

Cultural Monitoring Protocols (Updated February 2014)

Next revision in 2016

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Purpose

To provide protocols for Western Bay of Plenty District Council projects (see glossary for definition of 'projects') to ensure a consistent approach to undertaking cultural monitoring of the environment/earthworks by tangata whenua within the Western Bay District to protect cultural sites of significance, taonga and waahi tapu.

Background

The Cultural Monitoring Protocol has been developed to ensure:

- the discovery of koiwi and artefacts whilst undertaking earthworks are culturally protected;
- a consistent approach in relation to the appointment of monitors to undertake cultural monitoring and the management of accidental discoveries at sites of significance;
- a culturally appropriate approach if there are associated impacts on the natural environment whilst undertaking earthworks e.g. removal of trees, impact of earthworks on water bodies;
- To meet the obligations of Article 2 in the Treaty of Waitangi – in accordance with Council obligations outlined in the Resource Management Act (1991) and Local Government Act (2002).

The Protocol have been developed by a working party of Te Komiti Maori representatives and Council representatives.

Relevant Legislation

- Resource Management Act (1991);
- Local Government Act (2002);
- Historic Places Act (1993);
- Protected Objects Act Part 2 Nga Taonga Tuturu ownership (1975);
- Burial and Cremations Act (1964)¹;
- Coroners Act (2006).

Related Documents

- Council tangata whenua engagement guidelines and protocol
<http://intranet/Operations/Tangata-Whenua/SitePages/Policies.aspx>
- Tangata whenua contact directory
<http://intranet/Operations/Tangata-Whenua/SitePages/Tangata%20Whenua%20Directory.aspx>

¹ The Burial and Cremations Act is currently under review. The cultural monitoring protocols may need be updated in light of any changes to the Act.

- Iwi/hapu management plans lodged with Council that apply to the area earthworks is to be undertaken.
- cultural impact assessments that apply to the area earthworks is to be undertaken.
- Appendix 3 – Schedule of identified Significant heritage Features – Western Bay of Plenty District Council District plan
<http://www.westernbay.govt.nz/Documents/Publications/DistrictPlan/Appendix%203.pdf>
- New Zealand Archaeological Association (NZAA) Cultural Heritage Sites database <http://www.archsite.org.nz/>
- New Zealand Historic Places Trust register and the waahi tapu registers <http://www.historic.org.nz/TheRegister.asp>
- Treaty of Waitangi <http://www.waitangi-tribunal.govt.nz/treaty/>
- Regional Council and District Council plans and documents www.boprc.govt.nz and www.westernbay.govt.nz
- Statutory acknowledgements arising from Treaty of Waitangi settlement legislation. A Statutory Acknowledgement is a formal acknowledgement by the Crown of the mana of tangata whenua over a specified area. It recognises the particular cultural, spiritual, historical and traditional association of iwi with the site, which is identified as a statutory area. The sites include Crown owned lands covering land, geographic features, lakes, rivers, wetlands and costal marine areas. Nga Whakaaetanga-a-Ture ki te Taiao a Toi incorporates statutory acknowledgements for the Bay of Plenty iwi. This is a compendium document to the operative Bay of Plenty Regional Policy Statement, regional plans and the proposed Bay of Plenty Regional Policy Statement..

<http://www.boprc.govt.nz/council/kaupapa-maori/statutory-acknowledgements/>

Cultural Monitoring Process Checklist

To assist staff in using the cultural monitoring protocols the following checklist has been developed. Please complete, this information will also assist reviews of the protocols.

Project name:

Geographical area project will be undertaken:

State the reason/s for needing a cultural monitor (see p6 of the protocols for a list of reasons):

Cultural Monitoring Process	Comments
Contact person for relevant mandated iwi, hapu or runanga entity has been identified.	Indicate if you used the tangata whenua contact directory. Name the iwi, hapu or runanga entity and contact person.
Relevant iwi, hapu or runanga entity plans or documents lodged with Council have been reviewed.	Name the plans and documents reviewed and note any points that are relevant to the project.
Liaison with the NZHPT in relation to any archaeological authority.	Name of NZHPT staff member/s liaison occurred with and date of contact.
Contact with identified iwi, hapu or runanga entity.	Note date when any letters, emails, phone calls and/or meetings held and attach (or Objective reference/s) any letters, emails or meeting notes.
Employment and cultural monitoring arrangements confirmed.	Attach (or Objective reference/s) short form agreement, any other detail regarding cultural monitoring arrangements and letter from mandated iwi, hapu or runanga entity of the mandated cultural monitor.
Consultation with mandated iwi, hapu or runanga entity regarding	Attach (or Objective reference/s) any notes regarding kawa/tikanga requirements.

appropriate kawa/tikanga requirements.	
Map and plan showing sites of cultural significance and a plan detailing the duration of monitoring and excavation procedures.	Attach (or Objective reference/s) relevant maps and plans.
10 working days notice given to mandated iwi, hapu or runanga entity.	Note date and means of contact e.g. phone call, email, letter.
Cultural monitor notification of culturally sensitive sites and/or induction.	Note if this occurred.
Complete review checklist (appendix 3).	

Pre-Planning and Engagement

It is recognised that effective Council engagement with iwi and hapu significantly assists in working together on projects e.g. Council earthwork projects. For this reason emphasis is placed on the pre-consultation phase to better understand iwi/hapu requirements. This will enable improved efficiency at the point of deciding whether a cultural monitor is required and the subsequent undertaking of cultural monitoring or whether something else is required e.g. cultural impact assessment.

Te Komiti Maori

To encourage tangata whenua involvement in Council projects from their inception Council will inform Te Komiti Maori of all Council projects (including identification of known archaeological and cultural heritage sites) that have the potential to disturb culturally significant sites on an annual basis, with quarterly updates during the year.

