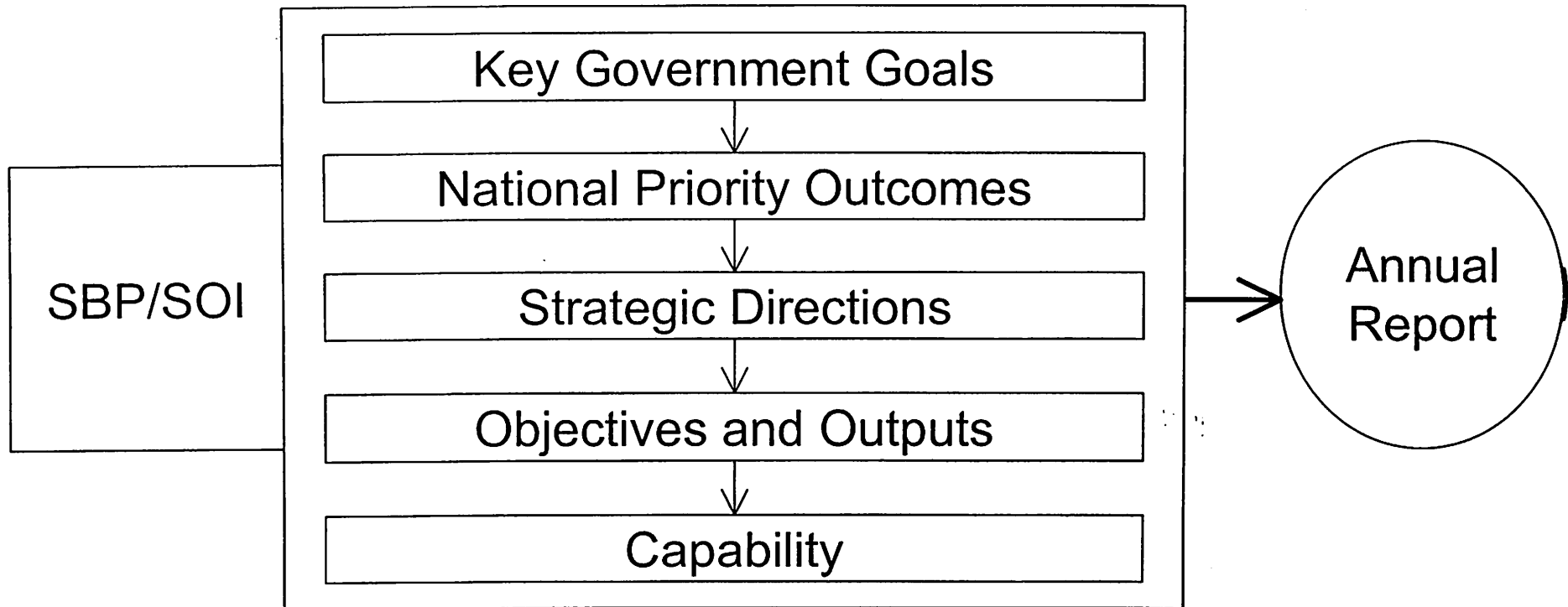
The 1998
SBP needs
revising

DoC's DG
needs it to lead
and provide
direction

Government
needs to ensure
DoC is doing the
most important
things well

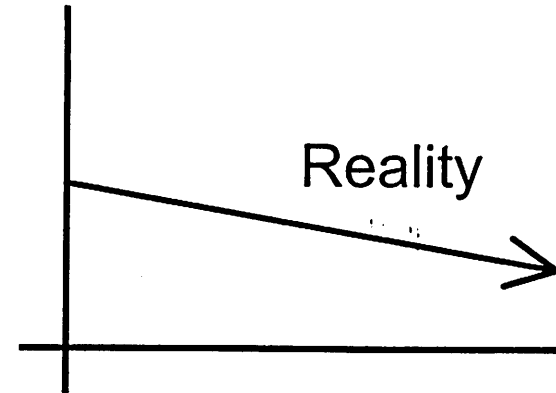
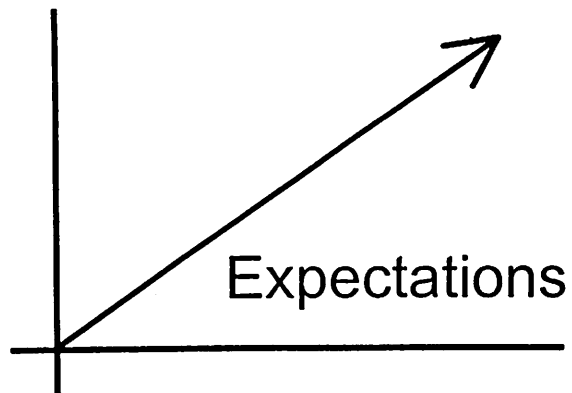
- What are our priorities?
- How much can we achieve?
- How do we best use the \$?

SBP/SOI: The main elements



SBP/SOI: The challenge we face

People's expectations for conservation are higher than the realities of declining biodiversity, historic heritage and visitor facilities.



What is our response?

Traditional
Conservation
Functions

- Biodiversity
- Visitors
- Bit of historic

- Marine
- Private land
- Freshwater
- Section 4
- Community involvement
- More historic
- Biosecurity

Gaps between expectations and capability

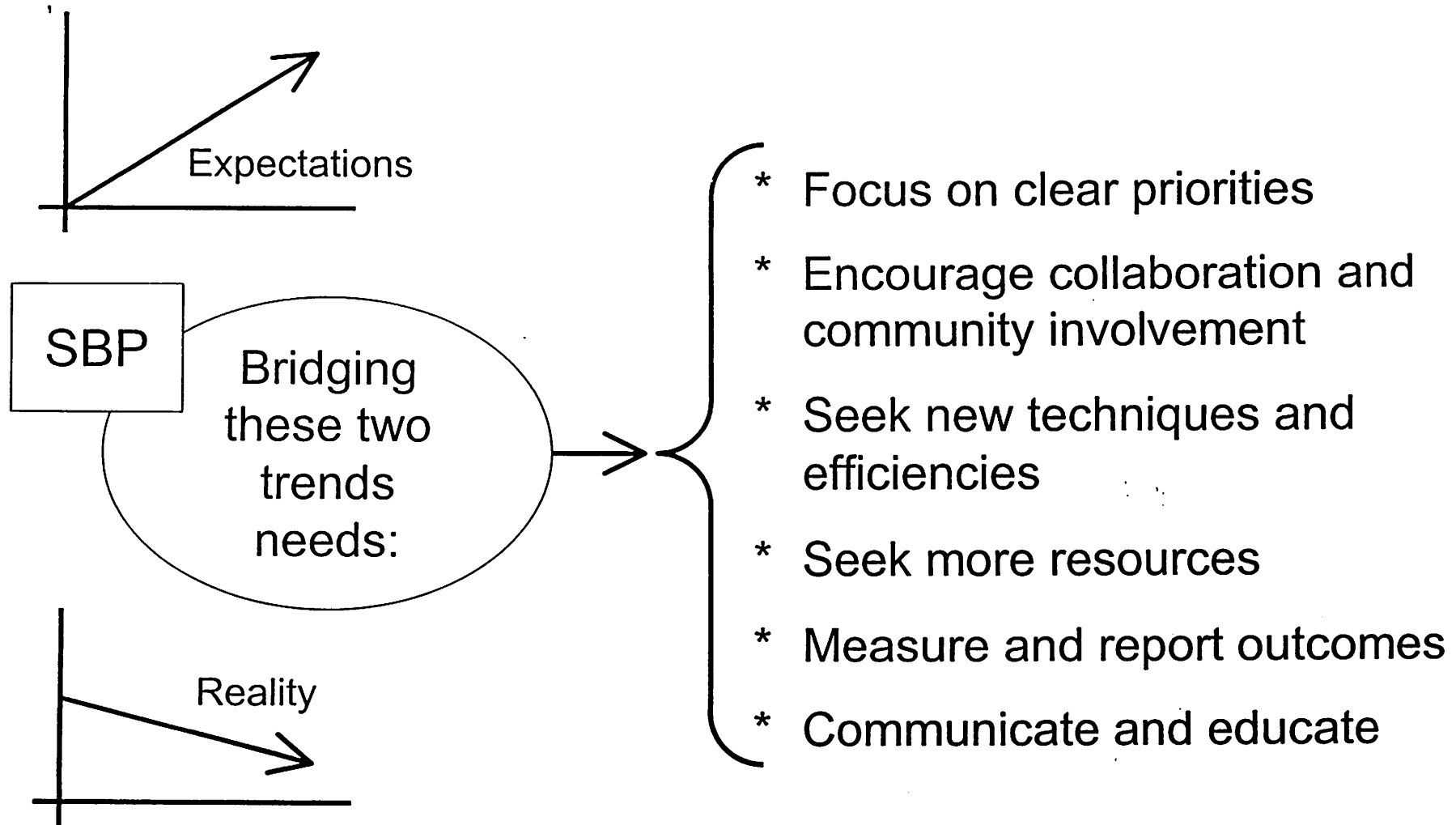
Post Cave Creek,
focus on improvement
to traditional functions
& systems
+ new \$

Gaps

Over time, concepts of
conservation & functions have gradually expanded



SBP/SOI: The commitment



Key Steps

Better information, tighter focus,
better planning

Bigger biodiversity
effort

More marine
conservation

Stronger biosecurity
focus

Closer co-operation
with landowners

Promoting enjoyment
and recreation

- Align facilities and information
- Ensure facilities are sustainable

More historic heritage
effort

Kaupapa Atawhai
partnerships

Improved monitoring and reporting

Integrated view of capability

“PROTECTING THE ENVIRONMENT”

“STRENGTHENING NZ'S IDENTITY”

Kaupapa Maori Strategic Policy Initiatives

Historical context

1987

- Establishment of the department
- Inclusion of the section 4 responsibility in the Conservation Act 1987

Evolving recognition of the implications of s.4

- Appointment of a Maori Assistant Director-General
- Formation of a Maori Policy Division
- Gradual establishment of the Kaupapa Atawhai Manager network
- Release of the Kaupapa Atawhai Strategy (1997)

Developments since 1997

- Pukenga Atawhai training
- TPK Review and recommendations
- Co-ordinated policy approach: Kaupapa Maori Strategic Policy Initiatives project

Kaupapa Maori Strategic Policy Initiatives

Elements of the programme

Draft papers:

(1) Giving effect to the principles of the Treaty of Waitangi in the work of the department

(2) *Particular management issues*

(a) Customary use of natural resources

(b) Waahi tapu policy guidelines

(3) Conservation partnerships with tangata whenua:

A toolbox of mechanisms

Analysis of messages from recent consultation with Maori

- (i) Maori have high expectations as to how the department will give practical effect to the principles of the Treaty of Waitangi in its policies and practices.
- (ii) Maori see the resolution of Treaty of Waitangi claims as an absolute and over-riding priority which will determine future ownership and management arrangements.
- (iii) Maori are seeking greater involvement in all aspects of conservation. Maori expect to be seen as a true Treaty partner and expect to be enabled to have a substantial role in decision-making, policy, planning and delivery.

