

Te Kete Taonga Whakakotahi
A Conservation
Partnerships Toolbox

Draft

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Department of Conservation
Te Papa Atawhai

Kia mabi tabi tatou

Vision

Partnerships between the department and tangata whenua are achieving enhanced conservation of the natural and historic heritage of New Zealand.¹

1. INTRODUCTION

The department involves tangata whenua² in the management of conservation in accordance with its section 4 responsibilities to give effect to the Treaty of Waitangi in its work. This is in addition to the efforts made by the department to involve the general public in conservation management.

Te Kete Taonga Whakakotahi, the Partnerships Toolbox, has been developed for use by the department's managers. It aims to provide guidance on the ways and means to forge effective and successful partnerships with tangata whenua.

The conservation requirements of particular places vary, as do the requirements of tangata whenua who, as kaitiaki, have traditionally managed places and resources according to tikanga. As a result of these varying circumstances, it is necessary for the department and tangata whenua to seek arrangements that will work best at a particular place, at the time. There is no single solution to how the department and tangata whenua can work in partnership.

This kete identifies a range of tools that enable tangata whenua to be involved in conservation management. The fundamental requirements are for the department and tangata whenua to build partnership relationships based on trust and good faith whilst giving effect to the department's statutory obligations.

The mechanisms identified in Te Kete Taonga Whakakotahi are not intended to preempt the Treaty Settlement process.

To implement the provisions of this kete, staff need:

- **an understanding of and commitment to applying the principles of the Treaty of Waitangi to their work, and**
- **a flexible approach to seeking the best arrangements with tangata whenua site by site, or case by case, in the circumstances of the particular time.**

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

² Iwi, hapu and whanau with mana whenua mana moana in a given locality.

2. DESCRIBING PARTNERSHIPS

The Department of Conservation is responsible for implementing conservation legislation and achieving government's conservation management goals. Partnerships between the department and tangata whenua enhance the achievement of these goals.

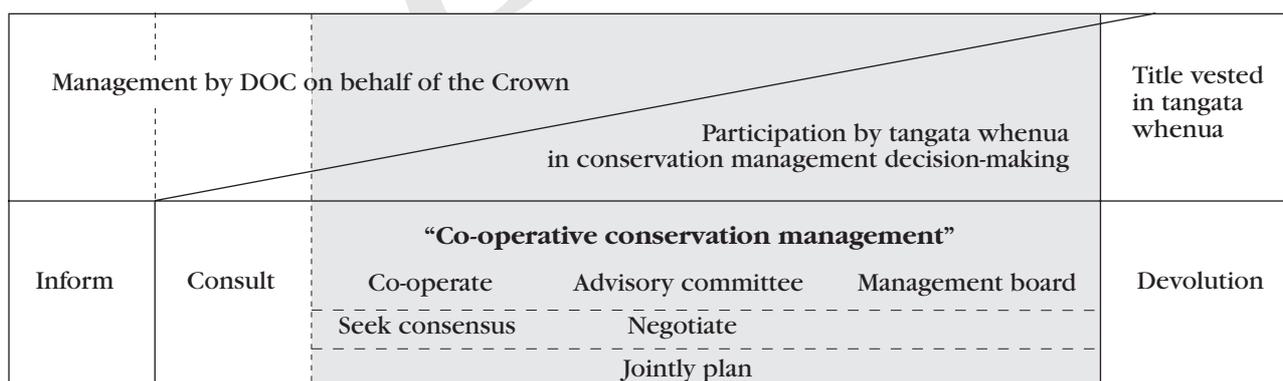
The nature of partnerships varies according to local circumstances. The partnership concepts covered in this tool kit fall into five areas:

1. Building partnerships
2. Involvement in consultation processes
3. Participation in decision-making
4. Devolution of decision-making authority
5. Sharing in practical conservation activities

A reasonable and practicable degree of tangata whenua involvement in any particular case ranges from the right to be consulted to the exercise of full control. This can be represented as a spectrum (figure 1).

