



Department of Conservation  
*Te Papa Atawhai*

**To:** Damian Coutts, Operations Director, Central North Island Delegate of Minister of Conservation

**From:** Deidre Ewart, Business Support Manager as Delegate of Director General of Conservation

**CC:** Natasha Hayward, Hamilton/Christchurch Permissions Manager; replaced by  
 Stephanie Bowman, Hamilton Permissions Manager

**Date:** 07 January 2020

## **OBJECTION AND SUBMISSION SUMMARY RECOMMENDATION REPORT**

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## 1.0 APPLICATION DETAILS

**Applicant:** Okere Adventures Limited

**Permission Number:** 71070-OTH

**Permission Type:** Notified Lease/Licence

**Brief activity description:** To install and operate a zipline within the Okere Falls Scenic Reserve.

**Term:** 10 years with a right of renewal

## 2.0 PURPOSE OF REPORT

This report has been prepared pursuant to section 49 (2) (d) of the Conservation Act 1987 (*“the Act”*) and provides you with a summary of all objections and submissions/comments received in response to public notification with:

- Recommendations to the extent to which:
  - Objections should be allowed; and
  - Submissions/comments accepted

An “objection” is an expression of feeling of disapproval or opposition, or a reason for disagreeing. A “submission” or “comment” is an expression of neutrality or support and approval, or a reason for neutrality, support or approval. In this report, throughout the report I use the word “submission” to refer to both submissions and comments.

Only relevant submissions can be considered by the Ministers Delegate as per 17U (f) of the Conservation Act 1987 and that the allowed objections and accepted submissions are the ones considered relevant. The allowed objections and accepted submissions are then analysed further, and recommendations made as to the ‘extent’ to which they should be accepted and allowed and therefore how much weight they could be given and/ or what the recommended actions are as a result.

A submission or objection is deemed relevant and can be considered if it falls within the Ministers Delegates discretion under the concession regime (part 3B of the Conservation Act 1987). The extent to which the submissions and objections raised during this process will be discussed in each section below.

The implications of allowed objections and accepted submissions are noted for you to assist you in forming a view *‘before deciding whether or not to proceed with the proposal’*, pursuant to section 49(2)(e) of the Conservation Act 1987.

I note that any recommendation, as the Director General’s delegate, that I make to you in no way fetters your discretion in considering all the relevant issues of this application.

Following those speaking to their submission/objection, the Applicant is invited to present their Right of Reply at the end of the hearing. The right of reply has been summarised and provided at the bottom of this report.

The Applicant expressed that they are willing to be flexible and expressed appreciation to all who spoke on the day. Due to limited time on the day, the Applicants technical advisor provided further written information.

### 3.0 BACKGROUND OF APPLICANT

Okere Adventures Limited has applied for a concession to establish a zipline activity within the Okere Falls Scenic Reserve.

#### **Location**

Okere Falls Scenic Reserve contains a popular short walk, the remnants of an old hydroelectric power station and sites of cultural value. A ridge walk has recently been constructed which allows for a loop track. The Reserve is Crown land administered by the Department of Conservation and governed by the Lake Rotoiti Scenic Reserve Board who is mandated to control and manage the reserve.

#### **Scope of the activity**

The initial concession application consisted of six ziplines and 12 platforms. 10 of the platforms would be within the Okere Falls Scenic Reserve and two platforms will be located on the adjacent rural land. Some of the platforms will be accessible by way of new formed tracks. Having said this, the Applicant continues to change the activity plan and since the hearing has altered specific aspects so as to cater to the concerns of submitters/objectors and wider interested parties.

Public notification of a concession application occurs relatively early within the concession's consideration process.

- Notification provides the opportunity for the public and stakeholders to speak to the application as it stands at that point in time.

If the Applicant changes their concession application (whether in response to issues raised throughout the notification process or not) the Department needs to consider whether re-notification is required.

- Re-notification may occur if the Department considers that the changes are of a level that public views need to be welcomed and understood.

To offset the activity impacts, the Applicant has proposed minimal disturbance to existing indigenous vegetation and has proposed new riparian plantings along the righthand bank of the Okere river.

Tours are proposed to operate every 30 minutes from 8am to 5pm then 7pm to 9pm, 7 days a week. The proposed full tour would take approximately 3 hours (may reduce during evening hours). Tour groups would include up to 10 participants, therefore the activity can cater for up to 70 participants at once if all tours are fully booked.

#### **Existing users**

The Kaituna River flows throughout the site and currently hosts five commercial rafting tour operators on the river.

The walk through the small Reserve is popular due to its proximity to Rotorua, accessibility from the State Highway, easy distance and gradient for walking, scenic waterfall and river views, historical information provided along the walk, indigenous forest and ability to observe the river rafting at observation points along the western river bank.

### **Applicant background**

The Applicant, Okere Adventures Limited, is a joint venture between the operator of Rotorua Rafting and Maori landowners from Ngati Hinekiri and Ngati Hinerangi who own land adjoining the reserve.

Rotorua Rafting currently holds one concession for guided walking and photography in Okere Falls Scenic Reserve. The filming portion authorises photography of the river rafting from the main observation platforms (see 52445-GUI – expires 31/01/2027). Okere Adventures does not hold any other concessions. Nor have they ever held any previous concessions.

### **Notification period**

#### **Public Notification Submission Period**

Notified in the Waikato Times and the Daily Post. Submission period - 22 August 2019 to 18 September 2019.

Submission period closed on 5:00pm - 18<sup>th</sup> September 2019 (Wednesday).

#### **Objections, submissions and comments received**

Total objections/submissions – 46

Submissions support - 20

Oppose - 25

Neutral – 1

#### **Key Documents:**

Written & Verbal Submissions Summary – [DOC-6116818](#)

List of all submitters (contacts and submission links) - [DOC-6054916](#)

Right of Reply – Provided at the bottom of this document. A written document was also provided - [DOC-6116828](#)).

### **4.0 DETAILS OF HEARING**

**Date/Time:** 21 October 2019  
**Location:** CNI Iwi Holdings Limited building – 1176 Amohau Street, Rotorua, 3010  
**Chair:** Deidre Ewart, Business Support Manager, Hamilton

**Panel members:** Huia Lloyd, Pou Tairangahau, Rotorua  
John Galilee, Statutory Manager, Auckland  
Julian Lee, Bay of Plenty Conservation Board

#### **Objectors and Submitters that were heard:**

Jennifer Ross	30 mins
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Andrew Blackford	30 mins
Jamie Stuart	30 mins
Neville Wilson and Mathew Barnard	30 mins
Lunch	
Rebecca Stirenemann	30 mins
Roland Kingi	30 mins
Justin Hutton	30 mins
Right of Reply - Applicant	2:10 – 3:00
Hearing closed by Panel	3:00 – 3:30

## **5.0 SUMMARY OF KEY POINTS FROM OBJECTIONS AND SUBMISSIONS - BOTH WRITTEN AND VERBALLY PRESENTED AT THE HEARING**

### **Summary of written and verbal objections and submissions in support.**

The Department received a total of 46 Submissions and Objections on the concession application. 25 submissions opposed the application, 20 supported it, and 1 was neutral. 7 submitters spoke to their submissions during the hearing held on 21 October 2019.

The level of interest expressed throughout this whole concession process, from community members, Treaty Partners and other stakeholders, has demonstrated the significance of the Okere Falls Scenic Reserve.

With regard to the key themes of this document, it is clear that the proposed concession activity presents a wide array of considerations and concerns to those which oppose. On the other hand, those who support the application generally see the Applicant as competent and capable and that the activity will enhance the Reserve economically and recreationally.

It is recognised that the submissions which oppose the application have raised a lot of relevant points which should be appropriately addressed before this application can be further considered. The panel recognises these concerns and presents an array of recommended actions within the final section at the end of this report (see Part 8).

Many of the submissions which oppose the application have noted that their support may be provided on the basis that certain concerns are considered and resolved appropriately. Some of these objections request that the Applicant reconsider the zipline heights and location so as to avoid key areas of value (specifically Tutea Falls section).

Moreover, some submitters have opposed on the basis that there simply is not enough information to understand the effects of the proposed activity. This was the main reoccurring concern raised by some that oppose this application. This concern has resulted in the most significant recommendation for the Delegate of the Minister to consider.

