

24 February 2025

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Tēnā koe [REDACTED]

Thank you for your request to the Department of Conservation, received on 20 January 2025, in which you asked for:

1. *Details and dates for the current MOU agreement between the Department of Conservation and Project Jonah.*
2. *Current conditions of that agreement.*
3. *Agreement of funding of services, and costs involved to recover or pay for services related to whale stranding events since 2019.*
4. *Information on the tender process (if any) in public, for providing similar services to that of Project Jonah, to be fair to others, considering public funds are being used to cover said service.*
5. *Information on the technical advice offered by Project Jonah to the Department of Conservation on stranding events - particularly in Canterbury, and at Farewell spit, since 2019.*

We have considered your request under the Official Information Act 1982.

On 12 February you provided additional context to your request with the following details:

My question really refers to the fact that it's been some time since a procurement process was decided between DOC and groups that provide adequate rescue services and processes.

The most recent agreement, was a basic MOU - and was agreed some 4-5 years ago. That was an online agreement released under a previous OIA request (no idea from whom).

Key strategies for assistance excludes areas south of Marlborough - and as I have been to a number of rescues here in chch, I am interested in understanding the agreement, in full, between DOC and PJ.

I also recognise that the past agreement (MOU) infers a base fee per annum of \$50,000.

What fees have been charged, and paid, with regarding to any events or services over and above the \$50,000 fee? And at which event?

Under section 15(1AA) of the Act, this clarification reset the timeframe for responding to your request.

Your questions and our responses are listed below:

1. *Details and dates for the current MOU agreement between the Department of Conservation and Project Jonah.*
 - As outlined in an email from Technical Advisor Hannah Hendriks on 29 January, the Department had a basic Memorandum of Understanding (MOU) with Project Jonah from 2008 to 2015, which was replaced by a three-year Service Level Agreement (SLA) in 2015.
 - The SLA has been renewed three times, most recently last year for another three-year period (2024-2027).
 - At each expiration, a review is undertaken to review the needs of the Department and the performance of Project Jonah.
 - The purpose of the SLA is to formalise the arrangement between the Department of Conservation and Project Jonah, and to outline the funding and in-kind support provided by DOC to Project Jonah, in exchange for the defined level of services.
 - Please find attached a copy of the current Service Level Agreement for full details of the agreement.
2. *Current conditions of that agreement.*
 - The services to be provided under the SLA are:
 - A fit for purpose marine mammal medic training course
 - An annual marine mammal medic training programme
 - A database of volunteers trained and available to assist with marine mammal incidents
 - Under timely and reasonable request from DOC, an appropriate level of support at marine mammal incidents, including remotely
 - Safe equipment suited to assist with marine mammal incidents
 - Provision of staff able to represent Project Jonah at the SLA review meetings as well as other ad hoc meetings identified as necessary to progress the SLA
 - Organisation and delivery of one regional stranding response training workshop per year (focus and priority given to DOC staff and iwi partners, although at times some external stakeholders may also be included)
 - The SLA is monitored via a series of 17 Key Performance Indicators (KPIs) which are assessed on an annual basis. See section 7 of the SLA for details of these KPIs.
3. *Agreement of funding of services, and costs involved to recover or pay for services related to whale stranding events since 2019.*
 - As per the SLA, Project Jonah is funded \$60k per annum (excl. GST) for the services provided.
 - Prior to 2021, the annual amount was \$50k per annum (excl. GST).

- The increase in 2021 was to accommodate inflation and additional DOC staff and treaty partner training.
 - Further DOC staff and treaty partner training above and beyond what is already provided under the SLA may be organised by DOC Districts at additional costs.
 - Project Jonah is not compensated any further for costs associated with attending stranding events.
4. *Information on the tender process (if any) in public, for providing similar services to that of Project Jonah, to be fair to others, considering public funds are being used to cover said service.*
- Public sector procurement in New Zealand is governed by the Government Procurement Rules (“the Rules”) issued by the Ministry of Business, Innovation and Employment.
 - There is a duty on all public servants to comply with these directives when sourcing goods, services or works from third party suppliers. In particular, the Rules set out mandatory standards and procedural requirements for procurement by government departments.
 - The Department of Conservation (DOC) is one of the government departments mandated to follow these rules. DOC has established a clear policy and standard operating procedures to comply with the Rules, which state that the purchase of any goods or services over the value of \$100,000 (excluding GST) must be openly tendered via the Government Electronic Tenders Service (GETS).
 - The Rules also include very specific circumstances where an exemption from open tendering is allowed (Rule 14 of the Rules), which include:
 - Emergency
 - Following an open competitive process
 - Only one supplier
 - Additional goods, services or works
 - Prototype
 - Commodity market
 - Exceptionally advantageous conditions
 - Design contest
 - Secondary procurement
 - Unsolicited unique proposal
 - More detail on each of these circumstances can be found here: <https://www.procurement.govt.nz/procurement/principles-charter-and-rules/government-procurement-rules/getting-started/exemption-from-open-advertising/>
 - DOC’s procurement rules do not apply to grants.
 - A Service Level Agreement outlines how a relationship between two parties should work and focuses on performance measuring and an agreed service quality. It may not always be legally binding, in contrast to a contract which expressly states that both parties agree to be bound by it.
 - As Project Jonah is the only supplier of this service in Aotearoa (the training and management of a nationwide pool of volunteers to care for and refloat stranded whales and dolphins) and we wanted to reflect our partnership and sense of collaboration while not being legally bound by an agreement, a Service Level Agreement was chosen.