NEW ZEALAND CONSERVATION AUTHORITY
MEETING ON 13-14 DECEMBER 2000

KAUPAPA MAORI STRATEGIC POLICY INITIATIVES

Proposal

1. It is proposed that the Authority:
 - (a) Note the draft policy papers arising from the Kaupapa Atawhai Strategic Policy Initiatives project.
 - (b) Note that the draft policy papers recognise the messages given by Maori to the department during major consultation processes in recent years, and will be taken out for further discussion with tangata whenua via the conservancy Kaupapa Atawhai Managers during 2001.
 - (c) Discuss the draft policy papers and the approach being taken by the department to the implementation of section 4.

Background

2. Since its establishment 13 years ago the department has had the section 4 responsibility to give effect to the principles of the Treaty of Waitangi in its work. This paper discusses the most recent developments in the department's evolving interpretation of section 4. Underlying the paper are recognition of the importance of building healthy relationships between the department and tangata whenua, and recognition of the importance to tangata whenua of areas and resources managed by the department.

3. The department has been progressing a number of interconnected Kaupapa Maori strategic policy initiatives applicable to the implementation of conservation legislation and the achievement of the government's conservation goals. The initiatives outlined here arose from a number of separate processes including:

- (i) The Te Puni Kokiri review of the department's service delivery to Maori in 1998.
- (ii) The report of the New Zealand Conservation Authority on Maori customary use in 1997.
- (iii) The need to establish policy guidelines relating to waahi tapu.
- (iv) The need to establish policy guidelines relating to the increasing number of management agreements being negotiated between the department and tangata whenua.
- (v) The evolving judicial interpretations of the principles of the Treaty of Waitangi and their application through section 4 of the Conservation Act.

4. In the second half of 1999 the department established the Kaupapa Maori strategic policy initiatives project, led by a steering team chaired by Eru Manuera as Tumuaki

Kaupapa Atawhai, with a project team to support the steering team in progressing the related initiatives.

Comment on components of the project

Messages from consultation with Maori (Attachment 1)

5. As a first step in this work, to ensure that tangata whenua views were taken into account at the earliest possible stage, the department analysed messages given by Maori to the department during major consultation processes in recent years. It was clear from this analysis that:

- (i) Maori have high expectations as to how the department will give practical effect to the principles of the Treaty of Waitangi in its policies and practices.
- (ii) Maori see the resolution of Treaty of Waitangi claims as an absolute and over-riding priority which will determine future ownership and management arrangements.
- (iii) Maori are seeking greater involvement in all aspects of conservation. Maori expect to be seen as a true Treaty partner and expect to be enabled to have a substantial or equivalent role in decision-making, policy, planning and delivery.

Draft: Giving effect to the principles of the Treaty of Waitangi (Attachment 2)

6. A draft has been developed of the practical application of the principles of the Treaty of Waitangi to the work of the department. This paper is intended for internal use to guide the department in meeting its section 4 responsibilities in the context of implementing conservation legislation and achieving the government's conservation goals. The value of this approach has been reflected in the contribution this work has subsequently made to related initiatives.

Draft strategic position statement on customary use (Attachment 3)

7. During the 1990s the Authority conducted extensive public consultation on Maori customary use of native birds, plants and other traditional materials. In response, the department has drafted a strategic policy position on customary use which is in accordance with the New Zealand Biodiversity Strategy and reflects the recommendations of the Authority in 1999.

Draft waahi tapu policy guidelines (Attachment 4)

8. The department undertook extensive consultation with Maori on waahi tapu management in 1996. After a delay during which priority was given to the preparation of the department's Kaupapa Atawhai Strategy, draft policy guidelines have been prepared which incorporate the issues raised during the earlier process.

Other papers in preparation

9. A paper is being developed which explores the range of mechanisms which enable a practical role for tangata whenua in conservation and the situations in which these have been or might be used. It responds to the increasing number of agreements which are being negotiated between the department and tangata whenua as a result of both Treaty settlement processes and initiatives by either tangata whenua or the department.

10. A process has been established to prepare a Maori language strategy.

Consultation

11. To ensure that tangata whenua views were taken into account at the earliest possible stage, the department has analysed messages given by Maori to the department during major consultation processes in recent years (Attachment 1). In addition, the waahi tapu and customary use issues have been subject to separate public consultation.

12. All the draft policies have been developed within the parameters of existing legislation. Legal advice has been taken on the details of each policy paper.

13. All the draft policies outlined above will be taken out for further discussion with tangata whenua via the conservancy Kaupapa Atawhai Managers during 2001.

14. Consultation will also occur with conservation boards and the main conservation non-governmental organisations in the new year.

Section 4 Conservation Act

13. Attachment 2, the draft paper on giving effect to the principles of the Treaty of Waitangi in the department's work, is intended to guide the department in meeting its section 4 responsibilities.

Attachments

14. The following documents are attached.

- | | |
|--------------|---|
| Attachment 1 | Messages from consultation with Maori. |
| Attachment 2 | Draft: Giving effect to the principles of the Treaty of Waitangi in the work of the Department of Conservation. |
| Attachment 3 | Draft strategic position statement on customary use. |
| Attachment 4 | Draft waahi tapu policy guidelines. |

Recommendations

17. It is recommended that the Authority:

- Note the draft policy papers arising from the Kaupapa Atawhai Strategic Policy Initiatives project.
- Note that the draft policy papers recognise the messages given by Maori to the department during major consultation processes in recent years, and will be taken out for further discussion with tangata whenua via the conservancy Kaupapa Atawhai Managers during 2001.
- Discuss the draft policy papers and the approach being taken by the department to the implementation of section 4.

Eru Manuera
Tumuaki Kaupapa Atawhai

NEW ZEALAND CONSERVATION AUTHORITY
MEETING ON 13-14 DECEMBER 2000

REVISING THE DEPARTMENT'S STRATEGIC BUSINESS PLAN

Proposal

1. It is proposed that the Authority:
 - (a) Note that the department's strategic business plan, *Restoring the Dawn Chorus*, needs to be revised.
 - (b) Note that, as an interim step, draft strategic directions have been provided to the department's staff as guidance for business planning for the 2001/02 year.
 - (c) Note that the strategic directions exist as a draft for a statement of departmental intent/strategic business plan to be included in the next annual forecast to Parliament.
 - (d) Discuss the draft strategic directions and the approach to be taken to the statement of intent/strategic business plan.

Background

2. It is now nearly three years since the department's strategic business plan, *Restoring the Dawn Chorus*, was completed. The guidance which *Restoring the Dawn Chorus* has given to previous annual planning processes needs updating, particularly in response to the adoption of the *New Zealand Biodiversity Strategy* and the funding package which followed it.
3. As an interim step, the department has developed draft strategic directions (attached) to guide staff in business planning for the 2001/02 year. These were developed by the General Management Team with input from conservators, head office managers and functional specialists within the department. The document includes:
 - (i) A summary of priorities for the next three years (pages 4-6).
 - (ii) A set of national priority outcomes which apply to a ten year period (Part 3).
 - (iii) A set of strategic directions for the next three years, including goals and strategic directions for the department's capability (Parts 3 and 4).

Development of a statement of intent/strategic business plan

4. In the development of the strategic directions, the department took into account the Capability, Accountability and Performance Pilot, led by the State Services Commission. The department has been a participating agency in this pilot since 1999. In the context of the pilot, it has emerged that the State Services Commission would like the

department to prepare a strategic business plan or statement of departmental intent¹ as a primary part of its accountability documents for inclusion in our next annual forecast to Parliament in 2001.

5. The State Services Commission has issued the department with a template for the strategic business plan or statement of departmental intent. It would contain:
- (i) The information required by section 34A of the Public Finance Act 1989, which was previously set out in the Departmental Forecast Report.
 - (ii) The performance information previously set out in Part C of our Estimates of Appropriations.
 - (iii) The priorities in our overall work programme which link to the Key Government Goals.
6. When the Capability, Accountability and Performance pilot is implemented across government, a strategic business plan or statement of departmental intent will be required of all departments.
7. The department proposes that the strategic directions should form a draft of the strategic business plan or statement of departmental intent.

The main shifts in direction foreshadowed in the draft strategic directions

8. The government's primary goals to which the department makes the greatest contribution are protecting the environment and strengthening national identity through the enjoyment and inspiration which New Zealanders derive from our natural and historic heritage. The draft strategic directions suggest the key steps towards these goals which the department envisages in the coming three years.

9. An expanded effort in biodiversity conservation is identified, using the additional funding approved in the 2000 Budget. This would include better biodiversity information and tighter focus on the priority actions needed to achieve biodiversity outcomes at particular places. Also indicated are more marine conservation, a stronger biosecurity focus, and closer co-operation with landowners and local authorities.

10. The aim of our natural heritage conservation work is to protect and conserve as comprehensive a range of natural heritage as possible with the resources available. The draft strategic directions aim for the most effective mix of intensive integrated site-based conservation together with threatened species management and more extensive ecological conservation elsewhere, to achieve the maximum long term biodiversity gains, recognising our duty of care for all the areas and resources for which we are responsible. The task of working out the most effective mix is an important one for conservators and their senior management teams.

11. Also proposed is a strong emphasis on promoting recreation, to encourage public enjoyment and to strengthen a sense of public ownership of protected areas. This would include providing a wide range of recreational opportunities by focusing and aligning recreation facilities and information services. The intention is to seek to ensure that recreation facilities meet appropriate standards and that a balance is achieved between

¹ SSC has yet to decide on a title for this document and uses the two terms interchangeably.

the long-term maintenance requirements of the facilities provided and the resources available.

12. A strong commitment to conserving and interpreting the historic and cultural values of protected areas is acknowledged.

13. Particular focus is placed on improved community liaison and awareness to build conservation commitment and participation. A priority in this is more effective partnerships with tangata whenua at the local level to achieve enhanced conservation.

