

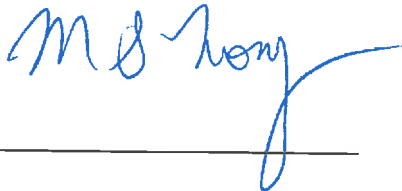
D-G Approval Cover

File Ref:	DOCDM ref: 2607237	Date: 25/9/15	Deadline: 5/10/15
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Approval sought from: Director General
(circle one)

Subject: DECISIONS (DECLARATION, REVOCATION, EXCHANGE & SPECIAL PROTECTION) IN RESPECT OF PART OF RUAHINE FOREST PARK

From: Marie Long, Director, Planning, Permissions and Land



(Signed) _____

Endorsed: Mike Slater, DD-G Operations (Signed)  _____

Comment:
Your agreement is sought to a number of decisions relating to a proposal by Hawkes Bay Regional Investment Company Ltd that an area of private land be exchanged for land held as part of the Ruahine Forest Park. This Departmental Submission is accompanied by a number of documents which I recommend you read in conjunction with this Submission. These documents are attached.

Recommendation that you:

Read and consider the attached Submission and accompanying documents, and record "yes" in respect of the various items where I have indicated that you should "note", "agree", "authorise", "give notice" and "accept" as set out on pages 7 to 9 of this Submission.

Legislation (if applicable)

1. Public process pursuant to s 49 of the Conservation Act 1987;
2. Proposal pursuant to ss 61(9) and 7(1) of the Conservation Act 1987 to declare land to be held for conservation purposes;
3. Proposal pursuant to s 18(7) of the Conservation Act 1987 to revoke the conservation park purpose of part of the Ruahine Forest Park;
4. Proposal under s 16A of the Conservation Act 1987 to authorise an exchange of private land for land held as part of the Ruahine Forest Park;
5. Proposal pursuant to s 16A(3) of the Conservation Act 1987 to specify the private land acquired by exchange to be held for conservation park purposes.

DOC Policy/Guidelines (if applicable):

This Submission has been prepared in accordance with the relevant Standard Operating Procedure.

Consultation:

Corporate Services:	NA
Science & Policy:	Yes
Kaupapa Kahui Atawhai:	Yes
Strategy & Innovation:	Yes
Operations Group:	Yes
Partnerships	Yes

NGO/other community:	Yes
Wellington Conservation Board	Yes
Relevant Iwi and Hapu	Yes

Comments:

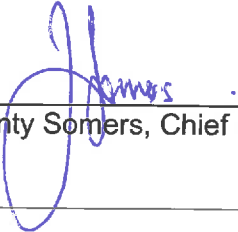
The Wellington Conservation Board supports the proposal.

The relevant Iwi and Hapu have mixed opinions on the proposal.

A number of persons and organisations have objected to, and a number have supported, the proposal through the public process undertaken in accordance with s 49 of the Conservation Act 1987.

Advice from Legal section:

This document has been prepared with input from Legal Services and Crown Law Office.

Signed: 
Jonty Somers, Chief Legal Adviser

Date: 25.9.15



Departmental Submission

Date:	25 September 2015	File ref:	Operations	DOC	2604525
		PAL-06-23-01-01			

To: Minister of Conservation's delegate - the Director-General of Conservation (pursuant to delegations from the Minister dated 29 August 2013 and 13 February 2015)

Subject:	DECISIONS (DECLARATION, REVOCATION, EXCHANGE & SPECIAL PROTECTION) IN RESPECT OF PART OF RUAHINE FOREST PARK
Action Sought:	Agreement to proposed actions
Deadline:	Before 5 October 2015

Paper Type: (Cabinet, Statutory or Other)	Statutory	Dept's Priority: (Very High, High, Normal or Low)	Very High
Risk Assessment: (e.g. possible negative reactions/consequences)	Adverse reaction from Hawke's Bay Regional Investment Company as applicant for land exchange should you decline, or from objectors if you agree	Level of Risk: (High, Medium or Low)	High