- This diagram illustrates varying levels of participation by tangata whenua in decision making.
- The shaded area illustrates the part of this spectrum which can be thought of as “co-operative conservation management”
- Co-operative conservation management describes a number of different arrangements involving different levels of participation. The terms that can be used to describe these are shown in their placing on this continuum.
- Hands-on participation in conservation management activities can occur anywhere along this continuum.
- Where title has been vested in tangata whenua, DOC may provide management support if it is requested.
- Accountabilities for each mechanism are specified in Annex 1

Figure 1: The partnership continuum for Crown land management



Finding your way around the Kete:

Building Partnerships: Section 3, page 6		
Consultation: Section 4, page 7	Co-operative conservation management Participation in Decision-making; Section 5, page 8	Devolution: Section 6, page 10
Partnerships in practical conservation activities: Section 7, page 12		

It is not possible to develop a definitive list of decisions the department takes and the particular role of tangata whenua in them because the interests, concerns and capacity of the department and tangata whenua will vary from place to place. This must be a matter of discussion between the department and tangata whenua.

Rather, this document identifies the full range of mechanisms through which conservation partnerships can be expressed in practice, and indicates the particular circumstances in which these can and have been used. A particular partnership between the department and tangata whenua in an area may use any number of these mechanisms simultaneously in addressing particular issues.

Although this document cannot give a “paint-by-numbers” guide to choosing the appropriate place within the span of “co-operative conservation management” (Figure 1) for any particular partnership, the questions posed below may help DOC staff and tangata whenua find the best arrangement for the time.

Mana Whenua:	<ul style="list-style-type: none"> • Who has a claim to the land/resources in question?
Capacity:	<ul style="list-style-type: none"> • What capacity does iwi/hapu have? (Different arrangements require more or less time, energy and resources) • What capacity does DOC have to service different arrangements?
Issues	<ul style="list-style-type: none"> • What is of concern to tangata whenua? Are the concerns specific or general? • What is the level of interest in the site by other parties?
Land status	<ul style="list-style-type: none"> • What is the importance of the conservation site or activity to DOC? • What are the statutory obligations to the land/resources? • What is the significance of the site to tangata whenua?
Current Arrangements	<ul style="list-style-type: none"> • What is unsatisfactory about the current management arrangements, for DOC, and for tangata whenua ?

Note: The speed and extent of the uptake of the tools in this kete will depend on resources being available.

3. BUILDING PARTNERSHIPS

Relevant Goal: Partnerships³

The department builds and recognises partnerships with tangata whenua which are based upon good faith, co-operation and respect

Partnerships will only work if there are good relationships between the partners. These relationships are based on mutual respect, reasonableness and fairness. Successful partnerships are dependent on the recognition of the department’s statutory obligations. We may not always agree, but if the relationship is fundamentally strong, then despite disagreements, the partnership will survive intact.

This table summarises the key steps to building good relationships. Annex A of the Kaupapa Atawhai Strategy provides valuable guidance. Te Kete Te Rito, the manual for Pukenga Atawhai, is an invaluable resource for those who have completed the training course.

To build relationships:	How to do it
Ensure that you are talking to the right people	<ul style="list-style-type: none"> • Consult with the Kaupapa Atawhai Manager (KAM) • Agree contact lists with iwi/hapu • Refer Pukenga Atawhai <i>Kawai Tuatoru</i>
Understand the relationship of tangata whenua to the land/ where Maori are coming from in cultural terms. This is the key to the relationship.	<ul style="list-style-type: none"> • Understand key concepts and what they mean for the relationship of tangata whenua and the land. • Refer Pukenga Atawhai <i>Kawai Tuatabi</i>
Understand the people, politics, history and priorities of the people you are talking with	<ul style="list-style-type: none"> • Consult with the KAM • Talk to others who have had previous experience with group
Understand the appropriate tikanga/kawa for the people you are talking with	<ul style="list-style-type: none"> • Consult with the KAM • Refer Pukenga Atawhai <i>Kawai Tuawha</i> • Undertake Pukenga Atawhai Training
To maintain relationships:	
Talk to tangata whenua on a regular basis, not just when we need to ‘consult’ for particular purposes	<ul style="list-style-type: none"> • Regular informal visits • Accompany the KAMs on their informal rounds
Focus on the long-term, ongoing relationship rather than short-term issues	<ul style="list-style-type: none"> • Recognise risk and defer/modify outputs • Meet with a range of people from the iwi/hapu • Seek ways through tensions⁴

³ Refer to separate document “Giving effect to the principles of the Treaty of Waitangi in the work of the Department of Conservation”.

⁴ Within a relationship and particularly as that relationship is developed, tensions are inevitable and are often based on differences in values and expectations. Communication and commitment to the relationship is the key to working through tensions

- Refer to KAMS for advice
- Use of rohe based hui, statutory boards / kaitiaki roopu
- Exercise mutual respect, recognise mana
- Choose the right venue for discussion
- Consider use of mediators before positions get too fixed
- Find common ground, e.g. shared objectives of the relationship or project

4. CONSULTATION⁵

The Consultation policy (QD1212) and guidelines (QD1213) are available on the Intranet.