5. *Information on the technical advice offered by Project Jonah to the Department of Conservation on stranding events - particularly in Canterbury, and at Farewell spit, since 2019.*

To provide you with the exact advice that Project Jonah has provided to DOC at each stranding since 2019 would require substantial collation and research, so I am declining this request under section 18(f) of the Official Information Act. However, I can provide you some context about the kind of advice Project Jonah provides to DOC and when:

- One of the services provided by Project Jonah under the SLA is "...an appropriate level of support at marine mammal incidents, including remotely". Though not specified in the SLA, this may come in several forms including:
 - Provision of trained volunteers to assist in caring for and refloating whales as well as other tasks as required, e.g. traffic management, crowd control, etc.
 - Staff support at major events, including operational and logistics support, understanding of the Co-ordinated Incident Management System (CIMS), guiding members of the public, supporting decision making, engaging with other agencies, and other tasks as requested by DOC staff.
 - Advice and guidance from staff or senior medics about techniques for caring for and refloating stranded whales, in-person or remotely, including, but not limited to species identification, health assessment, resource availability, external connections with national and international experts e.g. International Whaling Commission Expert Advisory Panel on Strandings.
- The level of support required from Project Jonah will be highly dependent on the type of incident, location, and experience or availability of DOC staff.
- Some Districts, such as Takaka, are less likely to require technical advice from external agencies due to the frequency of strandings and therefore the experience and familiarity of staff with strandings.
- The level of support provided by Project Jonah to DOC is at the request of DOC staff.
- Project Jonah, as well as other stakeholders, are often involved in and contribute to decision making, but the decision remains with DOC and treaty partners.

You made the following statement in your follow up clarification:

Key strategies for assistance excludes areas south of Marlborough - and as I have been to a number of rescues here in chch, I am interested in understanding the agreement, in full, between DOC and PJ.

We think you may be referring to an earlier version of the SLA in which there were six 'key regional areas' in which training and support was focused. This did not preclude the provision of training or support for other regions. The 'key regional areas' were dropped from the 2021 and 2024 SLAs to acknowledge the fact that support was required, and provided, throughout Aotearoa.

Regarding Christchurch specifically, Project Jonah regularly provide support in the management of marine mammal incidents (both live strandings and beach-cast) through initial notifications, initial assessments, identification, volunteer provision, monitoring, and advice on refloating management and methods.

I have decided to release the relevant parts of the documents listed below, subject to information being withheld under one or more of the following sections of the Official Information Act, as applicable:

- personal contact details of officials, under section 9(2)(a) – to protect the privacy of natural persons, including deceased people,
- commercially sensitive information, under section 9(2)(b)(ii) – to protect the commercial position of the person who supplied the information, or who is the subject of the information.

Item	Date	Document description	Decision
1	23 July 2024	Service Level Agreement between Project Jonah New Zealand Inc. and Department of Conservation	Released in part

In making my decision, I have considered the public interest considerations in section 9(1) of the Official Information Act and determined there are no public interests that outweigh the grounds for withholding.

I have borne in mind section 18B of the Official Information Act but concluded that use of this provision would not assist in this case.

You are entitled to seek an investigation and review of my decision by writing to an Ombudsman as provided by section 28(3) of the Official Information Act.

Please note that this letter (with your personal details removed) and attached documents may be published on the Department's website.

If you would like to discuss this response with us, please contact Hannah Hendriks, Technical Advisor by email to hhendriks@doc.govt.nz.

Nāku noa, nā



Kirstie Knowles
Director Biodiversity System and Aquatic
Department of Conservation
Te Papa Atawhai