

5 February 2026

Tēnā koe

Thank you for your request to the Department of Conservation (DOC), received on 8 January 2026, in which you asked a variety of questions on different themes:

A. Lawfulness of Procurement

- 1. On what evidential basis has DOC relied on the “only one supplier” exemption under Rule 14 of the Government Procurement Rules to avoid open tendering for marine mammal stranding response services for more than a decade?*
- 2. What market testing, supplier assessments, or capability analyses has DOC undertaken since 2010 to confirm that no alternative provider exists?*
- 3. When was the last formal market scan conducted?*
- 4. Has DOC documented reasons for not tendering this service despite repeated renewals of a Service Level Agreement over multiple procurement cycles?*
- 5. Has DOC obtained legal advice on the risk that this long-term arrangement constitutes de facto exclusivity without lawful authority?*

B. Use of Service Level Agreement Instead of Contract

- 6. Why has DOC elected to use a Service Level Agreement (SLA) rather than a legally binding contract for a service funded by public money?*
- 7. What statutory authority supports DOC outsourcing elements of marine mammal response through a non-contractual instrument?*
- 8. Does DOC consider the SLA sufficient to protect:*
 - o Value for money,*
 - o Accountability for performance,*
 - o Remedies for non-performance?*
- 9. Has DOC assessed whether the SLA structure improperly fetters DOC’s statutory discretion under the Marine Mammals Protection Act 1978?*

C. Financial Oversight & Value for Money

10. *What proportion of the annual DOC payment to Project Jonah contributes directly or indirectly to staff remuneration?*
11. *Has DOC ever audited how SLA funds are applied within Project Jonah's internal budget?*
12. *Has DOC assessed whether \$60,000 per annum represents value for money for the services specified?*
13. *What benchmarks were used to assess this?*

D. Equipment, Capability & Readiness

14. *What inventory of rescue pontoons, slings, flotation devices and stranding-response equipment does DOC own nationally?*
15. *Where are these assets stored, who maintains them, and how often are they audited for readiness?*
16. *What formal capability analysis has DOC conducted to ensure that response assets meet best-practice standards?*

E. Outcomes & Performance Measurement

17. *What data does DOC hold on stranding outcomes by year since 1990, including:*
 - *Number of animals stranded,*
 - *Number refloated,*
 - *Number euthanised,*
 - *Estimated survival?*
18. *Has DOC assessed the reported decline in refloat/survival success rates from approximately 70% in the 1990s to around 45% post-2000?*
19. *What causal analysis has DOC undertaken to explain this decline?*
20. *Has DOC compared performance during periods of different technical leadership (including when Steve Whitehouse was centrally involved)?*

F. Governance & Risk

21. *Has DOC maintained a risk register for marine mammal stranding response?*
22. *What governance assurance has DOC sought to confirm that the existing arrangement does not present:*
 - *Reputational risk,*
 - *Operational risk,*
 - *Welfare risk,*
 - *Legal or procurement non-compliance risk?*

23. Has DOC disclosed this arrangement to the Office of the Auditor-General previously?

G. Treaty & Equity Considerations

24. Has DOC assessed whether the exclusive reliance on one provider has constrained iwi-led or regional response capability development?

25. Has DOC considered the Crown's obligations to Māori in marine mammal management when structuring this long-term arrangement?

H. Systemic Integrity

26. Does DOC accept that a 10+ year non-tendered arrangement funded with public money may undermine:

- Procurement integrity,
- Market development,
- Democratic accountability?

27. What assurance can DOC provide that this arrangement would withstand scrutiny under the Public Audit Act 2001 and principles of public-sector financial management?

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

Your questions and our responses are listed below. We have grouped questions where relevant.

1. On what evidential basis has DOC relied on the "only one supplier" exemption under Rule 14 of the Government Procurement Rules to avoid open tendering for marine mammal stranding response services for more than a decade?

2. What market testing, supplier assessments, or capability analyses has DOC undertaken since 2010 to confirm that no alternative provider exists?

3. When was the last formal market scan conducted?

4. Has DOC documented reasons for not tendering this service despite repeated renewals of a Service Level Agreement over multiple procurement cycles?

5. Has DOC obtained legal advice on the risk that this long-term arrangement constitutes de facto exclusivity without lawful authority?

26. Does DOC accept that a 10+ year non-tendered arrangement funded with public money may undermine:

- Procurement integrity,
- Market development,
- Democratic accountability?

27. What assurance can DOC provide that this arrangement would withstand scrutiny under the Public Audit Act 2001 and principles of public-sector financial management?

