

## Appendix 6 WARO Decision Support Document

Consideration of feedback received from Iwi/whānau/hapū up until 24 June 2022.

Iwi/whānau/hapū	Feedback received (summarised)	DOC response
Ngāti Tama (NSI) <a href="#">DOC-5552151</a> <a href="#">DOC-5551899</a>	<ul style="list-style-type: none"> <li>No objection to WARO but would like it if some meat could be supplied to Marae</li> </ul>	<ul style="list-style-type: none"> <li>Supply to Marae would not be possible as WARO concession activity excludes supply of carcasses to any party other than a registered MPI registered processing facility or for the personal consumption of the concessionaire and its employees.</li> </ul>
Te Atiawa Trust (NSI) <a href="#">DOC-5552151</a> <a href="#">DOC-5551899</a> <a href="#">DOC-7124372</a>	<ul style="list-style-type: none"> <li>As above.</li> <li>Te Atiawa supports the considered removal of mammalian pests from DOC managed land in the interest of the integrity of the indigenous ecosystem's health.</li> <li>Seek assurances that DOC requires respect in the behaviour of hunters / recoverees and humane management of other sentient beings. Permit conditions requiring a moral/respectful approach.</li> </ul>	<ul style="list-style-type: none"> <li>As above.</li> <li>Animal welfare issues sit outside what can be considered under the Wild Animal Control Act 1977, however, shooting as a form of control is arguably one of the more humane forms of pest control.</li> </ul>
Ngāti Kuri (NSI) <a href="#">DOC-5552151</a> <a href="#">DOC-5551899</a>	<ul style="list-style-type: none"> <li>No particular objections</li> </ul>	<ul style="list-style-type: none"> <li>Noted.</li> </ul>
Response to 2022 consultation by Greymouth District	<ul style="list-style-type: none"> <li>Any changes to the schedule that affect the Paparoa National Park need to be consistent with the policies contained within 3.18 of the park plan.</li> </ul>	<ul style="list-style-type: none"> <li>This is the case.</li> </ul>
Puketeraki Runaka (SSI)	<ul style="list-style-type: none"> <li>Commercial operators with helicopters have the resources and therefore the monopoly. Ngāi Tahu individuals are not that well equipped to apply for a WARO permit.</li> <li>Little knowledge will be available of the commercial returns for these operators.</li> <li>Where are the opportunities for Ngāi Tahu people to be involved?</li> <li>Would like to avoid the situation of WARO getting first choice and picking the best locations for their commercial operations.</li> <li>Assist Ngāi Tahu to consider all locations available with a RFR type of system</li> </ul>	<ul style="list-style-type: none"> <li>Anyone who meets the criteria (e.g. has a meat supply contract with a meat processor) is eligible to apply for a WARO permit, applicant does not have to own a helicopter.</li> <li>Operator's returns on their business is commercially sensitive.</li> <li>From a commercial perspective and at the least, Ngāi Tahu people are welcome to apply for a permit</li> <li>Re WARO getting first choice - DOC's primary driver is protecting indigenous biodiversity and WARO helps significantly with that. Ngāi Tahu interest on this point is the same as wider rec hunter groups.</li> <li>Re RFR - Having multiple operators helps with the goal of protection of indigenous biodiversity.</li> </ul>
For record of 2022 consultation see: <a href="#">DOC-7124415</a>	<ul style="list-style-type: none"> <li>No response received</li> </ul>	<ul style="list-style-type: none"> <li>No further comment required.</li> </ul>