Whilst it is recognised that it is the iwi or hapu who decide on the need for cultural monitoring, Te Komiti Maori have the ability to provide guidance at the project planning stage or while reviewing planning tools. Te Komiti Maori can also assist in the identification of the correct iwi and hapu to consult

Iwi/hapu consultation and engagement

At a general level, it is well recognised that positive relationships between Council, hapu and iwi is a significant factor in the effective implementation of these protocols. For example, consultation at a pre-construction stage may result in changes to the project which could avoid culturally significant sites and consequently the need for a cultural monitor. Please see Council's tangata whenua engagement guidelines and protocols for more information about Council's approach to working with hapu and iwi and Council/iwi/hapu initiatives.

<http://intranet/Operations/Tangata-Whenua/SitePages/Policies.aspx>

Following the presentation to Te Komiti Māori of Council projects, this information will also be emailed to all iwi and affected hapu in the District seeking involvement from the relevant iwi and hapu.

Where efficiencies can be gained for both Council and iwi/hapu, Council may "cluster" projects in geographical areas (e.g. wards) and present these to the hapu and iwi with interests in the area to raise their awareness of earthworks occurring in their rohe and to provide an opportunity for iwi/hapu to inform Council of cultural sites of significance and any cultural requirements they may have e.g. monitoring and cultural impact assessment etc. Equally, Council may collectively approach relevant iwi/hapu regarding a project to obtain an understanding of their cultural requirements in relation to the project.

When to use cultural monitors

- when it is a justifiable recommendation in a cultural impact assessment (CIA) (please see Appendix One for further information on CIA's); or
- when it is a condition of a consent e.g. if there are known significant sites; or
- when earthworks are within 100 metres of a registered archaeological site or a site of significance; or
- Upon the recommendation of a qualified archaeologist who is familiar with the area where the earthworks shall be carried out; or
- Upon justifiable recommendations from the hapu as a result of pre planning with mandated representatives of the iwi, hapu or runanga entity or from the relevant iwi/hapu Management Plan; or
- If during the course of the project, accidental discovery identifies that cultural monitoring needs to be undertaken;

Only one of the above conditions may prompt the need for a cultural monitor, however in many cases, a number of these conditions will apply

Cultural Monitoring Process (see cultural monitoring process flow chart below)

1. Council project manager or Council's consultants refer to the Tangata Whenua Contact Directory and/or other relevant resources to identify the relevant mandated iwi, hapu or runanga entity to contact².
2. Council project manager or Council's consultants will check whether any relevant iwi or hapu Management Plans (i.e. project is occurring in the iwi or hapu rohe) or associated documentation have been lodged at Council to obtain any information that is relevant to the project e.g. identification of cultural heritage sites or how they wish to be involved or consulted in relation to these sites. Liaison with the New Zealand Historic Places Trust in relation to any archaeological authority will also occur at this stage.
3. In most cases iwi/hapu prefer communicating face-to-face rather than by phone, email or letter. Where at all possible, the Council project manager or Council's representatives will meet face to face with the mandated iwi, hapu or runanga entity/ies regarding the project including: significant project issues, construction techniques and any resource consents. To avoid the frustration sometimes experienced by both the Council project manager and iwi/hapu in making contact it has been agreed that if a 'reasonable effort' has been made by Council or its nominated representatives to contact and notify the relevant mandated iwi, hapu or runanga entity/ies with no response it is justified to proceed with the project. Reasonable effort is defined as:
 - a. sending a letter or email advising the mandated iwi, hapu or runanga entity/ies of the earthworks and the Council project manager will be phoning them to arrange a meeting to discuss the project.
 - b. phoning the mandated iwi, hapu or runanga entity/ies to arrange a meeting
 - c. meeting with the mandated iwi, hapu or runanga entity/ies if the Council project manager has been able to make contact with the mandated iwi, hapu or runanga entity/ies.
4. Once the need for a cultural monitor has been established the cultural monitor shall be appointed by the mandated iwi, hapu or runanga entity for the cultural monitoring works to be carried out.

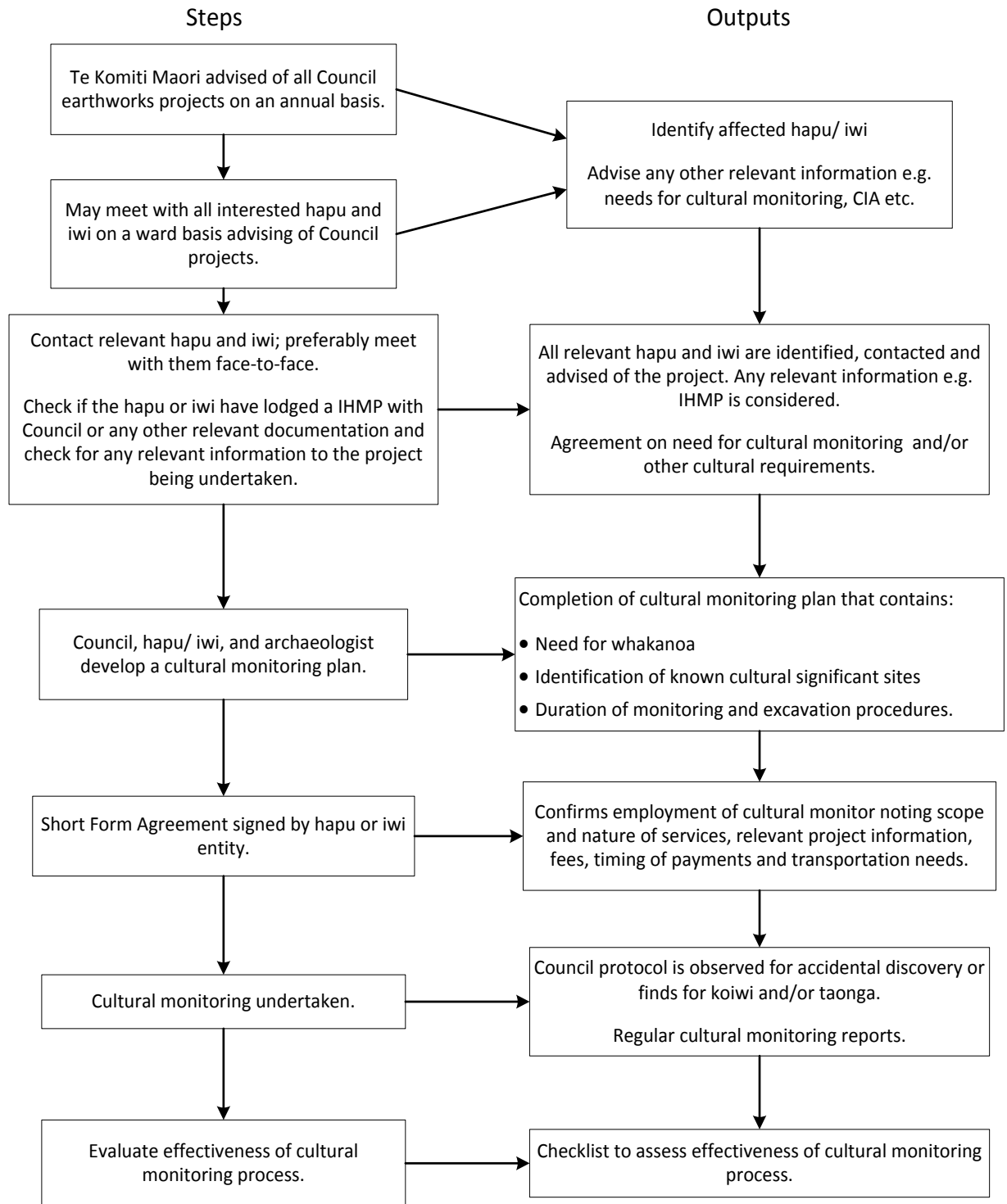
² It is recognised that there are a range of opinions regarding the boundaries of each iwi and hapu which can make it difficult to identify the relevant mandated Iwi, Hapu or Runganga entity/ies. For this reason it is important to use a variety of sources to identify the relevant mandated Iwi, Hapu or Runganga entity/ies e.g. see Council's Takawaenga Māori officer, Te Komiti Maori members etc.