Generally speaking, submitters in support of the proposal have provided less in-depth analysis of the application documents. There are exceptions to this observation.

As outlined in 2.0 Purpose above, this document will summarise all submissions and objections, and will recommend which can be considered as relevant for the consideration of this concession application subject to the concession process under Part 3b of the Conservation Act 1977.

*See the full submission/objection analysis below*

## 6.0 ANALYSIS OF OBJECTIONS AND SUBMISSIONS

All objections and submissions have been grouped under five themes. They are as follows:

### 1. Effects on the Reserve

- a. Existing users
- b. Vegetation and landscape effects
- c. Wildlife effects
- d. Community/economic benefits
- e. Accumulative effects of new users/greater tourism

### 2. Infrastructure within the Reserve

- f. Pathway and design of ziplines
- g. Location and detail of platforms
- h. Health and safety management
- i. Braking systems

### 3. Cultural significance

- j. Consultation completeness / understanding the views of iwi and hapu
- k. Giving effect to the principles of the Treaty of Waitangi – Section 4

### 4. Statutory Considerations

- l. Application of the Reserves Act 1977
- m. Application of the Conservation Act 1987

### 5. Other matters raised

- n. Ethics and experience of operator
- o. Use of electric vehicles
- p. Other considerations
- q. Concession process and management

Direct extracts are provided under each heading in order to demonstrate actual objections and submissions under each issue/heading. These comments are followed by a discussion as to whether submissions and objections of this nature are a relevant consideration under the Conservation Act 1987. At the end of each issue, there is discussion as to whether the submission/objection has merit and the extent to which it should be accepted or allowed. This discussion underpins the recommendations section at the bottom of this report.

- **Note:** The quotes below are direct extracts from the Submission Summary document. Please recognise the different coding formats for each quote. Most points are coded under the alphabet, however, some include numbered recommendations/summaries. For example - “**Written Submission 1 – point 1 & 3 – Name**” or “**Written Submission 2 – point (a) and (c) – Name**”

- **Further information:** Not all objections or submissions which discuss these issues have been quoted directly in this report. There are many objections and submissions that address the same issues. To address this duplication, the report includes a list of all relevant submissions and objections below each issue/theme.

Please note that the term “issue” and “theme” are used interchangeably. Either is synonymous for the other.



## Analysis

### Issue 01 Effects on the Reserve need to be understood

Issue 01 covers a wide range of matters that mainly relate to the effects on the Reserve and its use as a Reserve. For the purposes of clarity, this issue is broken into sub issues as prescribed and elaborated on throughout the sections below.

Quotes from both submissions and objections can be found under each heading and have been used to reflect the views expressed as they relate to the activity.

These sub-issues encompass the following:

- a. Existing users
- b. Vegetation and landscape effects
- c. Wildlife effects
- d. Community/economic benefits
- e. Overflow effects of new users/greater tourism

#### a. Existing Users

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This sub-issue encompasses all submissions and objections relating to the impacts of the proposed activity on existing users of the Reserve. This point includes rafters (river users), walking track users and other relevant existing users of the Okere Falls Scenic Reserve. The main effects identified are noise and visual impact. Whereas submissions in support of the activity see the ziplines as a thing of interest for the Reserve that will capture the interest of all users of the Reserve.

Rafters have concerns that the noise and visual impacts of the zipline customers will distract them in situations where full attention is required (navigating through rapids).

#### Objections

##### **Written objection 9 – point 1, 2, 5 & 11 – Maggie Crownshaw**

1. *“I strongly object to the proposed application to construct and operate a zip line business in what is a very popular, peaceful and important recreation area for locals and visitors.”*
2. *“The proposal includes a number of ziplines. That either follow the river or zig zag across it and the adjacent walking track. Two of the ziplines (Zipline 1 & 2) traverse over top of, alight or depart from the two main river viewing points. The application makes a claim that the loss of amenity value for reserve users is no more than minor. It is quite hard to fathom how the applicant has arrived at this conclusion, given up to 28 people an hour (every 2 mins) would be zipping over top of viewers/walker’s heads. Providing a massive distraction and interruption to the enjoyment currently provided by the reserve, its walking tracks and viewpoints of the river.*

*The application also claims that the cables are elevated above the walking tracks and set against a backdrop of vegetation. What does this look like, and what height are the cables at when loaded with zip line users? A constant stream of riders will have a vastly different visual effect than that described in the artists impression in the application.”*

5. *“The application suggests that noise will be mitigated through various means. This appears to be very subjective and technical in nature.”*
  
11. *“The proposal is not in keeping with the high recreation value provided by the reserve and should be rejected outright.*

*The application does not serve to increase the recreational benefits provided by the reserve and will detract against those already provided by the walking trails and river users, whether kayakers or commercial rafting operations.*

*At the very least the zip lines should be away from the river, the walking tracks and especially the main river viewing points.”*

**Written Objection 14 – Point 2(a) – Peter Lodge**

2. *“Overuse of the scenic reserve, the area already has 6-7 rafting companies, 2 river boarding companies, bus tour groups using the scenic falls trail, nature trail tours and of course FIT tourism on the trail. A zip line above and around this small area will have massive adverse effects to the quiet nature of the walking trails and also seemingly “wilderness” feel to the raft trips.”*

**Written Objection 13 – Point 3, 4 and 10 – Andrew Blackford**

3. *“The cables as shown have a profile I would expect to see when they are not weighted with a rider. When weighted they could sit much lower than that depicted. Based on length and gradient proposed for Zipline 2 – I calculate that when the rider is near the middle of the zip line span (at or around Tutea falls) they could be ~2-3m below the landing platform height (based on a typical cable tension). This could put the zip line rider much lower than that inferred in the photo. Has the applicant considered the cable position when loaded?”*
  
4. *“There is likely to be significant shouting or screaming due to the sudden change in environment/exposure to height a rider will experience. It is noted that the applicants SOP names the line the ‘screaming tutea’.”*
  
11. *“The reserve is relatively small and the river and walking tracks are within a narrow band. In my opinion, based on experiences at Rotorua Canopy Tours (RCT) sound is likely to travel quite well and project a long way from its source in this type of environment. Particularly un-natural noises such as shouting and zip line associated noise. Noise generated by one group (talking, screaming, yelling) and heard by another group while participating at Rotorua Canopy Tours is a*

key concern for our business and a detraction to current users experience. After seven years of operation we have not been able to mitigate this effectively.”

**Written Objection 25 – Point 2 – Lewis Hogan-Estall**

2. “The ziplines may be just above out of shot for photographers, however they will be very clearly visible from the lookouts and will also be very visible to those that are on the river. In the Application for Resource Consent and land use, by comparing Image 3(image of the falls) to Image 28(Artist impression of the zipline at the falls) it is very clear that Image 28 is a zoomed in photo of tutea falls and the actual view of the falls (better represented by Image 3) will be severely spoilt by the zipline. The view down to the powerhouse will also be significantly affected.”

**Written Objection 29 – Point 14(a) – Jamie Stuart on behalf of Federated Mountain Club**

14. “The application is incomplete, because of the lack of rigorous assessment of the proposal’s impact on the reserve’s scenic and other natural values and on existing recreationists. As further information has not been requested from the applicant, it will be necessary for DOC to commission independent advice, which ideally would be made public in advance of any decision.”

## **Submissions in support**

**Written Submission 13 – Point 1 – Theo Vos**

1. “I am a regular user of the walking tracks and amenities within the Okere Falls Scenic Reserve. I believe that the proposed activity will enhance the recreational values I enjoy within the Reserve. It also will attract more others to come and enjoy the Reserve and its values.”

**Written Submission 16 – Point 1 – Andi Uhl**

1. “I support building a zipline in the Okere Reserve by the applicant. The area is already used widely for tourism purposes (rafting, cruise ship visitors, tourists with individual transport, holiday makers, kayakers) and the applicant is planning a large number of measures to reduce the impact on the environment and other reserve users. It is also appealing, in the unlikely event of the business failing, that all infrastructure can be removed very easily.”

**Written Submission 27 – Point 2 – John Mace and Kaye Lillico**

2. “The research into the use of a more suitable cable will also lessen the noise impact.”