<p>Ngati Kahungunu and Muaupoko (LNI)  <a href="#">DOC-5523448</a>  <a href="#">DOC-5533077</a></p>	<ul style="list-style-type: none"> <li>• Unhappy with the lack of cultural consultation associated with the WARO permit.</li> <li>• Concerned that resources of cultural and spiritual taonga be protected, including mahinga kai</li> <li>• Seek a meeting with DOC regarding the WARO permit and all management plans associated with pest control</li> </ul>	<ul style="list-style-type: none"> <li>• Legislation requires DOC to control wild animals and to protect the natural values of the land (WAC Act, Conservation Act, Reserves Act, National Parks Act). Allowing WARO to occur does not give exclusive access to concessionaires or preclude wild animals also being taken for mahinga kai by iwi or other ground hunters. Conditions are included that aim to protect culturally significant matters.</li> </ul>
<p>Ngaati Whakaterere and Ngati Takihiku (LNI)  <a href="#">DOC-5533077</a>  <a href="#">DOC-5523450</a></p>	<ul style="list-style-type: none"> <li>• Do not support WARO activities taking place within their rohe</li> <li>• Maintain that their rohe should be sustained for mahinga kai values which includes but is not limited to deer, pigs, goats</li> <li>• Unhappy with not being directly consulted with. They wish to be consulted on pest management plans in future.</li> </ul>	<ul style="list-style-type: none"> <li>• Legislation requires DOC to control wild animals and to protect the natural values of the land (WAC Act, Conservation Act, Reserves Act, National Parks Act). Allowing WARO to occur does not give exclusive access to concessionaires or preclude wild animals also being taken for mahinga kai by iwi or other ground hunters</li> <li>• Manawatu DOC office contacted iwi acknowledging their request to meet and offering the opportunity but no response was received <a href="#">DOC-5650837</a></li> </ul>
<p>Te Aitanga a Mahaki</p>	<ul style="list-style-type: none"> <li>• Support proposal as it stands for Reserves within their Rohe.</li> </ul>	<ul style="list-style-type: none"> <li>• Noted.</li> </ul>
<p>For record of 2022 consultation see: <a href="#">DOC-7124396</a></p>	<ul style="list-style-type: none"> <li>• No responses received</li> </ul>	<ul style="list-style-type: none"> <li>• No further comment required.</li> </ul>
<p>Hauraki/Waikato/Taranaki iwi with land within Coromandel Peninsula</p>		<ul style="list-style-type: none"> <li>• Coromandel Peninsula, including the area as far south as SH2 and as far west as SH 26 is recommended to be excluded from the new national WARO concession due to imminent Treaty settlements over this area. Specific Hauraki/Coromandel WARO permits could be considered when all legislation is in place &amp; DOC has a clearer idea of consultation requirements.</li> </ul>
<p>Ngāti Ruanui (HWT)  <a href="#">DOC-5525484</a>  <a href="#">DOC-5533093</a></p>	<p>Recommends:</p> <ul style="list-style-type: none"> <li>• That DOC includes requirements for the protection of culturally significant and statutory acknowledged areas and taonga.</li> <li>• That the applicant provides Ngāti Ruanui's written approval prior to the commencement of the activity.</li> <li>• That DOC includes "Consultation with iwi affected by the activity, and comments of iwi affected and response to their comments" with the Application Information Form 13 Wild</li> </ul>	<ul style="list-style-type: none"> <li>• Allowing WARO facilitates the removal of browsing wild animals, thereby helping to protect the taonga species identified in Ngāti Ruanui's feedback that are present within Tarere Conservation Area, in particular.</li> <li>• The statutory acknowledgement areas of Tarere Ukaipo Sites 1 &amp; 2 are recommended to be not permitted for WARO access in view of their cultural significance.</li> </ul>