Contacts for telephone discussion (if required)				
	Name	Position	Telephone	
1	Marie Long	Director, Planning, Permissions & Land	027 225 5521 (wk)	027 225 5521 (ah)
2	Shona Bradley	Legal Services Manager	04 471 3022 (wk)	027 249 2386 (ah)

3	Guy Kerrison	Manager-National Coordination team	04 494 1470 (wk)	027 447 8662 (ah)
4	David Bishop	National Advisor (SLM)	04 471 3275 (wk)	

Executive Summary

- 1.1 Hawke's Bay Regional Investment Company Limited (HBRIC) has proposed the exchange of approximately 146 hectares of private land (the Smedley land) located within Smedley Station, for two parts of Ruahine Forest Park (RFP) totalling approximately 22 hectares (the RFP land) located on the edge of the Makaroro River and Dutch Creek, as shown on the attached plan. The exchange is for the purpose of the Ruataniwha Water Storage Scheme (RWSS) which involves placement of a dam over the Makaroro River, and a reservoir of which, when filled, would inundate the RFP land (refer paragraph 3.1).
- 1.2 The RFP land is comprised of two distinct parcels – a 8 ha parcel located next to the Makaroro River, and a 14 ha parcel which includes part of Dutch Creek. The two parcels of RFP land are separated by approximately 600 m of pine forest. In terms of each parcel:
 - (a) The Makaroro parcel is located on an alluvial plain, which is rare in the landscape. It contains 3.3 ha of an Acutely Threatened land environment. The vegetation comprises about 1.6 ha of black beech forest, 1.9 ha of broadleaf forest, and 3 ha of secondary shrub/treeland. The area has been heavily logged and used for firewood when a mill was operating on the opposite bank.
 - (b) The Dutch Creek parcel comprises about 9 ha of black beech forest and 5 ha of broadleaf small-leaved monocot scrub/treeland which appears to have been clearfelled and burnt during logging operations. The black beech forest has had the emergent podocarps logged, and are no longer part of the canopy. However, the black beech forest has an intact understorey. There is also a small oxbow wetland which could be considered significant.
- 1.3 The 146 ha Smedley land that has been offered in exchange comprises 122 ha of indigenous vegetation interspersed with 24 ha of pasture. There is 33 ha of black beech forest, including one patch of 4.4 ha that is in similar condition to that of the Dutch Creek parcel, other than that it has some emergent podocarps present. Although the Smedley Exchange Block has been logged, it has retained scattered emergent podocarps throughout the black beech forest. The rest of the vegetation comprises broadleaf and small-leaved scrub and treeland, and includes naturally occurring dry west-facing slopes dominated by small-leaved broadleaf scrub. There are also two significant wetlands present. The underlying geology of Smedley Exchange Block is different from the rest of the Ruahine ranges (Wakarara Range), and covers an altitudinal range of over 300 metres.
- 1.4 RFP land is currently held as deemed conservation park. An exchange of deemed conservation park for other land involves a number of statutory steps. These are: first, declaring the deemed conservation park to be held for conservation purposes pursuant to s 7(1) of the Conservation Act (the Act); secondly, revoking the conservation park status that is the product of that declaration on the basis of a proposed exchange; and thirdly authorising an exchange. You should also note that the revocation of conservation park status provides for public notice, objections, submissions and an opportunity for the public to be heard which would not otherwise apply to an exchange of stewardship area for private land.
- 1.5 On 11 December 2014, the Minister's delegate decided that if the RFP land was to be declared to be held for conservation purposes, this would be via s7(1) of the Act. This would then mean that revoking the status of the RFP land would be required to follow a public process. The Minister's delegate also formed the

intention to revoke the conservation park status. That decision was conditional on the proposed exchange meeting the s 16A(2) test.