An independent review by Down2Earth Facilitation in 2014, prior to the establishment of the Service Level Agreement (SLA) between DOC and Project Jonah, identified two other groups known to assist with marine mammal rescues in New Zealand: Far North Whale Rescue, and Whale-Rescue.org. The former had a narrow geographic focus, and the latter was noted as differing from Project Jonah in that they do not train up volunteers to become marine mammal medics as a part of a national pool of volunteers and associated call-out system.

Based on this, DOC determined that Project Jonah's established, nationwide database of volunteers, call-out system, and ongoing structured training programme is a unique, bespoke service without a comparable provider in New Zealand.

A formal market scan has not been conducted since the independent review, however DOC staff working in this space maintain visibility of key players in the marine mammal response space and, to date, have not seen any evidence that either of the two previously mentioned organisations have expanded into a comparable level of services as Project Jonah. We believe that Far North Whale Rescue is not currently active in this space. Therefore, we do not consider there is a need to tender or obtain legal advice on the matter.

For questions 26 and 27, we firmly dispute any suggestion that the SLA undermines procurement integrity, market development, or democratic accountability. The rationale set out above explains why our approach is sound and appropriate.

6. Why has DOC elected to use a Service Level Agreement (SLA) rather than a legally binding contract for a service funded by public money?

As stated in our response to your previous OIA request (OIAD-4836), the SLA better reflects our partnership and sense of collaboration. The SLA is a legally binding agreement with milestones to be met.

7. What statutory authority supports DOC outsourcing elements of marine mammal response through a non-contractual instrument?

We do not consider that the SLA is outsourcing any statutory requirement of marine mammal response. The SLA states that "Project Jonah is not responsible for managing stranding incidents, unless mutually agreed upon by DOC and Project Jonah representatives". This does not give Project Jonah the authority to make decisions on euthanasia or the treatment of deceased animals, nor does it remove DOC's responsibilities to Treaty Partners under Section 4 of the Conservation Act 1987 (stating that we must give effect to the Treaty of Waitangi). The Marine Mammals Protection Act 1978 states that people are able to give humane assistance or care to any stranded marine mammal as long as details are provided to DOC as soon as practicable.

8. Does DOC consider the SLA sufficient to protect:

- *Value for money,*

- *Accountability for performance,*
- *Remedies for non-performance?*

As noted in our response to your previous OIA request (OIAD-4836), the SLA is reviewed every three years to review the relationship, the needs of each party, and performance. In addition to the three-yearly review, we carry out an annual review to monitor the Key Performance Indicators. This includes getting feedback from DOC's Operations staff and identifies any concerns or areas of improvement for both parties. Section 3 of the SLA also allows for a review in the event of significant change to the customer need, service delivery, or funding situation.

9. Has DOC assessed whether the SLA structure improperly fetters DOC's statutory discretion under the Marine Mammals Protection Act 1978?

Yes. The SLA does not limit or restrict either the Minister's or the Director-General's powers under the Act.

10. What proportion of the annual DOC payment to Project Jonah contributes directly or indirectly to staff remuneration?

DOC does not hold this information, so I am refusing this part of your request under section 18(g) of the OIA.

11. Has DOC ever audited how SLA funds are applied within Project Jonah's internal budget?

DOC has not undertaken a formal audit. However, section 6.1 of the SLA, which you received a copy of under your previous OIA request, outlines the services which must be provided by Project Jonah in exchange for the funds. As previously mentioned, these services are reviewed annually and at the review of each SLA term, with the ability to review out-of-cycle if there are any significant changes.

As a charity, Project Jonah's finances are subject to scrutiny by Charity Services and their Annual Returns are available publicly via the Charities Register:

<https://register.charities.govt.nz/Charity/CC38959>.

12. Has DOC assessed whether \$60,000 per annum represents value for money for the services specified?

13. What benchmarks were used to assess this?

DOC commissioned an independent review of Project Jonah in 2014 which estimated that it would cost DOC at least \$100,000 per annum to run its own volunteer training programme and invest in additional equipment to support stranding responses. We have not reviewed it since then but assume the cost would be significantly higher more than a decade later. A DOC internal Options Analysis in 2015 considered that even funding Project Jonah \$100,000 per annum would likely produce more value than investment made.

At the last SLA review (2024), Project Jonah reported that they had a database of over 5000 trained medics around Aotearoa. Over the last SLA term (2021-2024) they responded to 127 marine mammal matters, trained 116 DOC staff, and ran private trainings for DOC staff, tangata whenua, and other stakeholders in Kapiti, Mahia, Timaru, Kaikoura, Westland, Whitianga, Tauranga, and Kauri Coast (in addition to the ~10 public courses each year). Feedback from Operations staff includes that the Project Jonah SLA is a high-level return on investment.

14. What inventory of rescue pontoons, slings, floatation devices and stranding-response equipment does DOC own nationally?