**Written Submission 44 – Point 1 and 2 – Will Bamford**

1. “The proposed location is probably one of the better locations to do this due to it being contained within an area where the scenic and landscape values are already impacted on by the existing tourism operations of rafting and river sledging.”
2. “I agree with the applicants statement that the scenic qualities of the reserve generally are viewed from within the reserve, rather than from outside of the reserve but stress their point that the reserve’s scenic qualities are derived from the Kaituna River. The zipline layout has been

*designed to minimise the impact on the scenic and landscape values of users from the walking track. I do not believe it adequately addresses the impact on these values to river users, notably white water kayakers undertaking recreational trips.”*

## Neutral Submission

### **Written Submission 41 – Point 2 – Jennifer Ross**

3. *“Members of our club include learner and intermediate kayakers. The addition of overhead distractions may add to hazards we need to consider when leading groups of paddlers down this section of river. It is difficult to assess the potential for this hazard from the information provided.”*

### **Other objections and submissions relating to this issue 1:**

<b>Written</b>	
<b>Submission</b> 21, 31,	<b>Objection</b> 2, 10, 18, 22, 23, 26, 28, 32, 33, 34, 35, 36, 38, 39, 43, 45
<b>Verbal</b>	
<b>Submissions</b>	<b>Objections</b> 1, 2, 3, 4, 5, 6

The objections and submissions regarding the existing users of the Reserve are relevant. Objections should be allowed, and submissions should be accepted in part - as prescribed below.

#### **Legislative Rationale:**

Section 17U(1) of the Conservation Act 1987 requires that the Minister shall have regard to an array of matters as listed within that section. 17U(1)(b) includes the effects of the activity, structure, or facility and (c) includes any measures that can reasonably and practicably be undertaken to avoid, remedy, or mitigate any adverse effects of the activity.

These submissions and objections raise matters of significance that must be understood so as to ensure the effects of the proposed activity on existing users are considered appropriately.

#### **Key theme from objections**

- One of the main issues highlighted by objections is that the application did not provide sufficient information to fully understand the impact of a wide array of adverse effects. Many felt that they were simply unable to understand the effects on users of the Reserve, specifically river users. Objections recommend that further information should be requested.
- Other effects, noted by objections, on users of the tracks within the Reserve are visual and noise impact.

Objections expressed uncertainty as to the actual path of the ziplines. They felt that the application doesn't appropriately consider the path of the ziplines when subject to the full weight of a client.

However, some submitters supported the application as it stands.

Objections expressly argue that it is not justifiable to allow more tourism/recreational focused activities on the basis that other tourism related activities already occur in the reserve.

**Objection 29 – Point 12**

- *“The applicant’s assessment of potential effects of the tourist attraction could be summarised as ‘the damage is done, so anything goes’. A more appropriate approach might be that there have been **cumulative effects** detrimentally affecting the public’s benefit and enjoyment of the reserve, and that it may be time to reconsider even existing commercial use of the reserve, rather than sanctioning more.”*

Moreover, the Panel recognises that a certain level of recreational use is provided for through existing concessions and by the provision of visitor facilities and is beneficial for visitors to the reserve.

- This notion is reflected in the purpose for which the land is held pursuant to section 19 of the Reserves Act 1977. Section 19 and the purpose for which the land is held will be further discussed and developed upon further within Issue 4 below.

**Effects on existing users of the Reserve can be considered pursuant to the Conservation Act 1987 Part 3B – section 17U(1).**

**Riverbed ownership**

Ownership of a riverbed is determined by whether the river is navigable or not. Management of the riverbed is held by LINZ if a river is navigable. However, in the instance that a river is non-navigable, the landowners on either side of the river own up to the middle of the riverbed.

Given the steep rapids and drops in the river, it is considered that the Kaituna River has been considered non-navigable. On this basis, the riverbed running through the proposed zipline footprint will all be considered part of the Reserve because the Reserve encompasses both banks of the river and therefore extends on both sides to the middle of the riverbed.

The Reserves Act 1977 and all relevant provisions of the concession regime applies to the airspace above the reserve and the riverbed for the purposes of considering effects of the zipline on the Reserve and its users.

The water body itself is moving and is not considered part of the Reserve. The rafting on the water column is however within the airspace and therefore must be considered as an activity on the Reserve.

This was not previously adopted as it was thought that the river was navigable. The outcome of these discussions and reclassification by the Department conjoint with LINZ, the rafting companies will now require a concession from the Department to undertake their rafting down the river.

The impacts of the zipline on rafting activities must be considered as the rafting companies are an existing user of the Reserve.

Objections express that the application does not provide enough information to fully understand the effects on existing users of the Reserve. The panel considers that this is mainly because the documents presented an initial proposal which the Applicant has since modified in a number of ways.

The pre-liminary nature of the application documents is further complicated by the fact that the Applicant is continually making changes. Since the application documents were notified, the Applicant has provided a new effects assessment covering the zipline realignment. These documents will be further considered and reviewed by the Department.

While submitters have requested further information, it is noted that the requested information may have already been provided by the Applicant.

**Panel Summary & Recommendations for Issue One – sub issue (a):**

- Submissions and Objections relating to the effects of the proposal on existing users of the Reserve should be accepted and allowed to the extent that they suitably apply to the Reserve itself.
- Considering that the river is non-navigable, the impact of the activity on river users must be considered.
- On a side note, it also means that river users (rafting) will require concessions for the use of the Reserve.
  - o The impact on all river users must be considered.
- A review of the new information received between notification and receipt of this Hearing Report would be recommended before seeking further information (as requested by the submissions/objections).
  - o Following this review – it is recommended that if a shortfall remains (being that the effects on Reserve users still cannot be fully understood) further information should be requested. This might include information such as:
    - Understanding the visual impacts from areas such as the viewing platform at the Tutea Falls. It may require clarification of the final zipline paths and proposed flight paths (when weighted with a zipline user).
    - Understanding the noise of a normal – full weighted – zipline user going alongside the tracks.
    - Understanding the impacts of all river users will be required.

**Further comments from the Panel:**

The Applicant has been willing to modify the application in light of concerns identified in public submissions and during the hearing.

As discussed on page three of this report, the Department may consider re-notifying the application to understand the views of the public.

The Panel notes that the Applicant appears willing to listen to all impacted stakeholders and has demonstrated that they are willing to change the activity as applied for in order to minimise impacts and effects on the Reserve and its users.

The balance between, requiring the Applicant to provide sufficient information for the concession process and the Applicant wanting to remain flexible (not overinvest time, money and analysis into one specific zipline route), creates a back and forth process.

This is a trend that will become apparent throughout each section and sub section below.

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**b. Vegetation and Landscape effects should be understood**

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This issue covers all submissions and objections relating to the impacts of the activity on the vegetation and landscape within the Reserve. This has been raised as a concern as the applicant proposes to remove vegetation for the path of the zipline cables and platforms.

Objections feel that the application does not provide enough information to understand the effects, or that the Scenic Reserve is not appropriate for an activity of this nature because the effects on the vegetation and landscape are too significant.

Supporters, however, feel that the proposal will inject much needed investment into replanting around that Reserve that will ultimately provide a net benefit to the Reserve ecologically.

**Objections**

***Written Objection 9 – Point 7 – Maggie Crownshaw***

- 7. “The applicant suggests that the loss of amenity value will be offset by proposed planting on the true right-hand side of the river. It is hard to understand how regenerative planting in an area that the public cannot see or have access to offsets the visual and noise effects likely to occur.”*

***Written Objection 10 – Point 3(c) – Lucas McDonald***

- 3. “I would support this proposal if: Defined funding levels are specified for the Okere Scenic Reserve for the entire lease period for weed management. The funding should be sufficient to make a considerable impact on pest management in the Okere Scenic Reserve.”*

***Written Objection 17 – Point 6 & 8 – Andrew Blackford***

6. *“The applicant claims vegetation clearance will be minor and limited to a 1.5m corridor. Where zip lines lengths are short and are aligned perpendicular to or contained within incised gully’s/gorges or the like it is relatively straightforward to create an alignment that has a minimal impact on vegetation.*

...