14. Ensuring the continuous improvement of the department's capability is seen to be an integrated part of achieving conservation outcomes. The strategic directions propose a focus on improved planning and decision-making, improved measurement and reporting of performance and achievement, and continued emphasis on leadership, customer focus, and making better use of science, technology and information.

Consultation on the draft strategic directions

15. The department has provided the central agencies (State Services Commission, Treasury, Department of the Prime Minister and Cabinet and Te Puni Kokiri) with the strategic directions. This consultation is a routine part of the development of accountability documentation.

9. The department has also provided the strategic directions to Ngai Tahu. This is a formal requirement under the protocols under the Ngai Tahu Claims Settlement Act because it involves guidance on business planning for key outputs under which work is done in the Ngai Tahu rohe.

10. Staff of the department who have already used the strategic directions in business planning processes have been invited to suggest any specific amendments or additions which would:

- (i) Align better with proposals in recent departmental reviews, strategies and plans.
- (ii) Align better with priorities as perceived by specialists in particular functional areas.
- (iii) Align better with what the department can realistically commit to deliver.

11. The Authority is invited to discuss the strategic directions and the approach to be taken to the statement of intent/strategic business plan.

12. Consultation will also occur with the main conservation non-governmental organisations.

Section 4 Conservation Act

13. The strategic directions include as Appendix 1 a statement about giving effect to the principles of the Treaty of Waitangi in the department's work. This statement is derived from the Kaupapa Maori Strategic Policy Initiatives project, reported to the Authority elsewhere. The statement was current at the time of release of the strategic directions, and has been amended since. Appendix 1 is linked with the national priority outcomes and strategic directions for working with Maori (section 3.5 of strategic directions).


Attachment

14. Strategic Directions: A Guide to Staff Preparing the Annual Conservation Directions and Business Plans (dated 2 October 2000).

Recommendations

15. It is recommended that the Authority:
- (a) Note that the department's strategic business plan, *Restoring the Dawn Chorus*, needs to be revised.
 - (b) Note that, as an interim step, draft strategic directions have been provided to the department's staff as guidance for business planning for the 2001/02 year.
 - (c) Note that the strategic directions exist as a draft for a statement of departmental intent/strategic business plan to be included in the next annual forecast to Parliament.
 - (d) Discuss the draft strategic directions and the approach to be taken to the statement of intent/strategic business plan.

Hugh Logan
Director-General



Giving Effect to the Principles of
the Treaty of Waitangi
in the Work of the Department
of Conservation

Draft

FEBRUARY 2001



Department of Conservation
Te Papa Atawhai

INTRODUCTION

The Department of Conservation is responsible for implementing conservation legislation and achieving the government's conservation management goals. In doing this, the department must so interpret and administer the Conservation Act 1987 as to give effect to the principles of the Treaty of Waitangi. This responsibility also applies to each of the Acts listed in the First Schedule of the Conservation Act, insofar as the Treaty principles are not clearly inconsistent with the provisions of the specific Act.

These policy guidelines have been developed for internal use by the Department of Conservation. While they reflect the present legal and constitutional background, they are not a statement of government policy and should not be taken as a substitute for legal advice. They are based on principles derived from those identified by the Waitangi Tribunal, the Government, the Courts and Conservation Management Strategies.

The policy applies to the medium to long term, and the department will aspire to achieve it within existing legislative frameworks. The statements are all closely inter-related, and should not be considered in isolation. They should be applied whether or not there is a Treaty claim and/or settlement.

KAUPAPA ATAWHAI STRATEGY

The Kaupapa Atawhai Strategy (1997) provided the foundation for the development of this set of goals. Tino Rangatiratanga and Kaitiakitanga have been added to the original 5 principles identified in the Kaupapa Atawhai Strategy. In accordance with standard policy practice, it is the intention of the department to review in full the Kaupapa Atawhai Strategy in 2001/2002. These goals will form the basis of the new strategy. In the meantime, the Kaupapa Atawhai Strategy remains current, although supplemented by this material.

APPLICATION OF THE PRINCIPLES OF THE TREATY OF WAITANGI TO THE DEPARTMENT'S RESPONSIBILITY TO IMPLEMENT CONSERVATION LEGISLATION AND ACHIEVE THE GOVERNMENT'S CONSERVATION GOALS

In relation to the areas and resources it manages, the department will endeavour to:

- build and maintain partnerships based on good faith, co-operation and respect
- achieve conservation outcomes for the benefit of all citizens
- recognise the exercise of traditional authority by tangata whenua¹
- recognise the kaitiaki (guardianship) role of tangata whenua
- actively protect the interests of tangata whenua
- make informed decisions
- avoid actions which would prevent the redress of claims

¹Tangata whenua are iwi, hapu and whanau with mana whenua and mana moana in a given rohe or locality.

are achieving enhanced conservation of the natural and historic heritage of New Zealand.

Implementation

The department will:

- (i) build and support partnerships with tangata whenua which are based upon good faith, co-operation and respect;
- (ii) seek to negotiate and implement protocols and agreements with tangata whenua which will support the partnerships;
- (iii) work co-operatively with tangata whenua to achieve conservation outcomes following consultation processes.

The department will:

- (i) make decisions and take actions in accordance with the legislation and the circumstances which apply in any particular case, including government's conservation goals and section 4 of the Conservation Act;
- (ii) develop, maintain and monitor the capabilities within the department required to give effect to the principles of the Treaty in its work.

The department will, in relation to the areas and resources which it manages:

- (i) ensure that all citizens receive fair and equitable access to conservation benefits;
- (ii) ensure that all citizens have fair and equitable access to participation in conservation management.

The department will:

- (i) in relation to areas and resources which it manages, work with tangata whenua to determine and implement a reasonable and practicable degree of tangata whenua involvement in any particular case, covering a range of options from a right to be consulted to the exercise of tangata whenua control;
- (ii) affirm the right of tangata whenua to determine the way they relate to the department;
- (iii) affirm the right of tangata whenua to determine the way they manage lands, waters, sites, waahi tapu and other taonga under their control in accordance with mana whenua, mana moana and conservation legislation.

VISION

Partnerships between the department and tangata whenua

| Principle² | Goals for DOC |
|------------------------------|--|
| Partnerships | The department builds and recognises partnerships which are appropriate to local circumstances and are based on good faith, co-operation and respect. |
| Governance | The department implements conservation legislation and works effectively and efficiently to achieve conservation outcomes. |
| Citizenship | The department achieves conservation outcomes for the benefit of all citizens. |
| Tino Rangatiratanga | The department recognises the exercise by tangata whenua of traditional authority over their lands, waters, sites, waahi tapu and other taonga, in accordance with the concepts of mana whenua and mana moana. |

| | |
|---------------------------|---|
| Kaitiakitanga | The department recognises the exercise by tangata whenua of their customary duty as kaitiaki over their natural and historic taonga according to tikanga. |
| Active Protection | The department actively protects the interests of tangata whenua in the land, resources and other taonga managed by the department or affected by the department's work, and does this in co-operation with tangata whenua. |
| Informed Decisions | The department makes informed decisions which have regard to the interests and needs of tangata whenua. |
| Redress | The department avoids actions which would prevent the redress of Treaty claims, and seeks to avoid creating further grievances. |

Note: These principles, goals and implementation statements are a

² These principles are derived from those identified by the Waitangi Tribunal, the Government, t

are achieving enhanced conservation of the natural and historic heritage of New Zealand.

Implementation

The department will:

- (i) build and support partnerships with tangata whenua which are based upon good faith, co-operation and respect;
- (ii) seek to negotiate and implement protocols and agreements with tangata whenua which will support the partnerships;
- (iii) work co-operatively with tangata whenua to achieve conservation outcomes following consultation processes.

The department will:

- (i) make decisions and take actions in accordance with the legislation and the circumstances which apply in any particular case, including government's conservation goals and section 4 of the Conservation Act;
- (ii) develop, maintain and monitor the capabilities within the department required to give effect to the principles of the Treaty in its work.

The department will, in relation to the areas and resources which it manages:

- (i) ensure that all citizens receive fair and equitable access to conservation benefits;
- (ii) ensure that all citizens have fair and equitable access to participation in conservation management.

The department will:

- (i) in relation to areas and resources which it manages, work with tangata whenua to determine and implement a reasonable and practicable degree of tangata whenua involvement in any particular case, covering a range of options from a right to be consulted to the exercise of tangata whenua control;
- (ii) affirm the right of tangata whenua to determine the way they relate to the department;
- (iii) affirm the right of tangata whenua to determine the way they manage lands, waters, sites, waahi tapu and other taonga under their control in accordance with mana whenua, mana moana and conservation legislation.

The department will, in relation to areas and resources which it manages, support the kaitiaki role of tangata whenua and be clear about applicable accountabilities by:

- (i) recognising and respecting Maori conservation practices and associated cultural values;
- (ii) recognising and providing for the customary use of indigenous species by Maori, consistent with kaitiakitanga, wise conservation and conservation legislation;
- (iii) affording to tangata whenua an effective degree of participation and control in the protection and management of wahi tapu.

The department will work with tangata whenua to:

- (i) understand their interests and needs in relation to areas and resources which the department manages or which are affected by its work;
- (ii) ensure that reasonable and practicable steps are taken to protect those interests;
- (iii) ensure that actions which might undermine those interests are avoided wherever practicable.
- (iv) recognise the role of matauranga Maori in conservation management.

The department will work with tangata whenua to

- (i) involve tangata whenua fully in decision-making processes relating to their interests and needs, to ensure that these are recognised and had regard to.

The department will, in relation to conservation matters and its responsibilities:

- (i) avoid actions which would create a grievance or prevent the redress of claims;
- (ii) address any contemporary grievances which tangata whenua might bring to the attention of the department, and seek solutions;
- (iii) participate in negotiations on Treaty claims settlement, providing creative options that will help to address grievances in accordance with the Department's statutory functions, powers and obligations;
- (iv) implement and monitor settlements reached between the Crown and tangata whenua.

closely inter-related, and should not be considered in isolation.

DISCUSSION

Goal 1. Partnerships

The department builds and supports partnerships which are appropriate to local circumstances and are based on good faith, co-operation and respect.

Implementation

The department will:

- (i) build and support partnerships with tangata whenua based upon good faith, co-operation and respect;
- (ii) seek to negotiate and implement agreements and arrangements with tangata whenua which will support the partnerships;
- (iii) work co-operatively with tangata whenua to achieve conservation outcomes following consultation processes.