Relevant Goal: Informed Decision⁶

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

Consultation Principles

1. Be open to new ideas;
2. Run an efficient consultation process;
3. Get the best information from the community by encouraging participation, providing good information and allowing enough time;
4. Complete the consultation process by providing feedback on decisions and evaluating the process.

The definition of and principles for consultation used by the department are based on case law, and prescribe the legal minimum requirements for a consultation process. When considering local partnerships, the department should consider whether consultation is adequate, or whether we should move to the next stage by inviting a higher level of participation by tangata whenua in the actual decision-making processes.

⁵ According to the department's Consultation Policy :“Consultation is a stage in the decision-making process where the department seeks tangata whenua views on issues and proposals. The Department of Conservation keeps an open mind about the final decision it might make, and makes its final decision after consultation has been completed. It may end up keeping its preferred option, but will be able to justify clearly why. The department will have informed tangata whenua of the problem, issues and options, and will keep the flow of information open throughout the consultation process. The department is still responsible for making the decisions.”

⁶ Refer to separate document “Giving effect to the principles of the Treaty of Waitangi in the work of the Department of Conservation”.

5. PARTICIPATION IN DECISION-MAKING

Relevant Goals⁷:

Goal: Kaitiakitanga

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

Goal: Informed Decisions

The department will work with tangata whenua to involve them at an early stage in decision-making processes relating to their interests and needs, to ensure that these are recognised and had regard to.

Goal: Governance

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

Annex 1 (Table 1) tabulates the legal mechanisms available to the department and tangata whenua for collaborative decision-making⁸. Appendix 1 (Table 1) provides examples of non-statutory mechanisms.

There are a number of different terms that can be used to describe participation in decision-making processes, for example: co-operation, consensus, negotiation, joint planning, advisory committees⁹, management boards (see also Figure 1). The terms indicate that participation in decision-making can be achieved through both formal and informal structures, and that the department can involve tangata whenua to varying levels.

Partnerships may be site specific, issue specific, relationship specific, statutory, or non-statutory.

Written Partnership Agreements:

- are useful mechanisms for clarifying the respective roles, responsibilities and interests of the department and tangata whenua.
- provide a useful basis for identifying areas of interest to both parties,
- are helpful in establishing agreed processes of consultation and input into decision-making and dispute resolution procedures,
- may be protocols, deeds of recognition, memorandums of understanding or exchanges of letters,
- need to accommodate growing and changing relationships,
- should enable not restrict a relationship,
- maybe more useful if based on 'principles' than if a great detail is specified.

⁷ Refer to separate document "Giving effect to the principles of the Treaty of Waitangi in the work of the Department of Conservation".

⁸ Note: Annex 1, the table of legal tenure and mechanisms for conservation partnerships, must be appreciated within the relevant statutory context in that there are specified procedures (mostly requiring public notification and submissions and/or advice from local Conservation Boards). Therefore, a Ministerial or Department proposal to utilise certain mechanisms may not be an absolute decision and administrative fairness, reasonableness and procedures provided for in the primary legislation may affect the final outcome. In the majority of situations, options for continued conservation protection of values associated with the land and/or public access maybe important factors to be preserved in the arrangement. In the context of Treaty Settlements, the Crown utilises some of the above mechanisms and provides statutory exemptions from the procedural requirements through subsequent legislation.

⁹ **Accountability for decisions:** The department cannot be legally bound by the recommendations of an advisory or joint committee when the conservation legislation requires decisions to be made by a delegated officer who must make those decisions on behalf of the Minister or the Director-General, or if there are related accountabilities for other areas of the department's work which must also be considered. However, the department will support joint and advisory committees to ensure that they have available to them the necessary conservation information and understanding of statutes to make informed recommendations. In practice, the department is likely to accept the recommendations of a joint or advisory committee provided the outcome gives effect to its statutory functions and powers.

Effective and successful partnerships:

- share a common goal
- set achievable objectives and monitor achievement towards these
- acknowledge the unique iwi/hapu status and the obligations associated with this status
- establish a collaborative management 'structure'
- are proactive in seeking and maintaining partnerships
- promote regular contact and share information
- minimise bureaucracy
- facilitate training opportunities
- promote awareness and support from other groups
- regularly review the partnership

Unwritten partnerships, subject to the specific requirements of the particular partnership, also require:

- high levels of trust and mutual respect,
- a clear understanding by all parties of what has been agreed to,
- excellent accountability mechanisms for both parties,
- regular involvement by many participants.
- transparency¹⁰
- ownership by all area staff, the conservator and tangata whenua.