5. The Council project manager will confirm details of the earthworks to be undertaken i.e. project scope/details, location, number of work faces and timeframes. The project manager and the iwi, hapu or runanga representative will agree the terms and timeframes for the cultural monitoring as informed by these protocols including any transportation requirements where work is occurring in remote, rural areas. The Short Form Agreement for Engagement (see Appendix 2) must be completed and signed by both the iwi/hapu representative and the project manager prior to the commencement of any work being undertaken. Council will be advised in writing by the mandated iwi, hapu or runanga entity of the mandated cultural monitor.
6. Before earthworks commence in sensitive areas, kaumatua from the mandated Iwi, Hapu or Runanga entity will be invited to carry out a whakanoa ceremony for the removal of tapu in accordance with kawa/tikanga. The Council project manager will need to consult with the mandated Iwi, Hapu or Runanga entity as to the appropriate kawa/tikanga requirements and if appropriate provide catering (as a general principle refreshments are required following a blessing, opening or ceremony e.g. cup of tea).
7. Prior to commencing work that may disturb culturally significant sites (e.g. earthworks) a map and plan shall be prepared by Council in consultation with the mandated iwi, hapu or runanga entity, the Project Archaeologist and the contractor (if employed at this stage) showing sites of cultural significance and a plan detailing the duration of monitoring and excavation procedures.
8. The Council project manager will ensure that 10 working days notice is given at the commencement of any excavation. The only exception to this is if earthworks is being undertaken as the result of a civil emergency. The mandated iwi, hapu or runanga entity will be responsible for the attendance of the cultural monitors. At the discretion of the mandated iwi, hapu or Runanga entity, monitors maybe on call.
9. Prior to commencing earthworks the cultural monitor shall identify to all persons on the site:
 - a. Where there are culturally sensitive areas e.g. proximity to wahi tapu, likelihood of pre- European occupation etc.
 - b. Provide pre-works induction if necessary e.g. guidance on what to look out for, identification of sensitive areas etc.
 - c. Iwi or hapu specific requirements.
10. One monitor shall accompany each excavation machinery at any one time whilst earthworks are occurring , or as otherwise agreed between the Council project manager and the identified iwi/hapu e.g. if two machines are operating in close proximity to each other, one monitor may be sufficient. Additional cultural monitors are welcome to also monitor the workplace provided health

and safety requirements are met however this would not be paid for by Council.

11. The monitor shall be responsible for either providing a brief summary of what they monitored if no discovery occurred or if there was a discovery a more detailed report will be written on the progress and outcome of the cultural monitoring back to the affected mandated iwi, hapu or runanga entity and the Council project manager.. The Cultural Monitor will provide a report regardless of whether or not the archaeologist is providing a report.
12. The project manager shall discuss with the cultural monitor when their services are no longer be required (see 'Cultural Monitoring Requirements' which outlines when a cultural monitor is required).
13. Council's project manager shall endeavour to notify cultural monitors if work will not be occurring the day prior. However if a monitor has not been notified and is on site or if it is decided work on site cannot be carried out for any reason i.e. bad weather or breakdown of machinery the cultural monitor will be paid for the equivalent of two hours work.
14. Should a historical koiwi/artefact be unearthed the monitor will ensure all earthworks are stopped in the vicinity of the site (as agreed with the project manager) and immediately contact the project manager (Refer Discovery protocols).
15. Complete checklist (Appendix 3)to assess the effectiveness of the cultural monitoring process for each project to inform the review.

Cultural Monitoring Protocol Process



Cultural Monitoring Requirements

The frequency and duration of cultural monitoring will be determined by the criteria outlined below with the agreement between the mandated iwi, hapu or runanga representatives, the Council project manager and the site archaeologist.

Cultural monitors shall be required on site:

1. To attend the initial site meeting
2. For the breaking of unexcavated earth.
3. To the depth of where the soil is then deemed sterile by the Archaeologist over the entire area where earthworks are proposed.
4. To ensure a culturally appropriate approach if there are associated impacts on the natural environment whilst undertaking earthworks e.g. removal of trees, impact of earthworks on water bodies;
5. As otherwise agreed between Council and the mandated iwi, hapu or runanga entity.