Explanation

The Treaty provides for a partnership between Maori and the Crown, which requires the parties to afford each other good faith, co-operation and respect, in accordance with their Treaty obligations. This is reflected in the Treaty of Waitangi Act 1975. All partnerships between the department and tangata whenua should therefore be characterised by the good faith, reasonableness and fairness that each party brings to the relationship. If the relationship is built on good faith, reasonableness and fairness from the beginning, then all issues can be sorted out eventually, without damage to the underlying relationship. We may not always agree, but if the foundations are strong then, despite disagreements, the partnership will survive intact.

Partnerships between the department and tangata whenua can and do take a variety of forms around the country. They will differ according to what is reasonable in each case i.e. due to differing local circumstances and legislative constraints. In practice the partnerships will vary from a right to be consulted at one end of the spectrum to tangata whenua management control at the other. The Partnership Toolbox, Te Kete Taonga Whakakotahi,⁴ provides detailed guidance on the nature of partnerships.

Goal 2. Governance

The department implements conservation legislation and works effectively and efficiently to achieve conservation outcomes.

Implementation

The department will:

- (i) develop, maintain and monitor the capabilities within the department required to carry out its conservation responsibilities and to give effect to the principles of the Treaty in its work;
- (ii) make decisions and take actions in accordance with the legislation and the circumstances which apply in any particular case, including government's conservation goals and section 4 of the Conservation Act.

⁴ Document in draft.

Explanation

Governance is discussed with Goal 3, Citizenship.

Goal 3. Citizenship

The department achieves conservation outcomes for the benefit of all citizens.

Implementation

The department will, in relation to the areas and resources which it manages:

- (i) ensure that all citizens receive fair and equitable access to conservation benefits;
- (ii) ensure that all citizens have fair and equitable access to participation in conservation management.

The department administers conservation legislation in the national interest for the benefit of all citizens, Maori and non-Maori. Overall the community has an expectation that the department will work efficiently and effectively to achieve conservation outcomes.

For the purposes of operational application to the work of the department, these goals are derived from the principles of governance/kawanatanga (Article 1) and citizenship (Article 3). The government must be able to implement its conservation legislation. The rights of Maori and non-Maori alike to equality of treatment and the privileges and responsibilities of citizenship must be considered in this context.

Good governance (i.e. governance and citizenship) requires informed decisions (goal 7), the active protection of tangata whenua interests (goal 6), and recognition of the interests of all citizens based upon good faith, reasonableness and fairness (goal 1).

Goal 4. Tino Rangatiratanga

The department recognises the exercise by tangata whenua of traditional authority over their lands, waters, sites, waahi tapu and other taonga, in accordance with the concepts of mana whenua and mana moana.

Implementation

The department will:

- (i) in relation to areas and resources which it manages, work with tangata whenua to determine and implement a reasonable and practicable degree of tangata whenua involvement in any particular case, covering a range of options from a right to be consulted to the exercise of tangata whenua control;
- (ii) affirm the right of tangata whenua to determine the way they relate to the department;
- (iii) affirm the right of tangata whenua to determine the way they manage lands, waters, sites, waahi tapu and other taonga under their control in accordance with mana whenua, mana moana and conservation legislation.

Explanation

Tino rangatiratanga is discussed with Goal 5, Kaitiakitanga.

Goal 5. Kaitiakitanga

The department recognises the exercise by tangata whenua of their customary duty as kaitiaki over their natural and historic taonga according to tikanga.

Implementation

The department will, in relation to areas and resources which it manages, support the kaitiaki role of tangata whenua and be clear about applicable accountabilities by:

- (i) recognising and respecting Maori conservation practices and associated cultural values;
- (ii) recognising and providing for the customary use of indigenous species by Maori, consistent with kaitiakitanga, wise conservation and conservation legislation;
- (iii) affording to tangata whenua an effective degree of participation and control in the protection and management of waahi tapu.

Explanation

The concepts of tino rangatiratanga and kaitiakitanga are fundamental to tangata whenua. Their application flows into active participation in decisions and management. The focus in these Goals is on how this applies to the department in its work.

The Te Roroa Report (1992, page 294) recommended with respect to the control and protection of waahi tapu:

That the Crown re-affirms the traditional and Treaty rights of tangata whenua to control and protect their own waahi tapu and requires the Department of Conservation and other of its agents concerned in the management of national and cultural resources to give practical effect to this commitment.

The Department of Conservation manages many species and sites of significance to tangata whenua. It manages these according to the conservation legislation. Within this context these goals recognise that the department should work with tangata whenua to enable them to exercise rangatiratanga and kaitiakitanga over species and sites of significance to them.

Goal 6. Active protection

The department actively protects the interests of tangata whenua in the land, resources and other taonga managed by the department or affected by the department's work, and does this in co-operation with tangata whenua.

Implementation

The department will work with tangata whenua to:

- (i) understand their interests and needs in relation to areas and resources which the department manages or which are affected by its work;
- (ii) ensure that reasonable and practicable steps are taken to protect those interests;
- (iii) ensure that actions which might undermine those interests are avoided wherever practicable;
- (iv) recognise the role of matauranga Maori in conservation management.

Explanation

Active protection is a duty to work with tangata whenua and to act in their best interests to ensure that reasonable and practicable steps are taken where necessary to protect those interests, and to ensure that actions which might undermine those interests are avoided wherever practicable. It is understood that tangata whenua share responsibility to actively protect their interests, and that the department will work with tangata whenua in enabling this to occur. The department should be prepared to give considerable attention to the protection of tangata whenua interests and where necessary take reasonable and practicable action to protect them (see explanation of Goal 1 for comment on reasonableness).

Goal 7. Informed Decisions

The department makes informed decisions which have regard to the interests and needs of tangata whenua.

Implementation

The department will work with tangata whenua to:

- (i) involve tangata whenua fully in decision-making processes relating to their interests and needs, to ensure that these are recognised and had regard to.

Explanation

The goal of informed decisions is taken as the application of reasonableness and good faith within a relationship. The department needs to gather sufficient information to be able to understand the interests and concerns of tangata whenua, along with the implications and risks of potential decisions, so that decisions can be well informed. Similarly, the department must provide adequate information to tangata whenua to enable them to also make informed decisions and make informed input. Decisions should accommodate the interests and concerns of tangata whenua, and also be for the benefit of all citizens, in accordance with the goal of good governance. In practice this requires involving tangata whenua at the earliest possible stages in decision-making processes.

If the other goals are effectively applied the resulting systems and processes will support informed decisions. Conversely, effective application of the goal of informed decisions will support achievement of the other goals.

Goal 8. Redress

The department avoids actions which would prevent the redress of Treaty claims, and seeks to avoid creating further grievances.

Implementation

The department will, in relation to conservation matters and its responsibilities:

- (i) avoid actions which would create a grievance or prevent the redress of claims;
- (ii) address any contemporary grievances which tangata whenua might bring to the attention of the department, and seek solutions;
- (iii) participate in negotiations on Treaty claims settlement, providing creative options that will help to address grievances in accordance with the Department's statutory functions, powers and obligations;
- (iv) implement and monitor settlements reached between the Crown and tangata whenua.

Explanation

It is considered that assiduous implementation of goals 1-7 would minimise actions which could create a Treaty grievance. At the same time, the department has responsibilities to advise the Minister and the Office of Treaty Settlements and assist in the resolution and implementation of Treaty claims in relation to conservation. The department needs to be mindful that it is not in a position to pre-empt Treaty settlements, or to do things which prejudice the opportunities for Treaty settlement redress in the future.



Customary Use of Natural Resources Consistent with Kaitiakitanga, Wise Conservation and Conservation Legislation

Draft

FEBRUARY 2001



Department of Conservation
Te Papa Atawhai

Toitu te marae a Tane, toitu te marae a Tangaroa, toitu te Iwi.

Proper use of Tane's domain, of Tangaroa's realm, ensures humanity's survival.

INTRODUCTION

The customary use of New Zealand's natural resources by tangata whenua sustains Maori culture, values and traditional knowledge, and is part of the kaitiaki relationship which tangata whenua have with indigenous biodiversity.

The Department of Conservation manages the areas and resources for which it is responsible on behalf of the people of New Zealand. Because of the extent of these responsibilities, the department has a major role to play in recognising and providing for customary use within the parameters of conservation legislation.

STRATEGIC POSITION STATEMENT ON THE CUSTOMARY USE OF NATURAL RESOURCES

It is the policy of the Department of Conservation to recognise and provide for the customary use of natural resources by tangata whenua, consistent with kaitiakitanga, wise conservation, and conservation legislation.

This recognises government policy as articulated in the *New Zealand Biodiversity Strategy*¹, the conservation aspirations of New Zealanders which are reflected in conservation legislation, the department's responsibilities to Maori under Section 4 of the Conservation Act, and the kaitiaki responsibilities of tangata whenua.

In providing for customary use, the Department of Conservation will:

1. Make decisions on customary use applications on a case-by-case basis, taking into account ecological considerations, the relevant legislation, and the department's customary use policy.²
2. Work together with tangata whenua, recognising practical considerations and legal constraints, to establish and operate administrative systems relating to customary use consistent with the department's section 4 responsibilities.³

This paper discusses the issues that have been considered in the development of this strategic policy position, and also includes policy guidelines to support the development of appropriate administrative systems.

¹ Customary marine and freshwater fisheries are not covered by this policy as these are subject to a separate policy and regulation process.

² The *New Zealand Biodiversity Strategy* objective 7.5 states 'Recognise and provide for the customary use of indigenous species by Maori, consistent with the conservation and sustainable management of biodiversity'. Legal Services Unit advises that there are no contradictions between current conservation legislation and this statement.

³ The Department of Conservation Legal Services Unit advises that "it is necessary for the Minister or Director-General of Conservation to consider each application for customary use on a case-by-case basis having regard to all the circumstances". Refer to the separate document "Giving effect to the Principles of the Treaty of Waitangi in the work of the Department of Conservation".

DISCUSSION

1. Kaitiakitanga and Customary Use

The constraints and edicts of a comprehensive spiritual and environmental code govern tangata whenua use of New Zealand's biological resources. This indigenous code is directly concerned with the care and protection of mauri which, according to the traditions of tangata whenua, is the dynamic life principle that underpins all biodiversity.

The code is applied through the development and observation of kawa (protocols) and tikanga (customary practices) which in turn give rise to a conservation regime which focuses on the sustainable management of the biological resources available.