*In my experience a clearance width closer to 2.5m and preferably 3m is needed to provide safe passage. 1.5m would only allow 750mm of clearance either side of the line. Zip line cables do swing laterally if the rider leaves on a skewed angle or there is a crosswind.”*

8. *“If small, low wooden platforms or cobbled ground is used, the following questions need to be answered.*
  - a. *How are the roots of adjacent trees protected from soil compaction..”*

**Written Objection 34 – Point 2 – Rebeca Stirnemann (Forest and Bird)**

2. *“The application and assessment of environment effects describe clearing native and exotic vegetation for tracks that total about 490 metres in length in Okere Falls Scenic Reserve and on adjacent land.*

...

*Reserves such as Okere Falls Scenic Reserve were created largely to protect areas of native forest and to provide habitat for native biodiversity.*

...

*Forest & Bird strongly opposes the construction of ziplines through the tawa-pukatea forest of high ecological value. Tree trimming and felling in this area is of the greatest concern because of the high value of the forest and the risk of significant ecological damage.*

...

*We believe the application should be declined because of the adverse effects on rare native vegetation. Further tourism development is not appropriate in an area featuring rare, threatened and significant native plants. Construction activity and vegetation clearance would have a harmful impact on native vegetation, even if no large trees are felled. Development within the forest could have impacts such as root disturbance, introducing weeds, and altering the ecosystem.”*

**Written Objection 43 – Point 4 & 7 – Justin Hutton**

4. *“There has been no evidence provided of what the structures, vegetation clearance and zipline users would look like from a river users perspective.”*
7. *“This is a potentially large clearance corridor and no evidence has been shown in the application of what the clearance around the lines will look like. It is clear from the photos in the wildlands report that there is not currently a clear path for the lines. I believe the application again understates the amount of vegetation clearance required and the visual effect this will have on the landscape.”*



8. *“The Applicant has mentioned riparian planting on the iwi owned land as a form of mitigation. I do not believe that the riparian planting on private land in any way mitigates the amenity value lost to other reserve users of the significant clearing that will be required.”*

## Submissions in Support

### **Written Submission 12 – Point 2 – Maria Derksen**

2. *“More people will be able to enjoy the beauty of the area. The new plantings will be an additional benefit and proposed pest control is sorely needed.”*

### **Written Submission 15 – Point 3 – James Garrod**

3. *“I think that Okere Adventures has a very good environmental action plan to help with the local ecosystems and will have little negative impact for walkers and river users”*

### **Written Submission 24 – Point 1 – Dylan Thomson**

1. *“I am in favour of the application. I think the ecological effects of having this commercial operation will be hugely positive. The Reserve in its current state can do with a lot of enhancement. Despite the current efforts of Predator Free Okere, more needs to be done. Having a commercial operator take some of that responsibility would be a big boost.”*

### **Written Submission 31 – Point 1(c & I) – Warren John Webber**

1.
  - c. *“Comprehensive technical reporting by Mansergh Graham – landscape architects*
  - ....
  - i. *That the clearance of vegetation is predominantly in the nature of pruning for safety considerations.”*

### **Other objections and submissions relating to this issue:**

<b>Written</b>	
<b>Submission</b> 3, 4, 5, 12, 13, 19, 37, 40, 44	<b>Objection</b> 2, 14, 22, 23, 28, 32, 42

<b>Verbal</b>	
<b>Submissions</b> -	<b>Objections</b> 2, 3, 4, 5, 6

### **Panel Recommendation**

The objections and submissions regarding the vegetation and landscape effects of the proposal on the Reserve are relevant. The objections should be allowed, and submissions should be accepted in part - as prescribed below.

### **Legislative Rationale:**

Section 59A - The Minister may, in accordance with Part 3B of the Conservation Act 1987, grant a concession in respect of any Reserve vested in the Crown, including any Reserve controlled or managed by an administering body... and the said Part 3B shall apply as if references in that Part to a conservation area were references to such a Reserve and with any other necessary modifications.

Section 17U (1) of the Conservation Act 1987 requires that the Minister shall have regard to an array of matters as listed within that section. 17U(1)(b) includes the effects of the activity, structure, or facility and (c) includes any measures that can reasonably and practicably be undertaken to avoid, remedy, or mitigate any adverse effects of the activity.

These submissions and objections raise matters of significance that must be understood so as to ensure the effects of the proposed activity on the vegetation and landscape are considered appropriately.

#### **Key points raised within objections**

Objections expressed that the Reserve should be held for the protection and preservation of its intrinsic values, especially for its indigenous vegetation and unique natural landscapes.

The majority of these objections did not support the proposal on the basis that the application is in a pre-liminary stage and does not accurately outline the final route of the ziplines through the vegetation. The full effects on the vegetation and landscape are unknown. I refer you to objection 17 and 43 to emphasis this point.

#### **Objection 17 – Point 6**

- *“In my experience a clearance width closer to 2.5m and preferably 3m is needed to provide safe passage. 1.5m would only allow 750mm of clearance either side of the line. Zip line cables do swing laterally if the rider leaves on a skewed angle or there is a crosswind.”*

#### **Objection 43 – Point 7**

- *“This is a potentially large clearance corridor and no evidence has been shown in the application of what the clearance around the lines will look like. It is clear from the photos in the wildlands report that there is not currently a clear path for the lines. I believe the application again understates the amount of vegetation clearance required and the visual effect this will have on the landscape.”*

Some objections recognised that a certain level of recreational activity is provided for within the Scenic Reserve and that some vegetation may be removed to achieve this, however, they felt that this proposal takes the notion too far. This can be seen in objection 28, see below:

#### **Objection 28 – Point 6**

- *“At the heart of my concern is that the proposal may only be the start of what is to come – it allows the applicant to get a foot in the door and will open the door for others. In time we will see further and more elevated levels of commercial activity – especially if the venture is successful. This will open the door to new concepts in adventure tourism bringing even further development. And twenty years from now we will no longer have any idea of what a natural river in Okere looks like.*

Moreover, the objections feel that mitigation replanting along the western bank of the river and within private land will not appropriately remedy the vegetation removal/trimming that is proposed. For example: see objection 43 and objection 9 below.

**Objection 43 – Point 8**

*“The Applicant has mentioned riparian planting on the iwi owned land as a form of mitigation. I do not believe that the riparian planting on private land in any way mitigates the amenity value lost to other reserve users of the significant clearing that will be required.”*

**Objection 9 – Point 5**

*“The applicant suggests that the loss of amenity value will be offset by proposed planting on the true right-hand side of the river. It is hard to understand how regenerative planting in an area that the public cannot see or have access to offsets the visual and noise effects likely to occur.”*

It is important to note that the Ministers Delegate cannot consider benefits of offsets that fall outside of the Reserve. Replanting on adjacent private land cannot be considered. This is because the decision is strictly limited to the administration and management of public conservation and does not have discretion to consider activities/impacts on land of any tenure.

In light of these submissions relating to Issue 2, the Panel recommends that the full impacts of the activity on vegetation and the landscape should be understood. Based on the objections, it is recommended further information be sought in order to achieve this.

**Key points raised with submissions in support**

Submissions in support of the proposal express satisfaction with the application as it currently stands. They feel that the activity will provide a net benefit to the Reserve, specifically with regard to the replanting and offsetting. See submission 24 and 12 below.

**Submission 24 – Point 1**

- *“I am in favour of the application. I think the ecological effects of having this commercial operation will be hugely positive. The Reserve in its current state can do with a lot of enhancement. Despite the current efforts of Predator Free Okere, more needs to be done. Having a commercial operator take some of that responsibility would be a big boost.”*

**Submission 12 – Point 2**

- *“The new plantings will be an additional benefit and proposed pest control is sorely needed.”*

**As mentioned within 5.0 Summary of Submissions and Objections:**

Submissions in support of the proposal have provided less in-depth analysis of the application documents. They generally contain less information or analysis of matters such as whether the activity is consistent with the purpose for which the land is held.

The Panel recognises that submitters on a whole feel that the application is not at a stage that the full effects of the activity on vegetation and the landscape can fully understood. They also note the following;

The effects cannot be understood when the scope of the proposed activity is continually changing, or when the full extent of vegetation trimming has not been fully assessed and quantified.