Cultural monitors are expected to be on site at the agreed dates and times. Should the cultural monitor fail to meet Council timeframes, earthworks may continue without cultural monitors, however the Council project manager will endeavour to communicate with the appropriate entities.

Discovery or finds

Action following discovery

Immediately following discovery of any tangata koiwi or taonga, the monitor will ensure all earthworks are stopped in the vicinity of the site (as agreed with the project manager) and immediately contact the project manager.

Securing the site

Should a find be unearthed, the find site and the 'immediate vicinity' around the discovery shall be made secure. The area of 'the immediate vicinity' will be defined by the project archaeologist, the New Zealand Historic Places Trust (NZHPT) and the cultural monitor and will include:

- any area considered to have a high probability of containing, archaeological features similar to those found at the discovery site, and that warranted careful investigation; and/or
- an area the Council project manager– determines is necessary as a safety buffer zone separating those investigating or retrieving archaeological features or material and those carrying out other construction activities so as to provide an acceptable level of safety to all persons and to the features or materials.

To improve security of the find, or access to the find, the Council project manager will instruct the contractor and will assist with any reasonable requests made by the Project Archaeologist or the iwi/hapu representative.

All archaeological information will be recorded by the project archaeologist if required by an NZHPT authority in accordance with the Historic Places Act (1993) requirements. A copy of the report is to be given to the Council project manager within 6-12 months (depending on the scale of the project) of project completion and within two months a summary of the Report will be presented to the Council project manager by the Project Archaeologist and if appropriate iwi/hapu representative.

Discovery of koiwi

See the flow chart outlining the procedure in the event of discovering koiwi.

If skeletal remains (koiwi tangata) are uncovered, then the site is an archaeological site in terms of the Historical Places Act (1993) and the relevant provisions of that Act will apply. The site, and the features and human skeletal remains (koiwi tangata) contained therein, will be treated in accordance with the conditions of the relevant NZHPT authority to disturb, modify or destroy the site. If no such authority exists at the time of the discovery, the NZHPT will be contacted for advice on how to proceed.

The cultural monitor shall immediately advise the Council Project Manager who, in turn, will immediately advise:

- The engineer to the contract;
- The Council management team ;
- The project archaeologist;
- The hapu/iwi representatives;
- The NZHPT;
- Ministry of Health – it is a requirement under Section 51 of the Burial Cremation Act (1964) to apply for a disinterment licence;
- The New Zealand Police, Maori Liaison – this is a requirement of Section 14 Coroners Act (2006). The Police will report the finding to the nearest coroner in accordance with section 20 of the Coroners Act (2006). Section 42 of the Coroners Act (2006) empowers the coroner to release the body to family members.

Within four hours of notice being given by the Council project manager to the nominated hapu/iwi representatives of human skeletal remains (koiwi tangata) having been discovered, hapu/iwi members, whanau and any other excavation monitoring teams present on the construction site will assemble at the discovery site.

The hapu/iwi will, according to their tikanga, bless the find or place a rahui over the site. Once these ceremonies are completed, the project archaeologist, in consultation with the Police and the hapu/iwi will first inspect the skeletal remains to determine

their likely age. Consideration should be given to leaving the koiwi tangata in situ and altering the work plans as appropriate. The decision will be made by the Council project manager, representative of the mandated iwi, hapu or runanga entity, land owner and the archaeologist.

The Police and/or the Coroner will be responsible for any remains that they take for testing. The hapu/iwi will liaise directly with the Police and/or Coroner regarding what will happen to the remains once any pathology tests are completed.

Provided there are no conditions in the relevant NZHPT authority to the contrary, and that the Police and the Coroner have no objection, the hapu/iwi, in conjunction with the land owner, will determine what will happen to the skeletal remains and where they will be reburied, should they wish to do so. One of the options could be the establishment of a burial reserve where the koiwi were found. One of the hapu/iwi representatives will communicate their decision to the Council project manager.

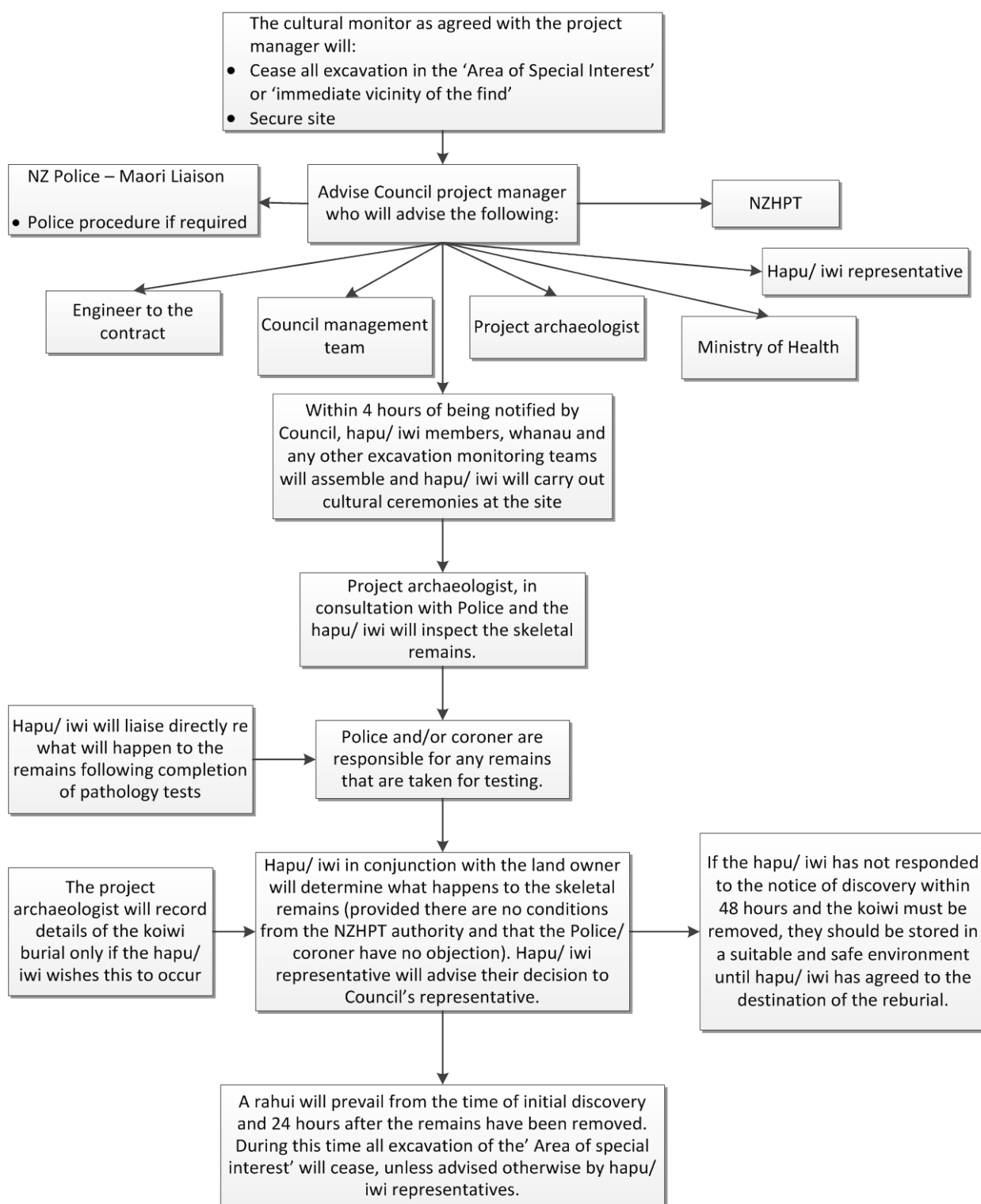
The Project Archaeologist will record details of the koiwi burial only if the hapu/iwi wishes this to occur. Any records made will be held in accordance with the wishes of the hapu/iwi.