	<p>Animal recovery Operations' checklist;</p> <ul style="list-style-type: none"> <li>• That DOC includes the words <i>“Impact on culturally significant and statutory acknowledged areas and taonga”</i> under section E - Actual or potential effects of the proposal of the Application Information Form 13 Wild Animal recovery Operations. This would ensure that effects on culturally significant and statutory acknowledged areas and taonga are provided. Please note that it is only the affected iwi who can identify cultural values, interests and taonga that would be affected by the proposal. It may be necessary that a Cultural Impact Assessment report (CIA) is required to be prepared by Ngāti Ruanui depending on the scale of the activity and areas affected. The CIA bears a cost to be paid by the applicant. It would be efficient for the applicant to contact Ngāti Ruanui as early as possible to confirm if a CIA is required and associated cost and timeframes;</li> <li>• That DOC includes the words <i>“Culturally Significant and Statutory Acknowledged Areas and taonga”</i> with section 4.1 (a) of Schedule 2 - Standard Conditions (North Island Schedule). This would promote consistency with the above approach.</li> </ul>	<ul style="list-style-type: none"> <li>• The Tarere Site (being Part Section 8 Block VI Opaku Survey District) is not public conservation land and so is automatically excluded from any WARO concession.</li> <li>• For the reasons above, the underlying concerns behind Ngāti Ruanui's recommendations 1 - 4 are considered to be adequately addressed by the nature of the activity and the exclusion of WARO from specific locations that have cultural significance</li> <li>• Recommendation 5 was considered but is not recommended for inclusion in WARO permits as Culturally Significant and Statutory Acknowledged Areas have been considered as part of the land access assessments and excluded from WARO where appropriate. In terms of Taonga species, the existing 4.1 is considered all encompassing.</li> </ul>
<p>Poihakena Marae (HWT) DOC-5533533 <a href="#">DOC-5533093</a></p>	<ul style="list-style-type: none"> <li>• Considered main activity to be focussed on deer, which are not present in their area of interest, and so had no concern with this activity.</li> </ul>	
<p>Ngāti Whare (CNI) <a href="#">DOC-5520752</a> <a href="#">DOC-5545542</a></p>	<ul style="list-style-type: none"> <li>• Should or how does the concession document recognise Te Runanga o Ngāti Whare co-governance status, any changes since the last agreement.</li> <li>• Regarding Wahi Tapu, the CMP identifies permitted aircraft landing sites which is great, however, wonder if a mention of this might be included within the agreement somewhere</li> </ul>	<ul style="list-style-type: none"> <li>• The Whirinaki Te Pua-a-Tāne Conservation Management Plan (which was established in agreement with Ngāti Whare as a result of the Ngāti Whare Claims Settlement Act 2012) recognises aerial wild animal control may occur in the Park and that aircraft use associated with this is not restricted to identified aircraft landing sites.</li> <li>• There are no changes proposed to the 2015 -2018 WARO access for Whirinaki Te Pua-a-Tane Conservation Park. The current access is thought to be consistent with the CMP.</li> </ul>
<p>Te Whakatohea (CNI) <a href="#">DOC-5545542</a></p>	<ul style="list-style-type: none"> <li>• Te Whakatohea are nervous about inheriting any encumbrances that will</li> </ul>	<ul style="list-style-type: none"> <li>• Permit conditions allow the Grantor to remove land from the WARO land</li> </ul>

	<p>affect their ability to manage their lands on their terms after settlement.</p> <ul style="list-style-type: none"> <li>• Limit the length of WARO permits for their AIP land transfer sites to a time that aligns with probable Treaty settlement e.g. 3 years.</li> </ul>	<p>schedule at any time for any reason. It is standard concession practice for land under Treaty negotiations to remain in concession documents unless settlement is imminent.</p>
<p>Ngaa Rauru Kiihahi (CNI)  <a href="#">DOC-5536245</a>  <a href="#">DOC-5545542</a></p>	<ul style="list-style-type: none"> <li>• No written feedback received. From face to face meeting:</li> <li>• Low interest in this activity at present but may be interested in applying for a WARO permit in the future.</li> <li>• The rohe is not suitable for WARO as mainly bush covered and treated with 1080.</li> <li>• Potential job opportunities taken away from iwi if locals not involved.</li> </ul>	<ul style="list-style-type: none"> <li>• Ngaa Rauru Kiihahi are able to apply for a WARO permit at any time.</li> <li>• If the area is unsuitable for WARO, then WARO is unlikely to occur, despite an area being classed as Permitted</li> </ul>
<p>Te Ropu Mana Whenua (CNI)  <a href="#">DOC-5490549</a>  <a href="#">DOC-5545542</a></p>	<ul style="list-style-type: none"> <li>• All mandated representatives were interested and had various views and thoughts on the activity. They all agree that pest control is important but not all agreed on the methods used.</li> <li>• Concerns over deer being removed from Maori Land (poaching), kai being removed from locals and wastage, locals not being employed, local hunting competition being affected, safety, monitoring.</li> <li>• Suggest WARO operator advertises in local paper when hunting will happen, inform iwi of the operation occurring, buffers around Maori lands, restrict areas around Pipiriki and the Awa, pay locals to do the work.</li> <li>• Concern as to whether the DOC decision maker will listen to iwi concerns and the partnership they hold with local DOC or carry on regardless as seen before.</li> <li>• How does the Te Awa Tupua settlement affect this in regard to Section 7 – Interpretation of the Awa (airspace and tributaries).</li> </ul>	<ul style="list-style-type: none"> <li>• Poaching on private land is a matter for police and not something DOC has jurisdiction over. MPI pesticide declaration requirements effectively create a 2 km WARO buffer adjacent to private land, unless the landowner supports the activity taking place.</li> <li>• WARO does not exclude ground hunting, which is the best control method in bush covered areas. The purpose for which the land is held requires DOC to consider protection of natural values above recreational values.</li> <li>• There is no sound justification to require WARO operators to advertise in local papers prior to hunting and inform iwi – this is not required of other hunters. Locals are able to apply for WARO permits at any time.</li> <li>• Regarding safety &amp; compliance, there are no known incidences of people being shot by WARO operators - reports of non-compliance are investigated.</li> <li>• The Awa is not public conservation land so is not considered for WARO access. Areas around Pipiriki have previously been permitted for WARO but are recommended to become not permitted for the new permit in consideration of feedback received.</li> </ul>
<p>For record of 2022 consultation see:  <a href="#">DOC-6968599</a></p>	<ul style="list-style-type: none"> <li>• No additional comments received</li> </ul>	<ul style="list-style-type: none"> <li>• No additional response required.</li> </ul>