The exercise of the customary practices of protection, guardianship, stewardship and sustainable use by tangata whenua is known as kaitiakitanga. Kaitiakitanga is exercised in relation to ancestral lands, water, sites, resources and other taonga. It is the principal cultural mechanism through which the indigenous spiritual and environmental code is given effect to. As the focus of the code is care and protection (manaaki and rahui), there is little, if any, variance or tension between the indigenous code and conservation legislation. Both promote care and protection, and allow for sustainable management, to ensure the survival of species.

The customary use of New Zealand's biodiversity by tangata whenua helps sustain iwi culture, values and traditional knowledge, and is part of the kaitiaki relationship which tangata whenua have with indigenous biodiversity.

Current use of natural resources by Maori encompasses a wide spectrum, including:

- use of large trees for whare and waka (buildings and canoes)
- use of plants as tohu (signs) for fishing and planting times
- harvesting of plants for rongoa and kai (medicines and food)
- use of feathers, flaxes, ti, pingao, kiekie, and feathers for weaving
- use of dyes from muds and soils, tree bark and berries
- use of oils from shark liver and plant seeds
- making of taonga from bones, shells, mako teeth and wood

Customary use requirements by tangata whenua change in response to issues of scarcity, sustainability and cultural developments.

In the context of this paper, customary use refers to non-commercial uses only. Customary use of natural resources is likely to have been traditionally undertaken by tangata whenua. This paper does not address commercial uses or economic interests.

2. Current Initiatives

A number of effective customary use management initiatives including traditional mechanisms such as rahui are already occurring:

- A rahui on kukupa (wood pigeon) has been placed by Ngati Hine at Motatau.
- Ngati Whare have placed a rahui on totara in Whirinaki.
- The Department of Conservation and Ngatiwai have agreed on a protocol for the management of stranded whales in Ngatiwai rohe.
- Some conservancies refer applications for materials for cultural uses directly to tangata whenua for their recommendation and advice, or to cultural use committees.

The Ngai Tahu Claims Settlement Act (1998) allows members of Ngai Tahu Whanui to lawfully have specimens in their possession.

It is the intention of the Department of Conservation to learn from and build on these. As effective conservation partnerships between the department and tangata whenua evolve, it is also likely that the administration of customary use will continue to develop.

3. The New Zealand Biodiversity Strategy

Article 10 (c) of the *Convention on Biological Diversity* states that each Contracting Party shall 'protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements'. The department's policy is guided by the position of the New Zealand Government as stated in the *New Zealand Biodiversity Strategy*, to 'recognise and provide for the customary use of indigenous species by Maori, consistent with the conservation and sustainable management of biodiversity'. Current conservation legislation is not inconsistent with this policy in that there is limited discretion to allow for the taking of species in relevant Acts.

4. The Conservation Aspirations of New Zealanders

The Department of Conservation manages the areas and resources for which it is responsible on behalf of the people of New Zealand. In the context of public conservation areas, customary use is one of a range of ways in which New Zealand's natural heritage has an ongoing function in the life of the community.

The conservation of indigenous species and habitats into the future is of importance to all New Zealanders including Maori and is recognised in existing conservation legislation⁵. This was a clear area of common ground amongst submitters to the New Zealand Conservation Authority's 1997 paper on customary use, and in submissions to the New Zealand Biodiversity Strategy.

Many customary use applications relate to species and habitats that are now endangered, degraded, under threat or declining. Any use now must be sustainable (i.e. at a rate that does not lead to long-term decline). For some species this means that use cannot occur now. In these cases, the first priority must be to ensure the long-term viability of both the species and their habitats.

5. Treaty Responsibilities⁶

Section 4 of the Conservation Act 1987 requires the Department of Conservation to so interpret and administer the Act so as to give effect to the principles of the Treaty of Waitangi.⁷ In accordance with this requirement, the Department recognises the exercise by tangata whenua of their customary duty as kaitiaki over their natural and historic taonga according to tikanga.

⁵ Conservation legislation generally has as its primary purpose the protection and preservation of areas, species and habitat. Refer to "The Application of the Principles of the Treaty of Waitangi to the work of the Department of Conservation" In the *Whales* Case the Court of Appeal ruled that section 4 of the Conservation Act applies to all the Acts in the First Schedule of the Conservation Act to the extent that the principles of the Treaty of Waitangi are not inconsistent with the provisions of the Acts listed in the First Schedule.

There is a need for effective working partnerships between the department and tangata whenua in particular areas and in relation to customary use. These partnerships are ongoing and vary according to local circumstances. The department aspires to partnerships with tangata whenua which are durable and founded on good faith, reasonable co-operation and fairness.

6. Management Issues

Because of the extent of its responsibilities for land, water and species management, the department has a major role to play in recognising and providing for customary use⁸ within the parameters of conservation legislation. While this legislation has as its purpose protection of areas, species and habitat there is some provision for the taking of species for a number of purposes, including customary use.

Customary use of indigenous species from areas which are set aside primarily for the purposes of conservation is a complex issue. The perspectives of nature preservation and sustainable use require reconciliation in this context. The objectives in managing ecological systems may be based on differing long-term goals, such as self-sustaining natural systems with a minimum of human intervention, or the conservation and enhancement of indigenous species permitting cultural use (*kaitiakitanga*). The tension has centred around a few iconic species such as kereru (*kukupa*), which are considered to be of high value to most New Zealanders and are also particularly significant in contributing to the integrated functioning of ecosystems. Moving forward requires recognition of the importance of both wise conservation and *kaitiakitanga*, supported by science and *matauranga Maori* (traditional Maori knowledge).

6.1 Research and Monitoring

As *kaitiaki*, tangata whenua determine the needs for and the choices of materials for customary use at the local level. The department and tangata whenua need to work together to determine what sustainable use may mean for each species and habitat concerned, not only when harvest is occurring, but also when harvest cannot occur at present. This research into the sustainability of harvesting regimes and the monitoring of effects is necessary to ensure that customary use options remain viable and available for future generations. Also desirable is research into tangata whenua attitudes to and *kaitiaki* relationship with natural resources in their rohe. How and where this research and monitoring is done, and who funds it, are yet to be determined.

6.2 Restoration

In some cases, use may be considered sustainable in conjunction with species or habitat restoration. In others, restoration may be required before harvest is possible. A commitment to customary use implies the need to restore species, habitats and ecosystems where necessary, to enable such use to occur.

⁸ Objective 7.5 of *The New Zealand Biodiversity Strategy* states that New Zealand will 'Recognise and provide for the customary use of indigenous species by Maori, consistent with the conservation and sustainable management of biodiversity'.

6.3 Administrative Systems

Recognising the practical considerations and legal constraints, the department will work together with tangata whenua to establish and operate administrative systems relating to kaitiakitanga, including customary use, consistent with the department's section 4 responsibilities. These administrative systems may in some circumstances include mechanisms traditionally used by tangata whenua.

The administrative systems need to recognise the current legislative context in which they operate. Current legislation establishes that access to many indigenous species is restrictive, and does not allow devolution of decision making in relation to customary use of native birds, plants and other traditional materials. While tangata whenua determine the needs for and the choices of materials for customary use at the local level, accountability for decisions to enable use remains with the Department or the Minister of Conservation.

Relevant considerations for decision-makers include:

- the judgement of tangata whenua exercising their duty as kaitiaki,
- legal questions of land status and species status,
- ecological considerations such as whether species are endangered,
- the effect on the population as a whole,
- the impact on habitat, and
- the effect on the functioning of ecosystems.

Systems will take account of the wide range of potential uses and materials. They will need to accommodate local realities and relevant communities of interest. Besides the interests of tangata whenua and the Minister of Conservation, other appropriate communities of interest may include sector groups (e.g. weavers), conservation boards and non-governmental organisations.

7. Conclusion

Conservation of natural resources, particularly rare or threatened species, is supported by both kaitiakitanga and conservation legislation. Customary use needs to be governed by kaitiakitanga, wise conservation and conservation legislation. This will require partnerships between tangata whenua and the Department of Conservation. Establishing systems that allow for customary use while ensuring wise conservation will be a challenge for tangata whenua and the department, yet one that current experiences show is achievable. As effective relationships between the department and tangata whenua evolve, administrative systems for customary use will continue to develop.

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POLICY GUIDELINES

1. Partnership agreements

- (i) Negotiate and implement with tangata whenua, in the context of kaitiakitanga, understandings, agreements, procedures or protocols relating to the storage and use of cultural materials, and the control and management of cultural resources.
- (ii) Recognise in the context of Treaty settlements certain protocols and obligations will be relevant to use of cultural materials.

2. Respect for cultural values

- (i) Seek to understand the interests and expectations of tangata whenua in relation to materials used for traditional purposes.
- (ii) Acknowledge and respect the cultural values and protocols placed by tangata whenua on the use of natural resources, and recognise that protocols may vary from place to place.
- (iii) Where appropriate, raise public awareness of and encourage the public to acknowledge and respect cultural values and protocols in relation to customary use.

3. Information and information management

- (i) Share with tangata whenua information held by the department on the conservation values of cultural materials.

4. Consultation

- (i) Consult with tangata whenua at an early stage with respect to specific projects or actions which may affect customary use.
- (ii) Fairly take into account obligations to all tangata whenua claiming rights to access to cultural materials, including other iwi in the same area and where overlapping claims may exist.

5. Participation in management

- (i) Identify with tangata whenua, on a case-by-case basis without prejudice to Treaty rights and claims, opportunities for them to exercise an effective degree of participation and control in the protection, management and use of cultural materials.

6. Decision-making

- (i) Involve tangata whenua fully in decision-making relating to customary use.
- (ii) Make decisions relating to customary use on a case-by-case basis in accordance with the particular legislation under which the area or resource in question is administered.
- (iii) Relevant considerations for decision-makers include:
 - the judgement of tangata whenua exercising their duty as kaitiaki,
 - legal questions of land status and species status,
 - ecological considerations such as whether species are endangered,
 - the effect on the population as a whole,
 - the impact on habitat, and
 - the effect on the functioning of ecosystems.



Messages from Consultation with Maori

FEBRUARY 2001



Department of Conservation
Te Papa Atawhai

MESSAGES FROM CONSULTATION WITH MAORI

The Department of Conservation is developing a number of strategic Kaupapa Maori policies. To inform these policies the department reviewed what Maori¹ have been saying to the department about their needs and aspirations in conservation management through the numerous consultation processes it has run. In the past the department has been criticised for “not listening” to what Maori have said when consulted. Therefore a “retrospective listening” exercise was considered a priority.