Should the koiwi tangata be removed from the worksite, the above group will determine the most appropriate reburial either on site or on another agreed site within 48 hours.

A rahui will prevail between the time of the initial discovery of human remains and 24 hours after the remains have been removed – whether by the Police or by the hapu/iwi. During this time all excavation of the 'Area of Special Interest' will cease, unless the nominated representatives of the hapu/iwi advises otherwise.

All archaeological information will be recorded by the project archaeologist in accordance with the Historic Places Act (1993).

Flowchart for handling Koiwi Uncovered



Discovery of taonga

See the flow chart outlining the procedure in the event of discovering taonga.

The contractor shall immediately advise the engineers representative of any find who will immediately advise:

- The Engineer to the contract;
- The Council representative;
- The project archaeologist;
- The hapu/iwi representatives;
- The NZHPT.

Work in the immediate vicinity of the find may resume only with the approval of the nominated project archaeologist monitoring the site, in consultation with the cultural monitor/hapu/iwi representatives.

Initially, the project archaeologist will have control of, and responsibility for, any taonga recovered from the site. The Protected Objects Act (1975) details the procedures relating to determining ownership of any taonga tuturu discovered.

Guidelines for these procedures can be found at:

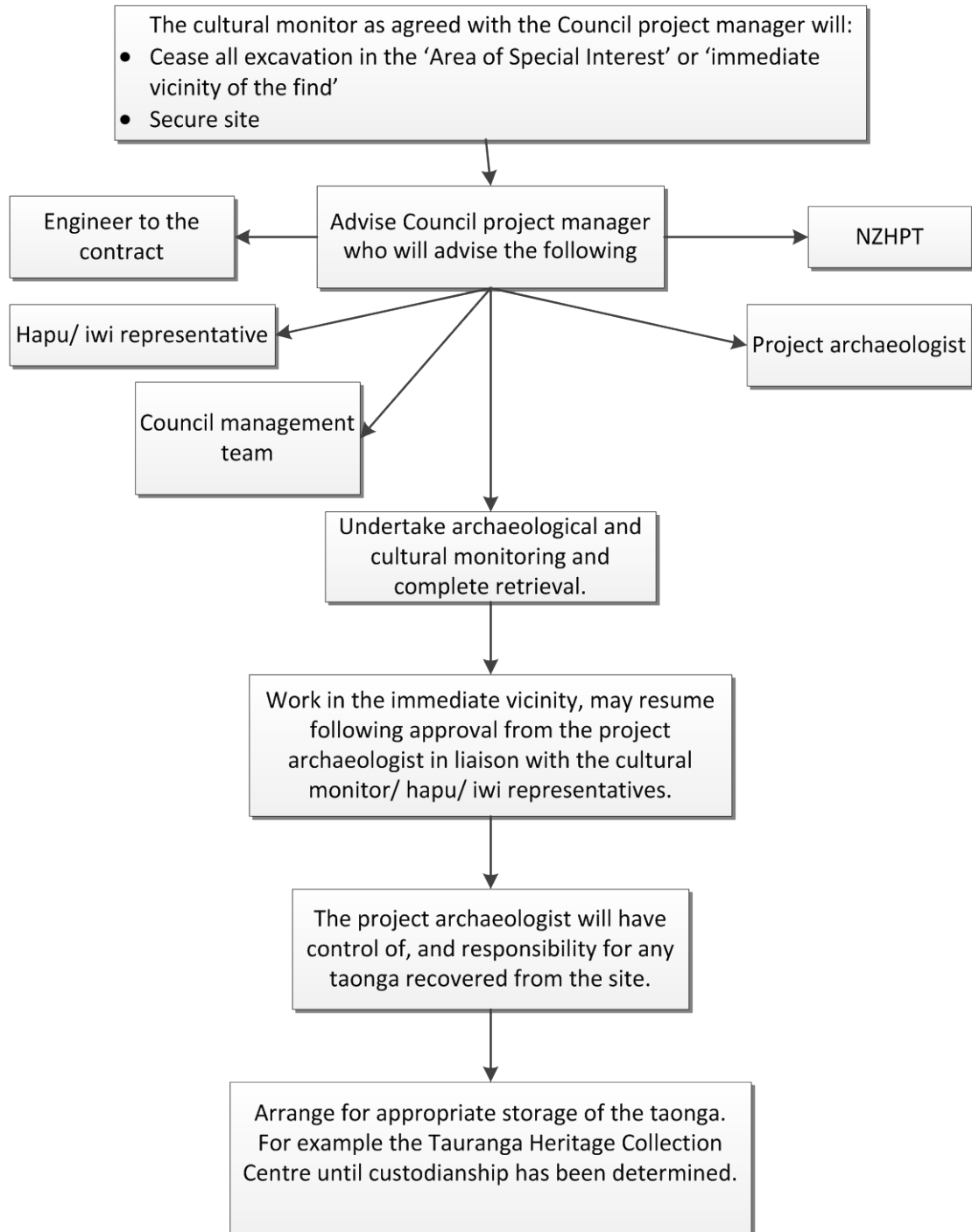
<http://www.mch.govt.nz/protected-objects/Guidelines-for-Taonga-Tuturu-011106.pdf>