Similarly, for landscape effects, such as the platform locations and geotechnical information. These effects cannot be assessed when the locations for all the proposed structures have not been finalised.

As outlined above in Issue one – sub issue (a) – new information has been provided since the application was notified. It is recommended that this information is reviewed to see whether the information gaps have been addressed before seeking further information.

### **Panel Summary & Recommendations for Issue One – sub issue (b):**

- Submissions and Objections relating to the effects of the proposal on vegetation and landscape impacts within Reserve should be accepted and allowed - in part – to the extent that they suitably apply to the Reserve itself.
  - All offsetting that occurs outside of the Reserve cannot be considered.
  - Only effects (positive and adverse) within the Reserve may be considered by the Minister’s Delegate.
  
- A review of the new information received between notification and receipt of this Hearing Report would be recommended before seeking further information (as requested by the submissions/objections).
  - Following this review – it is recommended that if a shortfall remains (being that the effects on the vegetation and landscape still cannot be fully understood) further information should be requested. This might include information such as:
    - Final locations of the platforms and ziplines (so as to understand the required extent of vegetation trimming and how and where structures will be fixed to the land).
    - Specificity regarding replanting and offsetting measures proposed to be undertaken within the reserve.
    - Further clarification as to how the applicant plans to avoid areas of high ecological value (for reference, see objection 34 – avoiding tawa-pukatea forest).

### **c. Wildlife effects should be understood**

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This point covers all submissions and objections relating to the effects of the activity on the wildlife within the Reserve. This has been raised as a significant concern as a number of submitters claimed that the application documents contained little analysis of the impacts on wildlife within the Reserve.

## Objections

### **Written Objection 14 – Point 2(b) – Peter Lodge**

2. *“The Okere falls predator free project that has been started in the past year or so is doing great and responding well to the trapping and with continued efforts from locals and DOC we should see an awesome return of flora and fauna in the area - again the last thing we need is to ruin nature’s habitat on the ground and more importantly in the birds last free place - the canopy of the tree tops! We don’t want to cut any more trees down or have people in and around birds nesting areas.”*

### **Written Objection 34 – Point 3 – Rebecca Stirnemann**

3. *“Forest & Bird opposes the application because of the adverse effects construction and a new, large scale tourism operation would have an extremely rare and threatened native wildlife that lives within the reserve or relies on the habitat for feeding, breeding or roosting. Wildlife could be disturbed by construction activities, vegetation clearance for paths and zipline infrastructure, and by increased human activity within the forest and river environment as part of a new, large scale tourism operation.”*

...

*“Native forest birds present in the Ecological District include several species which are classified as At Risk Declining.”*

...

*“Pekapeka-tou-roa/long-tailed bats (Threatened-Nationally Critical) have been recorded within the Kaituna River Gorge, north of Okere Falls Scenic Reserve. They are likely to traverse the river gorge and associated streams and forest margins.”*

...

*“As the AEE states, vegetation clearance associated with construction of the platforms and walking tracks has the potential to disturb, injure or kill rare and threatened indigenous skinks and geckos.”*

...

*“Copper skink, striped skink (At Risk-Declining), crenulate skink (At Risk-Relict), common gecko, and forest gecko (At Risk-Declining) have been recorded within Otanewainuku Ecological District.”*

...

*“Forest & Bird is strongly opposed to zipline tours being undertaken at night, due to the potential disturbance to extremely rare long and short-tailed bats and North Island kiwi.”*

## Submissions in Support

### **Written Submission 15 – Point 3 – James Garrod**

3. *“I also think that this is a very low impact way for visitors to share in our beautiful slice of paradise and in time will help restore the ecosystems that were once healthy back to a healthy state.”*

**Written Submission 21 – Point 2 – Ben Robson**

2. *“I also think that the predator control work and native planting they have proposed would potentially improve biodiversity in the reserve.”*

**Written Submission 24 – Point 1 – Dylan Thomson**

1. *“I think the ecological effects of having this commercial operation will be hugely positive. The Reserve in its current state can do with a lot of enhancement. Despite the current efforts of Predator Free Okere, more needs to be done. Having a commercial operator take some of that responsibility would be a big boost.”*

**Other objections and submissions relating to this issue:**

<b>Written</b>	
<b>Submission 3, 12, 13, 19, 30, 37, 44</b>	<b>Objection 22, 28</b>

<b>Verbal</b>	
<b>Submissions</b>	<b>Objections 5</b>

**Panel Recommendation**

The objections and submissions regarding the effects on wildlife within the Reserve are relevant. The objections should be allowed, and submissions should be accepted as further elaborated below.

**Legislative Rationale:**

Section 17U (1) of the Conservation Act 1987 requires that the Minister shall have regard to an array of matters as listed within that section. 17U(1)(b) includes the effects of the activity, structure, or facility and (c) includes any measures that can reasonably and practicably be undertaken to avoid, remedy, or mitigate any adverse effects of the activity.

**Key points raised within objections**

Objections expressed that the application does not appropriately consider the effects of the activity on wildlife within the Reserve.

The majority of the objections request that (if the concession is approved) that the applicant should be bound to defined pest control targets so as to ensure that the potential benefits for the Reserve are obtained.

Objectors also request that proposed pest control efforts, aimed to promote wildlife reintroduction, should develop on existing efforts rather than interfere with existing efforts by DOC and other stakeholders.

Only one submission (submission 34) specifically addresses the presence of bats and other wildlife such as geckos. This submission expresses that the application will likely have significant impacts on wildlife within the Reserve.

With regard to the Applicants application documents and Right of Reply, it is clear that information about wildlife in the reserve, such as which species are present and their populations and distribution, is very limited. The Applicant anecdotally expressed within their Right of Reply that they have not seen any bats within the Reserve for a while.

The majority of these objections did not support the application on the basis that the application is in a pre-liminary stage and does not included any monitoring reports or details relating to the likely impact on wildlife.

Based on the objections, further information must be sought in order to understand these effects.

#### **Key points raised within submissions in support**

Submissions in support of the proposal express satisfaction with the application as it currently stands. These submitters feel that on the surface, the activity would provide a net benefit to the Reserve, specifically with regard to the proposed pest control and offsetting. See submission 24 below.

#### **Submission 24 – Point 1**

- *“I am in favour of the application. I think the ecological effects of having this commercial operation will be hugely positive. The Reserve in its current state can do with a lot of enhancement. Despite the current efforts of Predator Free Okere, more needs to be done. Having a commercial operator take some of that responsibility would be a big boost.”*

The Panel recognises that submitters on a whole feel that the application is not at a stage that the full effects of the activity on wildlife within the Reserve can be fully understood.

The Panel notes that as outlined above in Issue one – sub issue (a) – new information has been provided since the application was notified. The panel recommends that this information is reviewed to see whether the information gaps have been addressed before seeking further information.

Within the Applicants written Right of Reply, they state that:

- Since the application was originally submitted, the applicant has commissioned a report (which the applicant claims have addressed the concerns expressed in the Forest and Bird submission).
- Bird life can thrive, and the proposed pest control will help with this.

#### **Panel Summary & Recommendations for Issue One – sub issue (c):**

- Submissions and Objections relating to the effects of the proposal on wildlife within Reserve should be accepted and allowed - in part – to the extent that they apply to the Reserve itself.
- A review of the new information received between notification and receipt of this Hearing Report would be recommended before seeking further information (as requested by the submissions/objections).
  - o Following this review – it is recommended that if a shortfall remains (being that the effects on the wildlife still cannot be fully understood) further information should be requested. This might include information such as:
    - Populations of different wildlife present within the Reserve.
    - Effects of the proposed activity on the species present within the Reserve.

#### **d. Community and economic benefit of the activity within the Reserve**

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This point covers all submissions and objections relating to the impacts of the activity on the local community and economic benefit of the activity within the Reserve.

Objectors feel that there is no consumer or tourism need for this proposed new activity and that a zip line is not justified in the Reserve. They recommend that the community can be supported by developing such opportunities elsewhere.

However, submissions in support feel that the activity will bring in employment opportunities for the local community, and that the economic benefits are potentially significant.