The review of previous consultation processes was undertaken as a desktop exercise from the submissions reports for the following consultation processes:

- Te Puni Kokiri Review of DOC (1998)²
- Historic Heritage Management Review (1998-1999)
- NZCA Customary Use Discussion Papers (1995-1998)
- New Zealand Coastal Policy Statement (1993)
- New Zealand Biodiversity Strategy (1999)
- Conservation Management Strategies (CMS) of the following conservancies: Northland, Auckland, Bay of Plenty, East Coast, Tongariro/Taupo and Canterbury (1994-1997)

The key messages from Maori submission processes are outlined within ten themes. These messages are the points made or concerns expressed repeatedly by Maori in submission processes. While the original comments were made in the context of a specific policy development process they are described here in generic terms. There are strong inter-linkages between all themes.

Overall the messages from Maori through Department of Conservation consultation processes and the Te Puni Kokiri review are characterised by remarkable consistency. These messages are also highly inter-related. Maori have been essentially giving the same messages about what they want and the role they want to play in conservation management in all the major consultation processes they have been involved in over the past six or so years.

These messages are:

1. Treaty of Waitangi Claims

The resolution of Treaty of Waitangi Claims is an absolute and over-riding priority for Maori and will determine future ownership and management arrangements over conservation lands.

2. Giving effect to the principles of the Treaty

DOC needs to deliver on Section 4 of the Conservation Act by giving practical effect to the principles of the Treaty of Waitangi. Fundamental to this is Maori being distinguished as a true Treaty partner and enabled to exercise rangatiratanga and kaitiakitanga in conservation management processes.

3. Partnership

Partnership with DOC for Maori means having a substantial or equivalent role in decision making and conservation management policy, planning and delivery processes.

4. Involvement in management

Maori are seeking greater involvement in all aspects of conservation and historic heritage management and need this role to be adequately supported and resourced.

5. Consultation

Consultation by DOC has generally fallen short of Maori expectations. The key criticisms are that DOC has failed to be proactive or consistent in their approach to consultation; Maori have not been asked to contribute at the formative stages of policy processes; too little time has been allocated for consultation; and Maori have insufficient resources and have not been resourced by DOC to contribute effectively.

6. Management structures

There is a need for more effective Maori management and advisory structures within or parallel to DOC to give voice to Maori concerns and enable Maori leadership and involvement in conservation policy at high levels. These structures need to be adequately resourced and accountable to iwi.

7. Customary use

Maori have a right under Article II of the Treaty to the customary use of traditional materials and native species, and want to exercise greater control at an iwi and hapu level with respect to access, ownership, use and restoration of customary materials and species.

8. Historic heritage and waahi tapu

Maori want to look after and manage their own historic heritage and taonga (as guaranteed under the Treaty) with a Maori heritage agency providing leadership and policy and iwi, hapu and whanau responsible for protection on the ground.

9. Maori knowledge

Maori knowledge or matauranga Maori needs to be respected and appreciated as a valid contribution to conservation management.

10. DOC understanding and attitudes

A lack of understanding or knowledge, and the paternalistic attitude of some DOC staff, presents a barrier to improving relationships between DOC and iwi, effective consultation and involvement of Maori in conservation management.

¹ In this report the term Maori is used in a generic sense, while the terms iwi, hapu, whanau and tangata whenua are used when these specific groups are being referred to.

² The Te Puni Kokiri Review of DOC is the only example of consultation about DOC by another organisation used in this review.



Waahi Tapu Policy Guidelines

Draft

FEBRUARY 2001



Department of Conservation
Te Papa Atawhai

- Places associated with with traditional or religious events or movements;
- Other places of cultural importance to tangata whenua.

Waahi tapu may have one or more of these attributes.

Waahi tapu may be specific sites, general locations, or wider areas recognised as being of special importance to tangata whenua such as mountains or rivers. For some tangata whenua there may be differing degrees of tapu. The application of these policy guidelines will vary according to the nature and extent of particular waahi tapu.

THE MANAGEMENT ISSUE

The fundamental concept is "*a place sacred to Maori*". For tangata whenua, this would require an effective degree of tangata whenua participation and control in decision-making. In practice this could range across a spectrum from appropriate recognition of the traditional relationship to prohibition of access.

Waahi tapu are located in areas held and managed by the department under a range of classifications. Current legislation affords mechanisms for delegation of decision-making applicable to some classifications, but in others the department cannot delegate responsibility for decisions which it alone is statutorily required to make.

Current conservation legislation also requires that the public have right of entry and recreational use in areas held and managed by the department, except where public access can be restricted under the classification by which the land is held. Public access and recreational use may be anathema to tangata whenua in relation to particular waahi tapu. It is the aim of these policy guidelines to mitigate these tensions through effective and practicable advice to assist the department's managers in relation to the cultural values of waahi tapu.² The starting points are the responsibility of the department under section 4 of the Conservation Act 1987 to give effect to the principles of the Treaty of Waitangi in its work, and the cultural and spiritual importance of waahi tapu to tangata whenua.

POLICY STATEMENT

The policy statement below is drawn from a separate paper which sets out the application of the principles of the Treaty of Waitangi to the department's responsibility to implement conservation legislation and achieve the government's conservation management goals.³

Kaitiakitanga

Goal for the department

The department recognises the exercise by tangata whenua of their customary duty as kaitiaki over their natural and historic taonga according to tikanga.

² These policy guidelines do not address economic or commercial interests.

³ Refer to the separate document, Giving effect to the Principles of the Treaty of Waitangi in the work of the Department of Conservation.

4. Involvement in management

Maori are seeking greater involvement in all aspects of conservation and historic heritage management and need this role to be adequately supported and resourced.

5. Consultation

Consultation by DOC has generally fallen short of Maori expectations. The key criticisms are that DOC has failed to be proactive or consistent in their approach to consultation; Maori have not been asked to contribute at the formative stages of policy processes; too little time has been allocated for consultation; and Maori have insufficient resources and have not been resourced by DOC to contribute effectively.

6. Management structures

There is a need for more effective Maori management and advisory structures within or parallel to DOC to give voice to Maori concerns and enable Maori leadership and involvement in conservation policy at high levels. These structures need to be adequately resourced and accountable to iwi.

7. Customary use

Maori have a right under Article II of the Treaty to the customary use of traditional materials and native species, and want to exercise greater control at an iwi and hapu level with respect to access, ownership, use and restoration of customary materials and species.

8. Historic heritage and waahi tapu

Maori want to look after and manage their own historic heritage and taonga (as guaranteed under the Treaty) with a Maori heritage agency providing leadership and policy and iwi, hapu and whanau responsible for protection on the ground.

9. Maori knowledge

Maori knowledge or matauranga Maori needs to be respected and appreciated as a valid contribution to conservation management.

10. DOC understanding and attitudes

A lack of understanding or knowledge, and the paternalistic attitude of some DOC staff, presents a barrier to improving relationships between DOC and iwi, effective consultation and involvement of Maori in conservation management.

¹ In this report the term Maori is used in a generic sense, while the terms iwi, hapu, whanau and tangata whenua are used when these specific groups are being referred to.

² The Te Puni Kokiri Review of DOC is the only example of consultation about DOC by another organisation used in this review.



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Draft

FEBRUARY 2001



Department of Conservation
Te Papa Atawhai

Ko tenei mea te tapu he tohu ture whakatūpato kia kore ai e whara te mauri.
I ahu mai te tapu i te Ira Atua, ko tōna Āmokapua, Amorangi,
ko ngā Tohunga ahurewa. Mehemea ka whakatōtia te tapu ki runga i te
papangawhenua, he tohu tenei, kua e rawaweketia e te ringaringa tangata,
nā te mea ko tōna whakautu ko Aitua.

*The law of tapu is intended to protect the mauri, that is to say the life giving
essence, of all things. Tapu is a god given element which was repositied into
the care of the High Priests. If tapu was placed on the land for whatever
reason, this was a warning that people were not to tamper with the protocols
of that tapu, otherwise misfortune would be their punishment.*

VISION

Tangata whenua exercise an effective degree of participation and control in the protection and management of waahi tapu in areas administered by the department, consistent with kaitiakitanga¹, wise conservation and conservation legislation.

GOAL

The department provides for the exercise of kaitiakitanga by tangata whenua in relation to their waahi tapu, by:

- (i) Enhancing recognition of the traditional relationship between tangata whenua and their waahi tapu;
- (ii) Increasing tangata whenua participation in the protection and management of waahi tapu;
- (iii) Providing for control by tangata whenua of discrete waahi tapu sites where appropriate.

DEFINITION

The term waahi tapu is defined in the Historic Places Act 1993 as "a place sacred to Maori in the traditional, spiritual, religious, ritual, or mythological sense".

Waahi tapu may be:

- Urupa (burial sites) or ana (burial caves);
- Sites associated with birth or death;
- Sites associated with rituals, ceremonies or pilgrimage;
- Places imbued with the mana of chiefs, tupuna, iwi or hapu;
- Battle sites or other places where blood has been spilled;
- Pa or kainga sites (former and current);

¹ Refer to the separate document: Giving effect to the Principles of the Treaty of Waitangi in the work of the Department of Conservation.

- Places associated with traditional or religious events or movements;
- Other places of cultural importance to tangata whenua.

Waahi tapu may have one or more of these attributes.

Waahi tapu may be specific sites, general locations, or wider areas recognised as being of special importance to tangata whenua such as mountains or rivers. For some tangata whenua there may be differing degrees of tapu. The application of these policy guidelines will vary according to the nature and extent of particular waahi tapu.

THE MANAGEMENT ISSUE

The fundamental concept is "*a place sacred to Maori*". For tangata whenua, this would require an effective degree of tangata whenua participation and control in decision-making. In practice this could range across a spectrum from appropriate recognition of the traditional relationship to prohibition of access.

Waahi tapu are located in areas held and managed by the department under a range of classifications. Current legislation affords mechanisms for delegation of decision-making applicable to some classifications, but in others the department cannot delegate responsibility for decisions which it alone is statutorily required to make.

Current conservation legislation also requires that the public have right of entry and recreational use in areas held and managed by the department, except where public access can be restricted under the classification by which the land is held. Public access and recreational use may be anathema to tangata whenua in relation to particular waahi tapu. It is the aim of these policy guidelines to mitigate these tensions through effective and practicable advice to assist the department's managers in relation to the cultural values of waahi tapu.² The starting points are the responsibility of the department under section 4 of the Conservation Act 1987 to give effect to the principles of the Treaty of Waitangi in its work, and the cultural and spiritual importance of waahi tapu to tangata whenua.