The project archaeologist will record the archaeological materials and any artefacts and will notify the Ministry for Culture and Heritage on the prescribed form of the finding of any taonga within 28 days of the completion of the field work.

In the event of the discovery of taonga tuturu, the Tauranga Heritage Collection is the legal repository for the region in regards to fulfilling the requirements of the New Zealand Protected Objects Act (1975), under the Ministry of Culture and Heritage.

This responsibility requires the Tauranga Heritage Collection to store and maintain newly found items recovered from controlled excavation and fieldwork throughout the sub-region on behalf of the Ministry until such time that the Ministry has been able to determine custodianship.

Flowchart for handling Taonga Uncovered



Key Personnel responsibilities and roles

Council e.g. project manager

Western Bay of Plenty District Council often undertakes public works which involve the movement or extraction of earth which have the potential to disturb culturally significant sites. Council is the project manager for earthwork projects. In relation to cultural monitors the Council project manager is responsible to ensure:

- Identification and consultation with the relevant mandated iwi, hapu or runanga entity regarding the earthworks at pre-construction stage.
- Contracting of the relevant mandated Iwi, Hapu or Runanga entities to employ cultural monitor/s.
- Provision of high visual vests, hard hats and wet weather gear (if required) as part of the first short form agreement Council enters with the mandated iwi, hapu or runanga entities (see Health and Safety Equipment section),
- Ensure the site manager and contractors are aware of the role of the cultural monitor
- In conjunction with the contractor, induct the cultural monitor to the site including health and safety requirements, cultural monitor requirements, rules and regulations.
- The following of the protocol in the event of discovering koiwi or taonga.
- Council fulfils its obligation outlined in the short form agreement
- The conditions of the archaeological authority if one has been required.
- Council makes payments upon invoice from the mandated iwi, hapu, runanga entities.

Mandated Iwi, Hapu or Runanga entities

Iwi/hapu or runanga entities are GST registered, legally incorporated and mandated to represent the iwi/hapu so are able to appoint suitable representative/s to monitor a site where earthworks are being carried out by the Western Bay of Plenty District Council and their appointed contractor/s.

Iwi/hapu are responsible for ensuring:

- Cultural monitors are adequately trained to be able to competently undertake the job;
- Cultural monitors have appropriate health and safety equipment (see health and Safety Requirements);
- For the period when any construction impacts on the project site from earthworks have been arranged to be restored;
- Invoice prepared and countersigned by the Contractor
- Incoming payments from Council are processed and monitors are paid;
- Cultural monitor fulfils the terms of the Short Form Agreement.

Cultural Monitors

Cultural monitors are appointed by the mandated iwi, hapu or runanga entity to monitor on site/earthworks to ensure cultural protection occurs upon discovery of koiwi or cultural artefacts. The monitors work closely with the nominated archaeologist, project manager, Council or its nominated representative and mandated iwi, hapu or runanga entity.

The cultural monitor shall be answerable to the project manager employed to carry out the project whilst on site, otherwise is responsible to the mandated iwi/hapu or runanga entity.

The cultural monitor will comply with all health and safety requirements and be familiar with the NZHPT archaeological authority conditions. The cultural monitor shall not interfere with the project other than to carry out the duties of cultural monitoring within the agreed timeframes.

Cultural monitors may take into account other environmental effects (land, water, air) associated with or as a direct result of the earthworks e.g. sediment control, leakage, disturbance of natural landscape, noise, or other adverse effects on bodies of water. This may involve the cultural monitor informing Council (the Project manager) either directly or via their iwi or hapu authority, a referral to a Bay of Plenty Regional Council compliance and enforcement officer or requesting in writing works be stopped.

Contractor's responsibilities

Contractors are employed by and are responsible to the Council project manager. As the 'person in charge' of the project site contractors are expected to adhere to:

- These protocols, in particular health and safety requirements and procedures following discovery or finds.
- Cultural monitor Short form agreement conditions
- Consent conditions including the project archaeological authority conditions.

New Zealand Historic Places Trust (NZHPT)

If an archaeological site is identified in the planning of the earthworks project Council will be required to apply to NZHPT for an authority to undertake earthworks on or near the site, this will also require the employment of an archaeologist.

Project archaeologist

The Council will engage a suitably qualified archaeologist to work on the project. Before engagement, Council will consult with the mandated hapu, iwi or runanga entity as to the suitability of the Project Archaeologist. If an authority exists Council will ensure the archaeologist is approved by the NZHPT under s17 of the Historic

Places Act. The archaeologists time on site may be different (e.g. more limited) to that of the cultural monitor.

Health and Safety Requirements

- It is the responsibility of the iwi/hapu or runanga entity to ensure the cultural monitor has appropriate steel capped boots.
- Council will provide high visual vests marked 'cultural monitor' and hard hats as part of the first short form agreement Council enters with the mandated iwi, hapu or runanga entity. The mandated iwi, hapu or runanga entity are responsible for maintaining and replacing the equipment as required.
- It is the contractor's responsibility to ensure that the monitors receive site-specific health and safety induction and ongoing training.
- If the need should arise, Council will supply the first set of wet weather gear following an invoice for this from the mandated iwi, hapu or runanga entity.
- All health and safety requirements shall comply with Council health and safety policy 112.