#### **Objections**

##### **Written Objection 14 – Point 3 – Peter Lodge**

3. *“As a business owner - we stand to make extra money from increased tourism in the area resulting from the proposed zip line but I don't think it's worth the costs of having three in our tiny reserve!”*

##### **Written Objection 18 – Point 5 – Brenda Jenkin**

5. *“There are already other zip lining companies operating in New Zealand. There is no consumer or tourism need for this. The other zip liners are hidden in unused forest – Okere falls is already thriving.”*

#### **Submission in Support**

##### **Written Submission 5 – Point 1 – Maraea Grant**

1. *“The economic benefits are significant.”*

##### **Written Submission 11 – Point 1 – Denise Martin**



1. *“Okere Falls is already a tourism destination. The tourism industry supplies all of the employment in Okere Falls, without tourism Okere Falls would not have developed and would not have become the destination it is now. The proposed zip line will encourage more jobs for the local people and continue to develop existing businesses.”*

**Written Submission 12 – Point 2 – Maria Derksen**

2. *“Great opportunity for additional employment in the area. It will benefit the store and existing rafting businesses in Okere Falls. More people will be able to enjoy the beauty of the area.”*

**Written Submission 15 – Point 4 – James Garrod**

4. *“The impacts for the community look to be extremely positive. With no good public transport service to town, this is very appealing having a regular service to cut down on driving personal vehicles.”*

**Other objections and submissions relating to this issue:**

<b>Written</b>	
<b>Submission 19, 31, 37, 40,</b>	<b>Objection 25, 33, 44,</b>

<b>Verbal</b>	
<b>Submissions -</b>	<b>Objections 1</b>

**Panel Recommendation**

The objections and submissions regarding the effects on the community and economic benefit of the activity within the Reserve are **not** relevant. The objections should **not** be allowed, and submissions should **not** be accepted - as prescribed below.

**Legislative Rationale:**

Section 17U (1) of the Conservation Act 1987 requires that the Minister shall have regard to an array of matters as listed within that section. 17U(1)(b) includes the effects of the activity, structure, or facility and (c) includes any measures that can reasonably and practicably be undertaken to avoid, remedy, or mitigate any adverse effects of the activity.

Note: This sub-issue analysis does not delve into the ramifications of section 4 on economic relevance to the Decision Maker. Please refer to sub-issue 3(b) for further discussion on this point.

- ‘Effects’ as defined under the Conservation Act 1987 does not include: Employment availability/shortage/improvement; and
- Financial growth for local rafting business from increase in tourism; and
- Transport from Rotorua to car parking lot on private land.

All cannot be considered subject to Part 3B of the Conservation Act 1987, as these are effects that occur outside the reserve and cannot be considered under the Act.

## **Panel Summary & Recommendations for Issue One – sub issue (d):**

These submissions cannot be accepted, and objections cannot be allowed.

### **e. Accumulative effects of new users/greater tourism**

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This point covers all submissions and objections relating to the cumulative effects of new users and greater tourism on the Reserve.

Objectors generally felt that the infrastructure for the Reserve was not suitable to handle the proposed growth in visitation and would lead to unacceptable accumulative impacts on the Reserve.

Submissions in support expressed that the proposed activity will encourage more people to enjoy the Reserve and will provide activities to attract visitors during the colder months when river rafting use has reduced.

### **Objections**

#### ***Written Objection 1 – Point 1 – Lueez Hemi***

1. *“As a shareholder  
My answer is No!  
No zip line  
More rubbish  
I say No”*

#### ***Written Objection 2 – Point 1 & 3 – David Granger***

1. *“Traffic intensification and associated dangers:  
State Highway 33 at and before the bridge crossing the Kaituna River is already a very high traffic area with significant difficulty for pedestrians crossing the road. There is no justification for further traffic intensification and associated dangers relating to this application.”*
3. *“Parking intensification:  
Whilst the ‘customers’ of the proposed application may park in the assigned carparks close to Rotorua Rafting there is every likelihood the associated friends and family of the ‘customers’ who seek to view the ‘customers’ activities from the ground will park in the existing Reserve Carpark to then walk into the reserve so they can see their friends on the ziplines. This will be out of the control of the zipline operators and will significantly increase the parking intensification on and around the existing Reserve Carpark.”*

#### ***Written Objection 9 – Point 4 – Maggie Crownshaw***

4. *“The applicant proposes to utilise the existing walking tracks for circa 50,000 visitors per year. How is the congestion that is likely to occur from groups of 14 people every 30 minutes mitigated? ... When the zip line groups stop and fan out to listen to the interpretation discussion, how do other track users get past?”*

**Written Objection 24 – Point 2 – Dylan Thomson**

2. *“As the walking track is already so popular, there are small amount of rubbish that gets dropped. Guides would help make tracks cleaner by collecting any rubbish discarded by other members of public.*

..

*I would like to see the tour guides being vigilant with rubbish. Every guide should be responsible for ensuring that each customer contains their own rubbish. Guide should also be on constant lookout for existing rubbish on tracks.”*

**Written Objection 14 – Point 2(a) – Peter Lodge**

2. *“Overuse of the scenic reserve, the area already has 6-7 rafting companies, 2 river boarding companies, bus tour groups using the scenic falls trail, nature trail tours and of course FIT tourism on the trail. A zip line above and around this small area will have massive adverse effects to the quiet nature of the walking trails and also seemingly “wilderness” feel to the raft trips.”*

**Written Objection 29 – Point 12 – Jamie Stuart**

12. *“The applicant’s assessment of potential effects of the tourist attraction could be summarised as ‘the damage is done, so anything goes’. A more appropriate approach might be that there have been **cumulative effects** detrimentally affecting the public’s benefit and enjoyment of the reserve, and that it may be time to reconsider even existing commercial use of the reserve, rather than sanctioning more.”*

## **Submissions in Support**

**Written Submission 11 – Point 2 – Denise Martin**

2. *“People were unhappy when the river was first rafted, now this industry draws tens of thousands of visitors to Rotorua each year.”*

**Written Submission 12 – Point 1 & 2 – Maria Derksen**

1. *“It will increase the amount of activities available in the area. It will offer an alternative to the rafting when river levels area too low for rafting. It will offer another activity in the colder seasons for Rotorua.”*
2. *“More people will be able to enjoy the beauty of the area.”*

**Written Submission 16 – Point 1 – Andi Uhl**

1. *“The area is already used widely for tourism purposes (rafting, cruise ship visitors, tourists with individual transport, holiday makers, kayakers) and the applicant is planning a large number of measures to reduce the impact on the environment and other reserve users.”*

**Other objections and submissions relating to this issue:**

<b>Written</b>	
<b>Submission</b> 13, 19	<b>Objection</b> 18, 23, 25, 26, 28, 36, 38, 39

<b>Verbal</b>	
<b>Submissions</b> -	<b>Objections</b> 1, 7

**Panel Recommendation**

The objections and submissions regarding the accumulative effects of new users and greater tourism within the Reserve are relevant. The objections should be allowed, and submissions should be accepted (in part) as further elaborated below.

**Legislative Rationale:**

Section 17U (1) of the Conservation Act 1987 requires that the Minister shall have regard to an array of matters as listed within that section. 17U(1)(b) includes the effects of the activity, structure, or facility and (c) includes any measures that can reasonably and practicably be undertaken to avoid, remedy, or mitigate any adverse effects of the activity.

However, as identified in the sections above, only matters and issues occurring within the Reserve may be considered. This means that any objections about traffic congestion and safety around the State Highway turn off fall outside of the scope of the Act. Likewise, with parking infrastructure on private land and transport services between Okere Adventures and client accommodation around Rotorua are all matters that cannot be considered.

**Key points raised within objections**

Objections expressed that the Reserve will not be able to cope with the additional growth in tourism and visitation. Moreover, it is felt that the existing infrastructure is highly used at the current time.

- Within the Applicants Right of Reply, they state that greater infrastructure is required to cater for this growth. However, their proposal does not take steps to manage track overuse and overflow. The Applicant does, however, take steps to provide transport services for booked zipline users from around Rotorua. While this cannot be considered in itself (falls outside the Reserve), it must be noted that this will take steps to reduce additional vehicles parking within the carpark in the Reserve.
- The Applicant is also planning to develop their own car parking in an area adjacent to their existing rafting company area. While any effects related to this carpark cannot be considered,

the Ministers Delegate should be cognisant that this is proposed, and that the DOC Reserve car park will not necessarily be inundated with zipline user vehicles (a relevant consideration).