POLICY STATEMENT

The policy statement below is drawn from a separate paper which sets out the application of the principles of the Treaty of Waitangi to the department's responsibility to implement conservation legislation and achieve the government's conservation management goals.³

Kaitiakitanga

Goal for the department

The department recognises the exercise by tangata whenua of their customary duty as kaitiaki over their natural and historic taonga according to tikanga.

² These policy guidelines do not address economic or commercial interests.

³ Refer to the separate document: Giving effect to the Principles of the Treaty of Waitangi in the work of the Department of Conservation.

Implementation

The department will, in relation to areas and resources which it manages, support the kaitiaki role of tangata whenua and be clear about applicable accountabilities, by affording to tangata whenua an effective degree of participation and control in the protection and management of waahi tapu.

Processes to Implement the Policy

These guidelines apply to the management and protection of waahi tapu in areas administered by the department. They should be implemented through the establishment and implementation of specific understandings, agreements, procedures or protocols at local level between the department and tangata whenua. These guidelines should not replace or override specific understandings, agreements, procedures or protocols where these already exist.

POLICY GUIDELINES

The department, in partnership and consultation with tangata whenua, with respect to waahi tapu in areas administered by the department, consistent with kaitiakitanga, wise conservation and conservation legislation, and within the constraints of government policy, available resources, and practical considerations, will aspire to the following:

1. Partnership agreements

- (i) Negotiate and implement with tangata whenua understandings, agreements, procedures and/or protocols relating to the storage and use of information about waahi tapu, and the protection and management of waahi tapu.
- (ii) Implement these waahi tapu policy guidelines in the absence of specific understandings, agreements, procedures or protocols.

2. Information and information management⁴

- (i) Acknowledge that waahi tapu can be identified or assessed only by tangata whenua and that cultural knowledge of waahi tapu is intellectual property within whanau, hapu, and iwi.
- (ii) Acknowledge that non-disclosure is a protection mechanism often used by tangata whenua to preserve the sanctity of waahi tapu.
- (iii) Seek agreement by tangata whenua that the department cannot be held accountable for adverse effects on waahi tapu if no degree of awareness is disclosed in relation to them.⁵
- (iv) Seek a description of the general location of waahi tapu where knowledge cannot be more fully shared with the department, and check with tangata whenua if any work is planned in the area, as a method to protect waahi tapu without infringing confidentiality.

⁴ See also 1 (i).

⁵ See also 2 (iv) and (v), and other sections of this document including 3, 4, 5 and 6.

- (v) Respect the confidentiality of cultural knowledge of waahi tapu, and ensure that, if sensitive information about waahi tapu is held by the department, it is protected against inadvertent or unanticipated release.⁶
- (vi) Share with tangata whenua information held by the department on the conservation values of waahi tapu.

3. Respect for cultural values

- (i) Seek to understand the interests and expectations of tangata whenua in relation to waahi tapu.⁷
- (ii) Recognise and respect the cultural values, conservation practices and protocols placed by tangata whenua on waahi tapu, and recognise that protocols may vary from place to place.
- (iii) Where appropriate, raise public awareness of and encourage the public to recognise and respect cultural values and protocols in relation to waahi tapu and associated information.

4. Consultation

- (i) Consult tangata whenua with respect to specific projects or actions which may affect waahi tapu (including but not limited to research, survey, inventory, planning, remedial or maintenance work, visitor facilities, interpretation, or concessions).
- (ii) Consult tangata whenua over land management generally to minimise the occurrence of activities which contravene waahi tapu values.
- (iii) Fairly take into account obligations to all tangata whenua claiming relationship to waahi tapu, including other iwi and hapu in the same area and where additional claims exist.⁸

5. Increased participation and control⁹

- (i) Identify with tangata whenua, on a case-by-case basis without prejudice to Treaty rights and claims, opportunities for them to exercise an effective degree of participation and control in the protection and management of waahi tapu.
- (ii) For waahi tapu where special significance and traditional relationship is demonstrated, implement forms of increased participation and/or control, including:

⁶ It would be preferable for the department not to hold information that would compromise tapu values if released. Note, however, that statutory grounds for withholding information in terms of the Official Information Act 1982 could be invoked in relation to waahi tapu where these grounds apply. These include the grounds that the information is: "... *subject to an obligation of confidence ... where the making available of the information would be likely to prejudice the supply of similar information, or information from the same source, and it is in the public interest that such information should continue to be supplied*" (section 9 (ba)).

⁷ Some iwi have policy statements which may be relevant.

⁸ Overlapping or successive settlement patterns can give rise to overlapping or competing claims to waahi tapu. The department should ensure that in working with one iwi or hapu it does not compromise its ability to work with others. Ways to achieve this can include consulting with overlapping groups so that concerns can be considered, and providing for enhanced participation in management by more than one group where this can be agreed.

⁹ Refer to the separate document, Conservation Partnerships Toolbox, for the full range of potential mechanisms for participation and control by tangata whenua. Note that existing legislation may require specified procedures involving wider public, third party and conservation interests which may affect the outcome (for example requiring public notification and submissions and/or advice from Conservation Boards). Concerns of the Crown would include that existing conservation values should not be diminished, that public access should be preserved unless there are strong reasons for restricting it, that rights of third parties are protected, and that any claims by other iwi or hapu are resolved.

- Enhancing recognition of the traditional relationship between tangata whenua and their waahi tapu;
 - Increasing tangata whenua participation in the protection and management of waahi tapu;
 - Providing for control by tangata whenua of discrete waahi tapu sites where appropriate.
- (iii) For discrete waahi tapu sites, consider transfer of ownership or guardianship to iwi, hapu or whanau, with or without arrangements such as covenants, easements, and management agreements.
- (iv) For particular reserves or land units containing waahi tapu, consider statutory vesting in iwi, hapu, or whanau, or appointing tangata whenua to control and manage.
- (v) Where control of waahi tapu is transferred, retain a role working together with tangata whenua in management, where sought by tangata whenua.
- (vi) For wider areas recognised as being of special importance to tangata whenua, consider arrangements which enhance recognition of the traditional relationship of tangata whenua with waahi tapu, and/or which enhance participation by tangata whenua in planning and management.

6. Decision-making¹⁰

- (i) Make decisions relating to waahi tapu on a case-by-case basis in accordance with the particular circumstances and the legislation under which the area or resource in question is administered, including section 4 of the Conservation Act 1987.
- (ii) Afford to tangata whenua full opportunity for meaningful involvement in decision-making relating to waahi tapu.
- (iii) Where feasible, defer decisions where unresolved tangata whenua concerns relating to waahi tapu arise until such time as the issues are resolved.

7. Access¹¹

- (i) Provide for access to waahi tapu by tangata whenua for the exercise of kaitiakitanga.
- (ii) Plan and implement practical measures to limit public access to waahi tapu, where there are strong reasons to restrict it in order to protect the cultural values, by taking actions such as:
- Aligning or re-aligning tracks to lead visitors away from waahi tapu;
 - Negotiating or acquiring alternative access;
 - Establishing and promoting suitable alternative sites for recreational use;
 - Providing information promoting cultural values and encouraging respect for waahi tapu;
 - Where appropriate, directly discouraging access by explanatory signs;
 - Where appropriate, excluding or controlling public access by bylaws.¹²

¹⁰ See also 3 and 4.

¹¹ Current conservation legislation restricts the implementation of these policy guidelines by generally requiring that the public have right of entry and recreational use. Although it may not be possible to prevent public access under the classification by which the land is held, practical measures to manage and reduce the intensity and impact of public access may be feasible, as listed here.

¹² The National Parks Act 1980 and the Reserves Act 1977 provide for bylaws which may exclude or restrict public access.

- (iii) Consult with the Kaupapa Atawhai Manager where there is any uncertainty about access or safety of staff, contractors, concessionaires or the public in relation to waahi tapu.¹³

8. Active protection

- (i) Take reasonable and practicable steps to protect the interests of tangata whenua in relation to waahi tapu and to ensure that adverse effects on waahi tapu values are avoided wherever practicable.
- (ii) Acknowledge that any intervention may be undesirable in places where undisturbed constancy of spiritual association is more important than the physical aspects.
- (iii) Avoid disposal or interventions which effect permanent changes, except where agreed to by tangata whenua.

9. Specific interventions

- (i) Plan and implement any interventions at waahi tapu in consultation with tangata whenua, respecting cultural values and ensuring that adverse effects on waahi tapu values are avoided wherever practicable (for example impacts of visitor activities, visitor numbers, or visitor facilities).
- (ii) Implement standards of practice as outlined in the ICOMOS New Zealand Charter, and require the same standards of third parties (e.g. associates, contractors, or concessionaires).
- (iii) In relation to any archaeological activities at waahi tapu:
- When considering granting consent as owner and occupier to investigation of archaeological sites, ensure that the appropriate iwi authority or other body has consented as required by section 18 (3) of the Historic Places Act 1993.
 - Obtain an authority granted by the New Zealand Historic Places Trust for any proposed damage, destruction, modification or investigation of archaeological sites in accordance with section 10 of the Historic Places Act 1993.

10. Assistance to tangata whenua

- (i) Consider opportunities for contracting tangata whenua to undertake research, assessment, conservation, or interpretation in relation to waahi tapu.

11. Inadvertent discovery of Koiwi tangata

- (i) Ensure correct procedure where koiwi tangata are inadvertently discovered:
- Any work in the vicinity should cease;
 - The area should be secured to prevent further disturbance;
 - The Kaupapa Atawhai Manager should be notified;
 - The relevant tangata whenua should be notified;
 - The police should be notified in relation to the Burial and Cremation Act 1964;
 - The New Zealand Historic Places Trust/Pouhere Taonga should be notified in relation to any damage, destruction, modification or investigation of archaeological sites in accordance with the Historic Places Act 1993 and the conditions of any authority granted by the Trust should be complied with;

¹³ Current legislation including the Human Rights Act 1993 and the Employment Relations Act 2000 may limit the department's ability to comply with tangata whenua protocols which restrict access to waahi tapu by persons or groups of people.