- 1.6 In accordance with s 18(8) of the Act the intention to revoke was publicly notified on 13 December 2014 under s 49 and a hearing was subsequently held at the request of various objectors and submitters.
- 1.7 Following the hearing the Department carried out a more detailed comparative analysis of the conservation values present on the RFP land and the Smedley land. Its report concludes that exchanging the RFP land for the Smedley land will enhance the conservation values of land held by the Department and promote the purposes of the Act.
- 1.8 The Director-General's delegate (the DG's delegate) who convened the hearing and listened to the objectors and submitters has provided a report to you which summarises all the objections and comments received and makes a number of recommendations. A copy of the report is attached. As well as making recommendations to you, he has also noted his conclusion that the proposed exchange would meet the statutory tests in s 16A of the Act, namely that it would enhance the conservation values of land managed by the Department, and would promote the purposes of the Act.
- 1.9 The recommendations of the DG's delegate relate to the extent to which objections and comments received as part of the public process under s 49 of the Act should be allowed or accepted; and also to the revocation proposal itself. In making a recommendation that you agree to revoke the status of the RFP, the Director-General's delegate first notes that you would need to make a declaration under s 7(1) of the Act and, secondly, considers that there is sufficient basis to authorise the proposed exchange (which underpins the decision to revoke).
- 1.10 Following your visit to the site on 28 August 2015 and identification of a number of management matters in respect the Smedley land, I wrote to HBRIC seeking clarification of these matters. The issues related to the proposed design of the boundaries, wilding pine control, and work that had earlier been proposed through the Board of Inquiry process on Whio habitat enhancement.
- 1.11 HBRIC has since responded to advise that it would be receptive to including within the Smedley land an additional 30ha area sitting broadly between the original northern and southern sides of the original 146ha Smedley land offered (including Donovan Gully which contains wetland habitat), and contribute to a wildling pine eradication programme over the Smedley land. It also advised it is agreeable to assist the Department in managing potential habitat of Whio in the Upper Makaroro catchment, comprising contributions to the initial set up of the predator control work and annual monitoring and trapping contributions for the duration of the RWSS consents period.
- 1.12 Should you decide to declare the RFP land to be held for conservation purposes, the identified parcels of the RFP land will need to be defined by survey, and your decision will be perfected (given effect to) by notice published in the *Gazette*.
- 1.13 Should you carry out the previous step it is open to you (as recommended by the DG's delegate) to agree to revoke the purpose of the RFP land on the basis that you wish to progress the proposed exchange of the RFP land for the Smedley land. Subject to notice in the *Gazette* giving effect to the revocation you would be able to authorise the proposed land exchange on the basis you are satisfied that it meets the test under s 16A of the Act and it is desirable that the Smedley land be acquired by exchange. You could also agree, in accordance with s 16(3) of the

Act, to hold the Smedley land for the purposes of a conservation park. Both of these decisions would also need to be given effect to by Gazette notice.

1.14 You hold the necessary delegations to make all relevant decisions.

It is recommended that you:

Ref:	Action:	Delegate's decision
(a)	Note that HBRIC has proposed an exchange of the 22ha RFP land for 146 ha of the Smedley land	(yes / no)
(b)	Note that the RFP land is currently held as deemed conservation park	(yes / no)
(c)	Note that an exchange of deemed conservation park involves a number of statutory steps: namely, first, a declaration under s 7(1) of the Act that the land is held for conservation purposes; secondly, a decision to revoke the conservation status of the land (being the product of the declaration); and, thirdly, a decision authorising the exchange;	(yes / no)
(d)	Note that you may not authorise the exchange of the RFP land for the Smedley land unless you are satisfied that the exchange would enhance the conservation values of land held by the Department and promote the purposes of the Act;	(yes / no)
(d)	Note that a previous delegate of the Minister: (i) formed a view that the proposed land exchange should be progressed; (ii) decided that the process for declaring the RFP land to be held for conservation purposes would be under s 7(1) of the Act which would remove a public process; and (iii) formed an intention to revoke the conservation park status of the RFP land subject to the Smedley land meeting the exchange test in s 16A(2) of the Conservation Act;	(yes / no)
(e)	Note that the intention to revoke was publicly notified and that a number of persons and organisations appeared before the DG's delegate in support of their objections and submissions;	(yes / no)
(f)	Note that subsequent to the hearing of the revocation proposal, the Department has carried out a comprehensive comparative analysis of the conservation values present in the RFP land and the Smedley land which analysis confirms that the exchange of the RFP land for the Smedley land will enhance the conservation values of land held by the Department and promote the purposes of the Act;	(yes / no)
(g)	Note that the Director-General's delegate in respect of the revocation proposal has, in his attached Report, concluded that the proposed exchange would enhance the conservation values of land held by the Department and promote the purposes of the Act and recommended: a) the extent to which you should allow or accept objections and comments received as part of the public process; and b) you should revoke the	(yes / no)