<p>Ngāti Hikairo (CNI)</p>	<ul style="list-style-type: none"> <li>• No written feedback received.</li> <li>• After enactment of the Ngāti Tūwharetoa Claims Settlement Bill, forecasted to occur in October 2018, DOC will co-author a chapter of the CMS pertaining to part of the Tongariro Conservation Area. Consultation with Ngāti Hikairo expressed concern about the permit term unnecessarily encumbering CMS discussions and other similar post-settlement considerations for Ngāti Hikairo, as they work with DOC in accordance with the Te Piringa partnership agreement.</li> <li>• High interest in Tongariro Conservation Area and collective interest in Tongariro National Park.</li> <li>• Feedback supports the wider community's interest to have no helicopter recovery of deer. Iwi advise the current hunting by community (who include whānau, hapū, or iwi members) is keeping numbers manageable and is a source of kai for community.</li> <li>• Expectation that DOC will not support helicopter recovery in Tongariro Conservation Area and Tongariro National Park.</li> </ul>	<p>Current CNI WARO recommendations are:</p> <ol style="list-style-type: none"> <li>a. Tongariro Conservation Area: Not Permitted (same as previous 3 years)</li> <li>b. Tongariro National Park: Restricted -WARO is permitted from 1 May - 31 May only (same as previous 3 years)</li> </ol> <ul style="list-style-type: none"> <li>• Permit conditions allow the Grantor to remove land from the WARO land schedule at any time for any reason, should this be required.</li> <li>• In the absence of any formal plan for wild animal control by iwi in Tongariro National Park, there is not sufficient justification to exclude year-round WARO access to the Park</li> </ul>
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### **Considering the Application at hand:** **Statutory Responsibility**

The Department has a statutory responsibility under s4 of the Wild Animal Control Act 1977 to control and eradicate wild animals where necessary and practicable.

While meeting this responsibility it is noted that the Act shall so be administered as to give effect to other wider matters, however, these are secondary to the primary purpose of wild animal control. This legislative framework is discussed greater in the main body of the WARO Decision Support Document - please refer to these sections as to how this these wider matters are considered.

To assist the Department to meet this responsibility, the Act provides a legislative framework under which the Minister may grant concessions to private entities (companies etc..) or individuals to undertake wild animal control.

By this point the reader should be familiar with the WARO statutory function and structure, however, it has been reiterated to emphasise its role and purpose as a conservation management tool. WARO is not inherently commercial or recreationally focused and is designed to control wild animals to protect conservation land and its values.

The function of WARO has been emphasised as it underpins how the Department has responded to the commentary from its Treaty Partners.