Background to the development of the Waahi Tapu and Customary Use Draft Policies

Waahi Tapu Policy

- 1992 Waitangi Tribunal publishes the Te Roroa Report
- 1995 Department of Conservation Discussion Paper *The Management and Protection of Waahi Tapu Sites on Land Managed by the Department of Conservation*
- 1996 Consultation
- 1996 TPK publishes *Sites of Significance, A step-by-step guide to protecting sites of cultural, spiritual and historical significance to Maori.*
- 1997 Kaupapa Atawhai Strategy published by the Department of Conservation
- 1997 First draft Waahi Tapu Guidelines prepared
- 2000 Re-drafted Waahi Tapu Policy Guidelines
- 2001 Waahi Tapu Policy Guidelines included in Ngā Akiakitanga Nuka Kaupapa Maori ā Te Papa Atawhai (Kaupapa Maori Strategic Policy Initiatives) consultation package. Submissions close 30 November 2001

Customary Use Policy

- 1994 NZCA publishes discussion paper *Maori Customary Use of Native Birds, Plants and Other Traditional Materials*
- 1994/95 Consultation
- 1997 NZCA *Interim Report and Discussion Paper on the Maori Customary Use of Native Birds, Plants and Other Traditional Materials* published
- 1997 Consultation
- 1998 NZCA makes recommendations to the Minister of Conservation
- 1999 Minister of Conservation instructs the Department to implement the recommendations of the NZCA, and in addition, to prepare a strategic policy position statement
- 2000 Draft Strategic Policy Statement tabled at NZCA December meeting
- 2001 Customary Use of Natural Resources included in Ngā Akiakitanga Nuka Kaupapa Maori ā Te Papa Atawhai (Kaupapa Maori Strategic Policy Initiatives) consultation package. Submissions close 30 November 2001



Hon. Dr Nick Smith
M.P. for Nelson

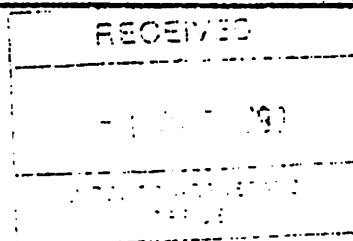
Minister of Education

Minister of Conservation

- 1 OCT 1999

The Director-General of Conservation

Dear Hugh



MAORI CUSTOMARY USE OF NATIVE BIRDS, PLANTS AND OTHER TRADITIONAL MATERIALS

I have now considered the above report prepared for me by the NZCA, and your report of 13 July 1999.

I agree with the recommendations of the NZCA. I think that they have succeeded in identifying the common ground in these complex issues which are often characterised by dispute and difference of opinion.

I have observed many improvements in the Department's performance in this area of work but I remain convinced that more change is needed in policy and in practise and in some cases in the organisational "culture" of DoC.

The recommendations made by the NZCA, and crafted into operational tasks by your staff, are quite modest in their scope. But they do constitute a worthwhile package of changes which would have wide support, and address some of the most outstanding causes of resentment (most notably the deficiencies of the Wildlife Act).

I have modified the suggested work programme to give some firmer direction and clarity, and I have changed the delivery dates to recognise the time that has elapsed since your earlier advice (attached). I understand that budgetary provision for most, if not all of the work, has been made in the 1999/2000 financial year.

In addition to the work programme which I am asking you to undertake, I request that you report to the NZCA on progress with implementing the tasks in June and October 2000, and outline to them any further work that you intend to undertake. It seems to me that it would be sensible to appoint a coordinator for this work to provide consistency of approach and sequencing of effort.

I am happy to discuss any of these matters with you if you wish.

Yours sincerely

Nick Smith
Minister of Conservation



Hon. Dr Nick Smith
M.P. for Nelson

Minister of Education

Minister of Conservation

- 1 OCT 1999

Sir Duncan McMullin
Chairperson
New Zealand Conservation Authority
P O Box 10429
WELLINGTON

Dear Sir Duncan

MAORI CUSTOMARY USE OF NATIVE BIRDS, PLANTS AND OTHER MATERIALS

I have considered the report of the NZCA on Maori Customary Use of Native Birds, Plants and Other Traditional Materials, your letter to me of 30 June 1998, and subsequent Departmental advice. I have also received further representations from Ngai Tahu. I am pleased to advise you that I have accepted all of your recommendations and I have requested the Director-General to undertake a programme of work to give effect to those recommendations.

This work has not been easy for the NZCA. I have been impressed by the energy and diligence with which successive Authorities have pursued the challenges of this brief. I think you have been successful in articulating the common ground of often strongly disputed opinions. That has established a platform of understanding, and some recommendations for action which will have widespread support. I am pleased to initiate those actions which are outlined in the attached work programme.

I have asked the Director-General to report to you on progress with implementing the listed tasks in June and October 2000. I have no doubt that the Authority will continue to have an interest in these matters, and will want to offer future advice which builds on the outcomes of your report.

Please convey to the Authority, and previous members, my appreciation of the work they have done to bring about a better understanding of these matters: I hope the proposed work programme will consolidate those gains.

Yours sincerely



Nick Smith
Minister of Conservation

1. Prepare a strategic policy position on customary use which distinguishes that use from commercial use (but explains that commercial activities are possible, through the concessions regime, and will be informed by and consistent with this policy) and commercial preference (which may nonetheless exist and warrant definition). This policy is to reflect the principles identified in the NZCA report, public submissions and hui and, in particular, the following matters:

- the cultural significance of Maori customary use of native birds and animals, plants and other traditional materials;
- that most indigenous species are under threat from predation and loss of habitat, and numbers are still declining; and
- that any use of indigenous species from the protected estate must take into account and accommodate a number of essential issues. These include matters of the sustainability of harvesting regimes, the extent of endangerment of the species, the availability of alternative (preferred) sources, management techniques, research, spirituality both Maori and non-Maori, access and ownership, participation, funding and administration; and

noting that any system of administering Maori customary use of native species needs to be managed through a system that:

- ensures national consistency and guidance within a framework defined by law and informed by science;
- recognises the difference and distinctiveness of regional and local systems, both natural and human;
- allows for the exercise of regional and local input; and
- encourages maximum communication between the different levels and sectors within the system, including the interests of science and the wider community.
- reflects provisions in Treaty settlements, including the implementation of Deeds of Recognition and other mechanisms.

Action: CPD, by April 2000

Given the debate is continuing, the NZCA recognises that any system of administering Maori customary use of native species would need to be managed through a system that:

- ensures national consistency and guidance within a framework defined by law and informed by science;
- recognises the difference and distinctiveness of regional and local systems, both natural and human;
- allows for the exercise of regional and local input in the application of the guidelines; and

encourages maximum communication between the different levels and sectors within the system, including the interests of science and the wider community

| Work programme | NZCA recommendations |
|----------------|----------------------|
|----------------|----------------------|

2. Assess what is required to extend current monitoring to precautionary monitoring and enforcement of species used for customary purposes by Maori given the need, and emphasised in submissions to the NZCA, for a precautionary approach to customary use.

Action: STIS, by September 2000

NZCA notes that any customary use of native species would need to be lawful and sustainable, employing monitoring systems that provide advance warning of signs of stress or decline in the community or species being harvested

3. Negotiate, with MoRST and other interested agencies, the publication of a joint leaflet which explains and provides a guide to the opportunities for collaborative research, using traditional Maori knowledge and science, which specifically targets customary use issues and which describes departmental procedures for undertaking collaborative research with Maori to support the Kaupapa Atawhai Strategy.

Action: STIS, by Conservation Week 2000

NZCA would recommend the encouragement is given to collaborative research between traditional Maori knowledge and science, which specifically targets customary use issues.

4. Extend, for nationally-consistent application, existing departmental best practice for access to traditional materials from accidental kills or approved management practices.

Action: RGMs to develop SOP, by October 2000

NFC

NZCA would recommend that DOC adopts policy and procedures to ensure that tangata whenua have clearly defined access to traditional materials where these are lawfully available as a result of accidental kills or thorough approved management procedures.

5. Extend, for nationally-consistent application, existing departmental best practice with iwi to develop generic assessment criteria for applications for research/education/display specimens.

Action: RGMs to develop SOP on permitting, by October 2000

NZCA would recommend that tangata whenua are fully involved in the consideration and negotiation of requests for native birds, plants, animals and materials for scientific research, for display in museums and for other non-Maori uses.

| Work programme | NZCA recommendations |
|---|--|
| <p>6. <u>Prepare</u>, for Cabinet approval and implementation, either an amendment to the Wildlife Act 1953 or a new provision in the Conservation Act, to allow tangata whenua to have lawful ownership of the Taonga, crafted from natural materials, that sustain culture and tradition.</p> <p>Action: BMD/CRO by June 2000 (depending on legislative timetable)</p> | <p>NZCA would recommend that the Wildlife Act 1953 be specifically amended to provide tangata whenua with lawful ownership of the crafted Taonga that sustain culture and tradition, comprising feathers and other materials of native birds and animals, and the feather and other material allocated for the construction, maintenance and repair of those Taonga.</p> |
| <p>7. Continue to <u>implement and monitor</u> the Kaupapa Atawhai Strategy.</p> <p><u>Propose</u>, through Treaty Settlement processes, mechanisms such as those negotiated with Ngai Tahu and Ngati Turangitukua which provide for increased involvement of iwi/hapu in co-operative conservation management</p> <p>Action: TKA/ERD by June 2000, ongoing</p> | <p>NZCA would recommend that attention is given to enhancing ways in which Maori can become more directly involved in conservation.</p> |
| <p>8. <u>Use</u> existing programmes, such as the Tikanga Atawhai fund and the Motutapu Island restoration plan, to facilitate the establishment of plantations associated with Marae or to Maori communities to supply requirements for customary materials. Invite some high-profile “demonstration” projects.</p> <p>Action: RGMs initiate by June 2000, ongoing</p> | <p>NZCA notes that plantations of native plant species could be established to provide for Maori customary use.</p> |

| Work programme | NZCA recommendations |
|----------------|----------------------|
|----------------|----------------------|

9. Incorporate into public awareness and environmental education planning the following issues:

- New Zealand ecology and conservation issues as they relate to customary use;
- Maori and European cultural traditions of the natural environment and humans' place in nature; and
- Treaty of Waitangi obligations as they pertain to conservation including DOC's statutory requirements.

Action: ERD initial material by June 2000, ongoing

10. Keep the general public informed of progress as the department and iwi/hapu develop protocols (other than those developed through Treaty negotiations) for the co-operative conservation management of customary use of different materials in different rohe/areas.

Action: ERD, ongoing

NZCA notes that publicity and educational programmes could be established to increase public understanding of:

- New Zealand ecology and conservation issues as they relate to customary use;
- Maori and European cultural traditions of the natural environment and humans' place in nature; and
- Treaty of Waitangi obligations as they pertain to conservation including DOC's legal requirements.

NZCA would recommend that consultation/meetings are held between tangata whenua, the Department of Conservation, the Conservation Boards and conservation stakeholder groups to consider systems of administering Maori customary use.