Communication

For the term of this Protocol, both the nominated representatives of the hapu/iwi or runanga and Council should be satisfied that there is adequate communication to keep each group adequately informed. If either party consider that there needs to be further consultation, they will advise the other party of this need.

Reporting requirements

The cultural monitors are to record their start and finish times when they were onsite and a written record of what was observed on a weekly basis. This information is to be summarised and included with any claim for payment. Any information provided by the cultural monitor is jointly owned by the Council and the mandated iwi, hapu or runanga entity. Any sensitive information will be dealt with on a case-by-case basis.

Training and Employment

Hapu/iwi are responsible for ensuring cultural monitors are trained to be able to competently undertake the work. Council will endeavour to support the provision of archaeological training in partnership with hapu/iwi, other councils in the sub-region and NZHPT.

Contractors are responsible for ensuring cultural monitors receive site-specific health and safety induction and ongoing training. The cultural monitor may be required to provide cultural awareness training to personnel on site.

Depending on the nature of the project, consideration is given to employing local hapu/iwi if there are any relevant employment opportunities that arise from the project. This would support the local economy, build capability and indirectly assist in raising local hapu/iwi awareness and support for the project.

Fees and payments

Ceremonies, Whakanoa and blessings

There will be no payment for attendance by the hapu/iwi although on occasions where tangata whenua are invited to participate or support Council in events or activities, the current meeting and travelling allowances shall apply (as per Council's Koha Policy). Council will provide catering.

Cultural monitoring and other associated fees

A flat rate of \$120 will be paid for the cultural monitor or a representative from the mandated Iwi, Hapū or Rūnanga entity, to attend an initial meeting to agree the level of monitoring required for a particular site.

A standard rate of \$48.00 per hour shall be paid for cultural monitoring on the site. In the event of a discovery or discoveries occurring whilst monitoring, the rate of \$70 per hour will apply for the period of time it takes to resolve the discovery, and write the report. . The hourly rates will be paid to the mandated Iwi, Hapū or Rūnanga entity and be adjusted according to the consumer price index on an annual basis from 2014.

In the event of wet weather and where appropriate clothing is required for the cultural monitor, Council will pay for one set of wet weather gear to a hapū, iwi or rūnanga entity on a one-off basis. It is expected that the wet weather gear can be used by other cultural monitors in the future.

Payment for services

The invoice relates to cultural monitoring recorded within this Protocol and the hourly rate is exclusive of GST.

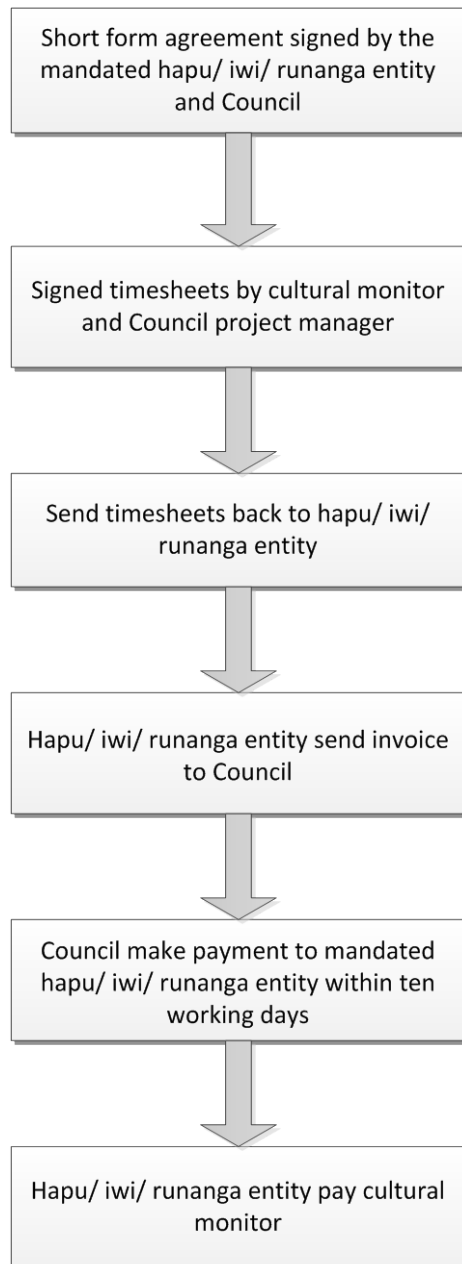
Payments will only be made after a mandated Iwi, Hapu or runanga entity GST Tax Invoice is submitted to Council. There will be no payments made directly to individuals.

The Hapu/Iwi agrees to accept full responsibility for the deduction of all Inland Revenue Department (IRD) payments (taxes and GST), accident compensation levies, and any other work related deductions that may arise from time to time.

Council will provide the Hapu/Iwi with short form agreement number for each project. The number shall be recorded on the GST tax invoice and shall identify the date, type of activity, and name(s) of representatives.

Time sheets shall be kept on site and signed off by both the monitor and the Council project manager with copies supplied by the monitor to the mandated iwi, hapu or runanga entity. The project manager may delegate responsibility for signing the time sheets to a person who is on site at all times, however, the Council project manager remains responsible for the budget. Council will make payments on presentation of invoices within 10 working days.

Invoice and Payment Process



Variations

It is expected that these Protocols are to be used in relation to any Council project that involves potential disturbance to culturally significant sites. However, given the wide range of projects that Council undertakes there may be occasions when one or more sections of the Protocol are not suitable for a particular project. If a project manager judges that sections of the Cultural Monitoring Protocols are not suitable, they will need Group Manager approval for the variation/s.

This Protocol may not apply to joint projects or co-managed land between iwi/hapu and Council.

Dispute process

If the monitor has a difference of opinion from the project manager they may raise this with the mandated iwi, hapu or runanga entity in liaison with the archaeologist.