Example iwi views:

- “Commercial operators with helicopters have the resources and therefore the monopoly.”
- “Where are the opportunities for [*Treaty Partner*] people to be involved?”

### **Economic preference and support to engage in WARO**

These comments request that the Department assist in situations where the iwi or hapu at place do not have adequate resources (helicopters and operators). Unfortunately, with regard to the activity at hand, the Department is not in the position to assist on this front. The Department may, however, afford preference where conflict between operators arises (eg limited supply situation).

- The idea of affording preference can be found within the extract of the Ministers Cabinet paper. *“The Court found section 4 did require consideration of both the possibility of according a degree of preference to Ngai Tai ki Tamaki and the potential associated economic benefit of doing so. However, the Court also confirmed that section 4 does not create a power of veto for an iwi or hapu over the granting of concession, nor any exclusive right to concession in their rohe.”*
- However, it must be recognised that preference does not extend to a right of veto or exclusivity within a rohe.

With regard to the WARO concession structure, it must also be recognised that WARO Concessionaires are not limited to specific place by place locations. The concessions are split into South Island and North Island location schedules.

This means that it is difficult to understand and identify which areas are likely to have heavier use. It is therefore difficult to identify areas with limited supply.

- Moving forward, it is recommended that these concessions are best split into place-based sections that each Concessionaire must apply for. This will allow the Department to identify key areas of high activity and take action to possibly implement a total limit. With an upper limit, iwi and hapu in the area could potentially request preference is given to land within their rohe in order to promote active protection and their right to development.
- Unfortunately, without the breakdown of locations in this manner, the concessions are not structured to control specific Concessionaires within specific locations.
- On a different note, keeping in mind that WARO concession land is split into North and South Island blocks, the Department has not imposed any total limitations or constraints on Operators that would restrict any new Operator applying for a WARO concession outside of this bulk process. This bulk process does not afford any additional privilege to these Concessionaires that would not be afforded to any new Concessionaire. It is on this basis that - (a) iwi and hapu can apply at any time, and (b) other Concessionaires are not taking away from their right to apply.

### **Protection and preference for customary interests**

Comments received during consultation have identified the view that iwi and hapu consider these wild animals, specifically deer, as a valuable resource. This is not only from an economic/commercial (right to development) perspective, but also from a customary/mahinga kai perspective.

- While it has been determined that s4 cannot give preference to the extent to economically assist iwi and hapu to engage in WARO operations, the iwi comments request that consideration be given to the resource itself that is being hunted (deer and goats).
  - o These comments relate to the value of deer and other wild animals as a resource.



**This analysis of customary interests will be broken into two parts:**

- (a) Protection of deer and other wild animals for mahinga kai values; and
- (b) Customary right to locally hunt deer on foot (to exclude helicopters)

The values and ideas of (a) and (b) are intertwined with each other, and are quite difficult to separate, however, for the purposes of this discussion, this will be attempted to demonstrate how these values and views have been considered and addressed.

Relevant consultation comments:

(a) Mahinga Kai

- “Concerned that resources of cultural and spiritual taonga be protected, including mahinga kai”.
- “Maintain that their rohe should be sustained for mahinga kai values which includes but is not limited to deer, pigs, goats”.

(b) Manage deer populations locally and on foot

- “Feedback supports the wider community’s interest to have no helicopter recovery of deer. Iwi advise the current hunting by community (who include whānau, hapū, or iwi members) is keeping numbers manageable and is a source of kai for community”.
- “Expectation that DOC will not support helicopter recovery in Tongariro Conservation Area and Tongariro National Park”.

Discussion of (a) Mahinga Kai

**What is mahinga kai?**

Mahinga kai is relates to a customary interest in traditional food and natural resources of the land and the areas where those resources traditionally are harvested.

**How does it interact with the Western law provisions?**

The Wild Animal Control Act 1977 – section 4, imposes a responsibility on the Department to control and eradicate wild animals where necessary and practicable. This responsibility is compounded when it applies to Public Conservation Land, especially in areas of great significance.