One objection stated that the applicant proposes to utilise the existing walking tracks for circa 50,000 per year. They then raise questions as to how this additional usage will be managed.

Other objections question why this should be allowed given the existing high use within the Reserve. *“There are already 6-7 rafting companies, 2 river boarding companies, bus tour groups using the scenic falls trail.”* The final objection noted above asks that the Ministers Delegate consider the cumulative effect on the Reserve, and requests that the notion that - *“the damage is done, so anything goes”* is not appropriate. They request that *“it may be time to reconsider even existing commercial use of the Reserve rather than sanctioning more”*.

In short, requestors state that approving this activity will lead to wider effects on the Reserve beyond the specific activity itself.

#### **Key points raised with submissions in support**

Submissions in support of the proposal express satisfaction with the application as it currently stands. They feel that on the surface the activity will offer an alternative during the colder months and will encourage more people to come and enjoy the Reserve.

Submissions raise the notion that the Reserve *“is already used widely for tourism purposes (rafting, cruise ship visitors, tourists with individual transport, holiday makers, kayakers) and the applicant is planning a large number of measures to reduce the impact on the environment and other reserve users.”* They feel that the effects will be adequately managed.

Lastly one submitter poses the notion that *“people were unhappy when the river was first rafted, now this industry draws tens of thousands of visitors to Rotorua each year.”* This speaks to the idea that well managed activities can enhance the Reserve without detracting from the values of the Reserve.

The Panel notes that it cannot be said that the effects are understood when the information has not been provided. As outlined above, new information has been provided since the application was notified. It is recommended that this information is reviewed to see whether the information gaps have been addressed before seeking further information.

The Panel recommends that due consideration should be given to these submissions and objections, etc..., on accumulative effects and the capacity of the Reserve.

#### **Panel Summary & Recommendations for Issue One – sub issue (e):**

- Submissions and Objections relating to overflow effects of new users/greater tourism within the Reserve should be accepted and allowed - in part – to the extent that they apply to the Reserve itself.

- This does not include an assessment of any traffic safety/congestion at the State Highway turnoff, nor any assessment of transport methods to get to the location, or the car park to be located on private land.
  - Cannot allow objection 2 – point 1 – David Granger.
  - Cannot allow objections or accept submissions where they speak to any of those considerations outside the scope of the Conservation Act.
  - Should allow all other objections and accept all noted submissions.
  
- Submissions and objections have not requested further information on this matter. This could be due to the fact that the potential effects of additional visitation are well understood. However, until the final proposal is provided, it cannot be said that the full and final effects are understood.
  - It is recommended that the Ministers delegate request the Applicant to submit a final application.

## **Issue 02      Understanding the infrastructure within the Reserve**

Issue 02 covers submissions and objections relating to the proposed infrastructure within the Reserve.

For the purposes of clarity, this issue is broken into sub issues as prescribed and elaborated on throughout the sections below.

Quotes from both submissions and objections can be found under each heading and have been used to reflect the views expressed as they relate to the activity.

These sub-issues encompass the following:

- a. Pathway and design of ziplines
- b. Location and detail of the platforms
- c. Health and safety management
- d. Braking systems

### **a. Pathway and design of ziplines**

---

This point encompasses all submissions and objections relating to the impacts of the proposed pathway and design of ziplines within the Reserve.

This section will look at the specific routes and height of the lines throughout the reserve rather than the specific resulting visual/noise impacts

- These submissions speak to wider technical infrastructure aspects (etc gradient, speed and user friendliness).

### **Objections**

#### **Written objection 9 – point 2 – Maggie Crownshaw**

2. *“The proposal includes a number of ziplines. That either follow the river or zig zag across it and the adjacent walking track. Two of the ziplines (Zipline 1 & 2) traverse over top of, alight or depart from the two main river viewing points. The application makes a claim that the loss of amenity value for reserve users is no more the minor. It is quite hard to fathom how the applicant has arrived at this conclusion, given up to 28 people an hour (every 2 mins) would be zipping over top of viewers/walker’s heads.”*

#### **Written Objection 17 – Point 3, 11 & 12(e) – Andrew Blackford**

3. *“Two artists impressions are included within the application. The impressions purport to show the cable positions at two of the main river viewing spots. The applicant claims that in this position they are out of frame of photographers and would be above the sight line of viewing platform users.*

*The cables as shown have a profile I would expect to see when they are not weighted with a rider. When weighted they could sit much lower than that depicted. Based on length and gradient proposed for Zipline 2 – I calculate that when the rider is near the middle of the zip line span (at or around Tutea falls) they could be ~2-3m below the landing platform height (based on a typical cable tension). This could put the zip line rider much lower than that inferred in the photo. Has the applicant considered the cable position when loaded?”*

11. *“Factor of Safety Assumed in the calculations is not consistent with appropriate reference standards.”*

...

*No allowance/reduction in cable working load limit for zip line cable end termination type.*

...

*Calculated design tension in the 400m referenced example is significantly lower than I would expect for a cable of this length (the tension in a 12mm cable loaded with 2kN and spanning 400m would be near to or exceed its working load limit. The calculation provided states cable tension at around 25% of the working load limit).*

...

*Preliminary design calculations have been produced by a company that specialises in industrial rope access services. A component of their work is geotechnical drilling work, which will be required for the anchors. The letter provided by this company suggests that the calculations should be reviewed by a suitable engineer. I would consider a suitable engineer to be a Chartered Professional Structural Engineer with experience in zipline/challenge course or cable design. Based on the information provided in the application this review does not appear to have been carried out.*

...

*The applicants SOP under Chapter 4 -Equipment. References NZ990288 as the standard to which harness, trolleys, lanyards will comply with. To my knowledge, no such standard exists.”*

12. *“Compliance with industry standards needs to be demonstrated.”*

**Written Objection 43 – Point 6 – Justin Hutton**

6. *“The application refers to it being more of an eco-tour than an adrenaline activity. However, it also states in the safety plan appendix that lines are between 3.8% and 12% gradient.*

*My understanding is that at 12% it would be one of the steepest ziplines in the country and could reach speeds of 80km an hour or higher with the smooth swaged line. I have been informed that Skylines ‘Zoom Zipline’ is around 10% gradient. They advertise speeds of up to 80km my understanding of the swaged wire the applicant plans to use to reduce noise could mean participants travel faster.”*

**Other objections and submissions relating to this issue:**

<b>Written</b>	
<b>Submission 41, 44</b>	<b>Objection 10, 22, 33, 35, 38</b>



<b>Verbal</b>	
<b>Submission -</b>	<b>Objection 1, 2, 3, 7</b>

### **Panel Recommendation**

The objections regarding the route and design of ziplines within the Reserve are relevant. The objections should be allowed.

#### **Legislative Rationale:**

Section 17U (1) of the Conservation Act 1987 requires that the Minister shall have regard to an array of matters as listed within that section.

- 17U(1)(a) the nature of the activity and the type of structure or facility proposed to be constructed.
- 17U(1)(b) effects of the activity, structure, or facility and (c) includes any measures that can reasonably and practicably be undertaken to avoid, remedy, or mitigate any adverse effects of the activity.

The Department of Conservation is responsible for taking all practicable steps to ensure recreation experiences are safe for visitors using public conservation lands. However, the Department is not a safety agency and do not possess the necessary expertise to assess safety plans.

It is the responsibility of the Operator and industry to adhere to their safety standards. These requirements are set out within the Health and Safety at Work Act 2015.

These submissions and objections raise matters of health and safety and engineering technical nature that must be understood so as to ensure the zipline route and design can be considered.

- *“Compliance with industry standards needs to be demonstrated.”*

Ziplines are a fairly new adventure activity in New Zealand. One objection expressed that there are no New Zealand standards or guidelines for the construction of ziplines. They express that overseas regulations and guidance is generally relied upon. Concern is raised that this has not been done.

Objections express concerns that the proposed zipline pathway and designs might not meet industry standards. Given the complex technical nature of ziplines, the objection considers that a suitable engineer should review the application (suitable engineer – Chartered Professional Structural Engineer with experience in zipline/challenge course or cable design).