The parties to this Protocol agree to informal meetings to discuss matters arising from this Protocol. Given that the Protocol is signed in good faith, every attempt will be made by each party to fulfil their responsibilities. However, should a party be unable to fulfil their responsibilities for any reason, this will not give rise to litigation by either party.

Should any dispute relating to this agreement arise that cannot be resolved in discussion, then these matters shall be referred to an independent mediator. If the dispute is not resolved by mediation the parties will refer the dispute to a single arbitrator. The mediator and arbitrator will be chosen by the parties or, if they cannot agree, by the President of the New Zealand Law Society or the President's nominee.

The parties must always act in good faith and co-operate with each other to promptly resolve any dispute. The procedures and time frames for any mediation or arbitration will be fixed by the mediator or arbitrator (as appropriate) if the parties cannot agree.

The parties must continue to comply with their obligations under this agreement during the dispute resolution process. This clause will not apply to a dispute arising in connection with any attempted re-negotiation of this agreement.

Review

This Protocol will be reviewed every three years, the next review is due by the end of 2016. If any issues arise within the three years the protocols can be reviewed at an earlier date. A checklist has been developed (Appendix 3) to assist in assessing the effectiveness of the cultural monitoring process.

GLOSSARY

Word	Meaning
Taonga	Treasure, including artefacts
Waahi tapu	Site of sacred significance
Koiwi	Human skeletal remains
Karakia	Blessing
Kawa	Customs
Tikanga	Protocols
Whakanoa	Remove sacredness, nullify sacredness
Kaumatua/Koeke	Respected elder male
Koroua/Kaumatua/Koeke	Respected elderly male
Kuia	Respected elderly female
Rohe	District
Tangata whenua	People of the land
Koha	Gift
Iwi	Tribal authority
Hapu	Sub tribes
Whanau	Family
Runanga or iwi authority	Mandated assembly of people
Te Komiti Māori	Māori Forum
Rahui	Tangata whenua restriction
Earthworks	means the alteration of land contours on any site including, without limitation: (a) Disturbance of land by moving, removing, placing or replacing soil by excavating, cutting, filling or backfilling. (b) Recompacting of existing ground.
Project	Refers to new earthwork projects, not to maintenance work. Maintenance work

assumes the ground has already been modified and if any taonga or koiwi is found the accidental discovery protocols will apply.

APPENDIX 1

Cultural Impact Assessment (CIA)

A CIA maybe required to be undertaken as well as cultural monitoring of a project. A CIA is a report documenting Māori cultural values, interests and associations with an area or a resource, and the potential impacts of a proposed activity on these. CIAs are a tool to facilitate meaningful and effective participation of Māori in impact assessment. A CIA should be regarded as technical advice, much like any other technical report such as ecological or hydrological assessments.

Council will be developing CIA guidelines. Check on Council's intranet if the guidelines are available otherwise further information about undertaking a CIA can be found on the following website:

<http://www.qp.org.nz/consents/cultural-impact-assessment.php>

SHORT FORM AGREEMENT FOR CONSULTANT ENGAGEMENT

BETWEEN: WESTERN BAY OF PLENTY DISTRICT COUNCIL

(CLIENT)

AND:

(CONSULTANT)

Collectively referred to herein as the "Parties" and individually as a "Party"

PROJECT:

LOCATION:

SCOPE & NATURE OF THE SERVICES:

As per cultural monitoring protocol.

PROGRAMME FOR THE SERVICES:

FEES & TIMING OF PAYMENTS:

INFORMATION OR SERVICES TO BE PROVIDED BY THE CLIENT:

The Client engages the Consultant to provide the Services described above and the Consultant agrees to perform the Services for the remuneration provided above. Both Parties agree to be bound by the provision of the Short Form Model Conditions of Engagement (overleaf), including clauses 2, 3, 9 and 10 and any variations noted below. Once signed, this agreement, together with the conditions overleaf and any attachments, will replace all or any oral agreement previously reached between the Parties.

VARIATIONS TO THE SHORT FORM MODEL CONDITIONS OF ENGAGEMENT (OVERLEAF): NIL

CLIENT AUTHORISED SIGNATORY (IES):

CONSULTANTS AUTHORISED SIGNATORY (IES):

PRINT NAME:

PRINT NAME:

DATE:

DATE:

APPENDIX 2

SHORT FORM AGREEMENT FOR CONSULTANT ENGAGEMENT	
BETWEEN: WESTERN BAY OF PLENTY DISTRICT COUNCIL <p style="text-align: center;">(CLIENT)</p>	
AND: <p style="text-align: center;">(CONSULTANT)</p>	
Collectively referred to herein as the "Parties" and individually as a "Party"	
PROJECT:	LOCATION:
SCOPE & NATURE OF THE SERVICES: As per cultural monitoring protocol.	
PROGRAMME FOR THE SERVICES:	
FEES & TIMING OF PAYMENTS:	
INFORMATION OR SERVICES TO BE PROVIDED BY THE CLIENT:	
<i>The Client engages the Consultant to provide the Services described above and the Consultant agrees to perform the Services for the remuneration provided above. Both Parties agree to be bound by the provision of the Short Form Model Conditions of Engagement (overleaf), including clauses 2, 3, 9 and 10 and any variations noted below. Once signed, this agreement, together with the conditions overleaf and any attachments, will replace all or any oral agreement previously reached between the Parties.</i>	
VARIATIONS TO THE SHORT FORM MODEL CONDITIONS OF ENGAGEMENT (OVERLEAF): NIL	
CLIENT AUTHORISED SIGNATORY (IES): PRINT NAME: DATE:	CONSULTANTS AUTHORISED SIGNATORY (IES): PRINT NAME: DATE:

APPENDIX 3

Review Checklist

Cultural Monitoring Process	Comments
Undertaking of cultural monitoring.	Attach any documentation (or Objective reference/s) regarding any discoveries of taonga or koiwi and what occurred following discovery.
Written feedback on the cultural monitoring.	Attach written feedback (or Objective reference/s)
Completion of cultural monitoring.	Return checklist and any documentation to Engineering Group Manager Executive Assistant.