For example - The purpose for which a National Park is held:

- **Section 4 of the National Parks Act 1980**  
*Parks to be maintained in natural state, and public to have right of entry*  
*(1) It is hereby declared that the provisions of this Act shall have effect for the purpose of preserving in perpetuity as national parks, for their intrinsic worth and for the benefit, use, and enjoyment of the public, areas of New Zealand that contain scenery of such distinctive quality, ecological systems, or natural features so beautiful, unique, or scientifically important that their preservation is in the national interest.*  
  
*(2) It is hereby further declared that, having regard to the general purposes specified in subsection (1), national parks shall be so administered and maintained under the provisions of this Act that—*

- (a) *they shall be preserved as far as possible in their natural state:*
- (b) *except where the Authority otherwise determines, the native plants and animals of the parks shall as far as possible be preserved and the introduced plants and **animals shall as far as possible be exterminated:***

The Department is in a position where it must consider views for and against WARO. The Decision Maker must be able to show consideration of all the relevant matters when making their decision. While the Department has a responsibility to its Treaty Partners, it is clear that in certain circumstances the overarching conservation legislation may take priority.

In this instance it is clear that control of wild animals sits at the forefront and guides the Decision-Making framework for WARO. As discussed in great length in the main body of the Decision Support Document, WARO may only be excluded where there is strong justification to do so.

#### **Wild animals – which animals fall under this ambit?**

- o As per section 2 (interpretation) of the Wild Animal Control Act 1977, a wild animal means –
  - i. any deer (including wapiti or moose):
  - ii. any chamois or tahr:
  - iii. any goat that does not meet (A) or (B) of this provision:
  - iv. any pig that is living in a wild state and is not being herded or handled as a domestic animal or kept within an effective fence or enclosure for farming purposes:
  - v. any member of any species or class of land mammals that the Governor-General may from time to time, by Order in Council, declare to be wild animals for the purposes of this Act.

While consultation comments highlight that deer and other wild animals hold value, it must be recognised that they are classified as wild animals and are not indigenous to New Zealand.

#### **Extent to which the supreme court applies**

While s4 requires the decision maker to give effect to the principles of the treaty of Waitangi it is important to note that this section does not provide iwi and hapu with a right of veto or ability to exclude concessions.

#### **Summary of mahinga kai and WARO**

It is recognised that deer and other wild animals are valuable to iwi and hapu. However, giving effect to section 4 in this instance should not be construed so far as to override statutory classification of deer and other wild animals to an extent that overrides the Departments responsibility to uphold its responsibility under section 4 of the Wild Animal Control Act 1977.

#### **Discussion of (b) manage deer populations locally and on foot**

The Department recognises the great efforts of iwi and hapu give towards wild animal control by way of recreational hunting. However, as outlined above, the Decision-Making process is constraint by a wide array of considerations that must be aptly applied.

Consultation comments have requested that the Department afford iwi and hapu the right to locally hunt wild animals for mainly two reasons:

1. Wild animal control numbers are appropriately managed by recreational hunters on foot; and
2. Not appropriate for helicopters to operate for cultural and ecological reasons in some areas.

#### **Discussion of 1.**

This point is intertwined with the rationale discussed above for mahinga kai. WARO access cannot be unreasonably declined.

It must be **recognised that the overarching priority to control wild** animals must be upheld.

Authorising WARO does not exclude recreational hunters. Moreover, it must be recognised that WARO excludes many smaller blocks and front country areas. The recommended WARO land also provides a 2km buffer where it abuts private land. It is considered that these boundaries provide ample space for recreational hunters to assist wild animal control without clashing with WARO Operators.

#### **Discussion of 2.**

Locations of high ecological and cultural important have been reviewed and considered throughout the locations assessments.

However, it must be recognised that this activity ultimately provides a necessary conservation benefit. While WARO will pose adverse effects on the land during operation, helicopter use is necessary given the scale and size of the Public Conservation Estate.

### TREATY SETTLEMENT MATTERS

It is noted that concessions may not be unreasonably terminated as the concession, like any contract, imposes binding obligations on all parties subject to the concession. However, the concessions provide provision which allow for the withdrawal of land in the situation where the purpose/use of the land changes, as potentially under Treaty Settlements, - See clauses 16 - Land exclusions.