15. Where are these assets stored, who maintains them, and how often are they audited for readiness?

16. What formal capability analysis has DOC conducted to ensure that response assets meet best-practice standards?

Each DOC District is responsible for compiling and maintaining their stranding kit. DOC does not hold a national inventory of this equipment. Our Standard Operating Procedures (SOPs) and District Operational Plans outline the recommended equipment; however equipment held differs depending on the frequency of stranding events in a District, resources available, and local priorities. We recommend that staff review their stranding kits annually.

Providing a list of all assets and details regarding their management would require collating these details from each office. This information is not held centrally, as it is each District's responsibility as part of their broader asset management and implementation of the SOP and Operational Plan. This collation would be substantial and is therefore refused under section 18(f) of the OIA. In making this decision, I have considered the public interest in this material and do not think that it outweighs the grounds for withholding when considering the staff time that would be required to answer this part of your request.

17. What data does DOC hold on stranding outcomes by year since 1990, including:

- *Number of animals stranded,*
- *Number refloated,*
- *Number euthanised,*
- *Estimated survival?*

DOC centrally maintains a national database of marine mammal incidents. This data is limited to records received by DOC's Marine Species Team from a number of different sources and independent field offices, and we cannot guarantee that it is fully representative or accurate, despite our best efforts. This data is publicly available on request to DOC.

The data recorded in the database is based on incident forms that should be completed at each stranding or beach-cast event. We try to record the total number of whales stranded,

how many are refloated, how many refloat attempts there were, and number of whales re-stranded. In recent years, we have added a field to record the number of whales that were euthanised whereas previously this was captured in the comments. It is not always straightforward to accurately and clearly capture the full dynamics of a large, extended stranding event simply in a database. We do not have data about estimated survival as this would require tracking of whales for some time post-release. This is not feasible without satellite tracking which has, to date, not been possible, despite research attempts.

18. Has DOC assessed the reported decline in refloat/survival success rates from approximately 70% in the 1990s to around 45% post-2000?

19. What causal analysis has DOC undertaken to explain this decline?

20. Has DOC compared performance during periods of different technical leadership (including when Steve Whitehouse was centrally involved)?

We have not received any reports of a decline in success rates and therefore have not analysed such a decline. We caution against simple comparisons of stranding data across time for various reasons, which we expand on here.

The quality and quantity of data collection have improved over time, particularly with the advancement of technology. Processes for strandings and data collection have also changed over time and have likely not been followed equally around the country. Additionally, the ownership, storage, and formatting of this data have changed over time.

Refloating whales is not necessarily the main goal during a live stranding response. The priority is to protect human health and safety and to ensure animal welfare, not to refloat whales at all costs. In recent years, even more attention has been paid to the animal welfare aspect of strandings, and DOC has collaborated with researchers focusing on this area. These priorities may lead to a decision to attempt a refloat, carry out euthanasia, provide palliative care, or use a combination of actions in the case of mass strandings.

Each stranding event is a unique scenario with many different variables, including species, numbers, resources, and weather and site conditions. These variables make a like-for-like comparison of success rates impossible.

For these reasons, we do not believe it is straightforward, or necessarily prudent, to estimate stranding success or compare it across time.

21. Has DOC maintained a risk register for marine mammal stranding response?

22. What governance assurance has DOC sought to confirm that the existing arrangement does not present:

- *Reputational risk,*
- *Operational risk,*
- *Welfare risk,*
- *Legal or procurement non-compliance risk?*

23. Has DOC disclosed this arrangement to the Office of the Auditor-General previously?

DOC does not maintain a risk register for marine mammal stranding response. At the most recent SLA review in 2024, an Options Analysis considered risks and concluded that health, safety, and wellbeing of staff and volunteers, animal welfare, and iwi relationships would likely be at risk if we did not renew the SLA. No reputational, operational, welfare, or legal or procurement risks were identified with renewing the SLA.

We have not declared this arrangement to the Auditor-General as we assess there is no reason for us to do so.

24. Has DOC assessed whether the exclusive reliance on one provider has constrained iwi-led or regional response capability development?

25. Has DOC considered the Crown's obligations to Māori in marine mammal management when structuring this long-term arrangement?

Each DOC District works with Treaty Partners on how to respond to marine mammal strandings and consults with them on decision making during a response, as per our Standard Operating Procedures and District Operational Plans. Our agreement with Project Jonah does not preclude Treaty Partners from participating in or developing their response. Treaty Partners are frequently included in Project Jonah training sessions requested by DOC or the rōpū themselves. The agreement with Project Jonah does not mean Project Jonah are automatically included in stranding response; they are either requested by DOC or will ask DOC whether their advice or assistance is required.

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 OIA.

Please note that this letter (with your personal details removed) may be published on DOC's website.

Nāku noa, nā



Kirstie Knowles
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Te Papa Atawhai