	status of the RFP land on the basis of the proposed exchange;	
(h)	Note that the local Conservation Board has been consulted, and it supports the proposed exchange and recommends that its view that the land exchange should proceed regardless of the RWSS and that adequate funding should be provided to secure the conservation values of the Smedley land parcel following exchange be taken into account;	(yes / no)
(i)	Note that: <p>(a) HBRIC is receptive to including within the Smedley land an additional 30^{23.4ha} area sitting broadly between the original northern and southern sides of the original 146ha Smedley land offered (including Donovan Gully);</p> <p>(b) HBRIC has offered to assist the Department in managing the future habitat of whio in the Upper Makaroro catchment;</p> <p>(c) HBRIC has offered to assist with wildling pine eradication over the Smedley land;</p>	(yes / no) (yes / no) (yes / no)
(j)	Note that, should you agree to authorise the exchange, the Department considers fencing is necessary if there is to be grazing on the residual area of Smedley Station adjoining the Smedley land, and that this should be a condition of the exchange if approved;	(yes / no)
(k)	Agree that the proposed exchange would enhance the conservation values of land managed by the Department and promote the purposes of the Act;	(yes / no)
(l)	Note that, should you agree to accept HBRIC's offers in (i) above, this would further add to the enhancement of conservation values of land managed by the Department, and would further promote the purposes of the Act	(yes / no)
(m)	Note that if you declare the RFP land to be held for conservation purposes under s 7(1) of the Act it will be necessary to survey that land before giving notice of the declaration in the Gazette;	(yes / no)
(n)	Agree to declare the RFP land to be held for conservation purposes under s 7(1) of the Act (which has the effect of deeming it to be held for the purposes of a conservation park by s 18(1);	(yes / no)
(o)	Agree , subject to a Gazette notice giving effect to the s 7(1) declaration, to revoke the purpose of the RFP land as a conservation park (being the product of the declaration) on the basis that you wish to progress the proposed exchange of the RFP land for the Smedley land;	(yes / no) <i>if subject to HBRIC taking title to the Smedley land and the additional 23.4ha referred to in (i) above</i>
(p)	Subject to a Gazette notice giving effect to the revocation: <p>(a) Authorise the proposed land exchange under s 16A of the Act on the basis that you are satisfied that the proposed exchange meets the test under s 16A and it is desirable that the Smedley land be acquired by exchange;</p> <p>(b) Agree in accordance with s 16A(3) of the Act to hold the Smedley land for the purpose of a conservation park;</p>	(yes / no)

	(c) Give notice of these two steps by Gazette notice after Gazettal of the earlier decisions above;	
(q)	<p>Agree to: 23.4th of</p> <p>(a) Require HBRIC to include the additional 30ha of land including Donovan Gully in the Smedley Land, as a condition of your revocation and exchange decisions;</p> <p>(b) Accept HBRIC's offer to assist with the management of Whio;</p> <p>(c) Accept HBRIC's offer to assist with a wilding pine eradication programme over the Smedley land.</p>	<p>(yes / no)</p> <p>(yes / no)</p> <p>(yes / no)</p>
(r)	Agree to require HBRIC to fence the boundaries of the Smedley land (whether that include the additional 30ha referred to in (p) above or not) if there is to be grazing on the residual area of Smedley Station adjoining the Smedley land, and that this should be a condition of the exchange.	(yes / no)

Marie Long
Director Planning Permission & Land

Lou Sanson
Director-General of Conservation
(pursuant to delegations from the
Minister of Conservation dated 29
August 2013 and 13 February 2015)

Date:

25 / 09 / 2015

Date:

5 / 10 / 2015