Making sure Co-operative Conservation Management works

The department and tangata whenua can choose to have either a partnership arrangement which is recorded in a written form, or a unwritten partnership based on common understandings. Both types of partnership are based equally on "good faith, co-operation and respect".¹¹

Appendix 1 (table 2) outlines key differences between written and unwritten partnerships.

The Reciprocity Principle

Reciprocity is about valuing the relationship and the partnership. It is about payment 'in kind' - not necessarily in dollar terms but in mutual support and response. Reciprocity provides strength and ongoing stability despite difficulties. It is about respecting the mana of tangata whenua and their kaitiaki role.

¹⁰ One successful unwritten partnership also has a standing invitation to tangata whenua to be part of strategy planning and daily management, an open door policy, and operates at a pace that both staff and tangata whenua are comfortable with.

¹¹ Refer to separate document "Giving effect to the principles of the Treaty of Waitangi in the work of the Department of Conservation".

6. DEVOLUTION¹²

Goal: Tino Rangatiratanga

Implementation: The department will, 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 full control**.

Goal: Kaitiakitanga

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.¹³

Annex 1 (Table 2) provides a list of mechanisms that enable the department to delegate¹⁴ or transfer¹⁵ decision-making to tangata whenua. As the act of delegating or transferring decision-making or management necessitates consideration of accountabilities these are included in the tables.

Formal management agreements are essential for partnerships where decision-making responsibility has been delegated outside the department¹⁶. They are both a communication and an accountability tool.

Formal Agreements should include:

- The nature of the relationship and its purpose
 - The legislation with which the parties entering the agreement is required to comply
- Agreed management structures, including
- Relationships with department /Minister
 - Reporting requirements
 - Responsibilities to the Crown on one hand, and to land/conservation and board/runanga on the other.
 - Term of agreement
 - Procedures for amending the agreement
 - Provision for regular updates
 - Dispute resolution procedures

Handling conflict of interest

Description of output, including

- Performance measures and standards
- Procedures for assessing performances

Financial arrangements

¹² **Devolution** is delegating work or power to bodies appointed by and responsible to Parliament, or by central government to local or regional administration.

¹³ Refer to separate document "Giving effect to the principles of the Treaty of Waitangi in the work of the Department of Conservation".

¹⁴ **Delegation** can occur where land remains in Crown ownership. The designated decision-makers are accountable to the Minister or Director-General for their decisions.

¹⁵ A **transfer** of decision-making responsibility is dependent on land being transferred to iwi ownership.

¹⁶ A formal agreement where a transfer of title has been made is optional as any required encumbrances (covenant, easement or protected private land agreement) will be specified in the title.

Current standards of practice for accountability mechanisms need to be met where the Department has delegated any decision-making. Table 6.1 suggests a model where authority has been delegated.

Table 6.1: Possible Accountability Mechanisms for Delegated Authority

Planning	Reporting
<ul style="list-style-type: none">• Memorandum of Understanding/ Multi-year plan• Iwi management plan• Annual plan• Project plan	<ul style="list-style-type: none">• Annual report• Multi-year report

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7. PARTNERSHIP IN PRACTICAL CONSERVATION ACTIVITIES

Goal: Partnerships¹⁷

Implementation: The department will work co-operatively with tangata whenua to achieve conservation outcomes following consultation processes.

There are many opportunities to involve tangata whenua in practical conservation management. Such opportunities can be developed at any time by the department and tangata whenua. For example:

Practical Activities	Where to go for more information¹⁸
Appointing a Reserve Administering Body	QD CR1316
Conservation Corps, for young Maori	QD C1051 or Ministry of Youth Affairs
Contract employment	Human Resources & Organisation Division
Honorary rangers	QD C1226
Interpretation	Northern Regional Office
Joint restoration projects	Area Manager
Management of Waahi Tapu	Waahi Tapu Policy Guidelines
Monitoring	Conservancy Advisory Scientist
Ranger Training	Nelson Conservancy
Research projects	Conservancy Advisory Scientist
Species transfers	QD NH1042
Volunteer activities	QD C1051

¹⁷ Refer to separate document "Giving effect to the principles of the Treaty of Waitangi in the work of the Department of Conservation".

¹⁸ QD documents are Standard Operating Procedures which are available to all staff through the Intranet.