#### **Verbal submission 2 – Panel Question 3**

- Panel Member – Is there a NZ guideline for ziplines?
  - Response: *There are overseas safety guidelines that are generally relied upon. Nothing formal in NZ as of yet.*

#### ***Written Objection 17 -Point 11***

- *“The letter provided by this company suggests that the calculations should be reviewed by a suitable engineer. I would consider a suitable engineer to be a Chartered Professional Structural Engineer with experience in zipline/challenge course or cable design. Based on the information provided in the application this review does not appear to have been carried out.”*

**Written Submission 17 – Point 11**

- *“The applicants SOP under Chapter 4 -Equipment. References NZ990288 as the standard to which harness, trolleys, lanyards will comply with. To my knowledge, no such standard exists.”*

**Written Submission 43 – Point 6**

- *“My understanding is that at 12% it would be one of the steepest ziplines in the country and could reach speeds of 80km an hour or higher with the smooth swaged line.”*

In light of the information above, the Panel raises the following questions:

- How can the Department ensure that the risks posed by the application activity have been reasonably addressed?
- To what extent will an audited health and safety plan cover the relevant adventure activity concerns?
  - o Is information provided by the Applicant is technically sound and suitable?
  - o What are the criteria and standards for assessing and reviewing a zipline proposal, and what are the qualifications and experience required for a suitable assessor?

**Panel Summary & Recommendations for Issue Two – sub issue (a):**

- The objections regarding the pathway and design of ziplines within the Reserve are relevant. The objections should be allowed to the extent that they apply to the Department.
- Objections request further information on this matter.
- A review of the new information received between notification and receipt of this Hearing Report would be recommended before seeking further information (as requested by the submissions/objections).
  - o Following this review – it is recommended further information should be requested if a shortfall remains.
  - o The Minister’s delegate should seek to define the boundaries of the Departments responsibilities/risk obligations to avoid overstepping into matters of health and safety which should be addressed by a qualified safety agent.

## b. Location and detail of platforms

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This point encompasses all submissions and objections relating to the impacts of the proposed location and detail of the platforms within the Reserve.

On the same note as '(a) Pathway and design of ziplines' above, this section will overlap with the effect's assessment.

However, these submissions are distinguished from the effect's assessment above on the basis that this section will aim to highlight and address matters of a technical nature, such as - design details of affixing platforms near steep rocky edges and amongst high value vegetation.

This section also partially overlaps with the next section (c) Health and Safety Management, as many of these objections question how the proposed platforms, positioned on the edge of steep terrain, will (a) be appropriately affixed to the terrain and (b) manage safety risks – eg. stop users falling off.

### Objections

#### **Written Objection 9 – point 3 – Maggie Crownshaw**

3. "Further to the above; due the steep terrain, requirement to prevent public access and need to safely restrain zip line users from a significant fall from height it is difficult to comprehend that the *platforms will consist of small, low timber platforms up to 500mm high. The permanent infrastructure in this area is more likely to be significant, intrusive and not in keeping with what is currently in existence.*"

#### **Written Objection 17 – Point 7, 8 & 11 – Andrew Blackford**

7. "The plans provided with the application show a small 'T' shaped platform. Further commentary states "unlike traditional ziplines we will use natural topography".

*There are explicit reasons why the vast majority of ziplines use elevated, engineered platforms.*

- a. *They provide an opportunity to "herd" all the customers into one area. This keeps the customers in one space, where they can be observed by the guides, observe what is happening as other customers are loaded on to the wire, act as spectators to view other customers depart (a natural inclination to see first what they will experience), it keeps them safe in what is typically an environment with a significant risk of falling."*
8. *"If low platforms or cobbles are used that follow the natural ground topography, then the length of cobbles/platform will vary depending on the angle of the ground and the angle of the zip line/rider weight. As they will need enough length for the cable to take the weight of the rider. What is the true length of platform/cobbles? How does it vary at each location?"*

11. *“Technical drawings provided by the applicant state platform construction will be to NZS 3604. This standard is for the construction of lightweight timber frame residential buildings. I would question its appropriateness for outdoor platforms and structures.*

*The preliminary design calculations provided reference EN 15567. I would consider this standard an appropriate reference document. However, the technical information contained within the application appears to contradict this standard (and other similar standards such as ACCT Ver 9).”*

...

*“Building Consent - while not technically required if all platforms are all less than 1m above ground. It would seem prudent to have third party verification of what is being proposed given there is significant exposure to a fall from height at many of the platform locations.”*

13. *“The structural design of the course should be completed and design documentation provided.*

..

*What the platform and braking infrastructure looks like and how that relates to the reserve setting. Infrastructure should align with industry standards.”*

**Written Objection 42 – Point 3 – Roland Kingi**

3. *“Little information around the anchor depths ‘no less than three metres’ could mean up to 8-9 metres deep which may mean well drillers on site drilling to substrate. Please provide more info.”*

**Submissions in Support**

**Written Submission 31 – Point 1(e) – Warren John Webber**

1. *“Utilisation of Soil Anchor technology to secure all zipline cables. This is well-proven technology for which the applicant has consulted with the Avalon Group which has particular geotechnical expertise.”*

**Other objections and submissions relating to this issue:**

<b>Written</b>	
<b>Submission -</b>	<b>Objection 43,</b>

<b>Verbal</b>	
<b>Submission -</b>	<b>Objection 1, 2, 3, 6, 7</b>

**Panel Recommendation**

The objections and submissions regarding the location and detail of the proposed platforms within the Reserve are relevant. The objections should be allowed, and submission should be accepted.

**Legislative Rationale:**

Section 17U (1) of the Conservation Act 1987 requires that the Minister shall have regard to an array of matters as listed within that section.

- 17U(1)(a) the nature of the activity and the type of structure or facility proposed to be constructed.
- 17U(1)(b) effects of the activity, structure, or facility and (c) includes any measures that can reasonably and practicably be undertaken to avoid, remedy, or mitigate any adverse effects of the activity.

The Department of Conservation is responsible for taking all practicable steps to ensure recreation experiences are safe for visitors using public conservation lands. However, the Department is not a safety agency and do not possess the necessary expertise to assess safety plans.

It is the responsibility of the Operator and industry to adhere to their safety standards. These requirements are set out within the Health and Safety at Work Act 2015.

These submissions and objections raise matters of health and safety and engineering technical nature that must be understood to ensure the zipline towers and platform design can be considered.

The objections surmise that the plans don't provide adequate detail of the specific platform locations and design satisfactorily.

One objection asks whether the proposed platform timber and calculations are appropriate for outdoor weather.

The objection is summarised by asking that *"the structural design of the course should be completed and design documentation provided."*

- *"Infrastructure should align with industry standards."*

Moreover, objection 42 questions the anchor depth detail. They express that statements such as 'no less than three metres' is not specific enough.

The single submission supporting platform location and design expresses that the soil nail technology is well-proven and that the Applicant has consulted with Avalon Group who has particular geotechnical expertise.

While this may be accurate, it is clear that the full effects of an activity cannot be understood without additional specific information and clarity.

The Panel considers that this is a further example of where limited information has been provided by the applicant. As seen throughout the other sections, it is recommended that further information is sought to address these objections appropriately.

**Panel Summary & Recommendations for Issue Two – sub issue (b):**

- The objections regarding the location and design of platforms within the Reserve are relevant. The objections should be allowed.
- Objections request further information on this matter.
- A review of the new information received between notification and receipt of this Hearing Report would be recommended before seeking further information (as requested by the submissions/objections).
  - Following this review – it is recommended that further information should be requested if a shortfall of information remains.
  - Keeping in mind that the Department is not a qualified health and safety auditor, this might include information such as:
    - Where are the platforms proposed to be located and what would be required to appropriately affix them to the land?
    - Will the proposed designs suitably handle the weather and location?
    - Given the technical nature of these questions, a question might be – Has a suitably qualified person reviewed and approved these designs.
  - These questions should act as prompts and should be developed on appropriately so as to address all relevant concerns.

## c. Health and Safety Management

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This point encompasses all submissions and objections relating to the impacts on the health and safety of all Reserve users (including users of the zipline).

As mentioned in '(b) Location and design of platforms' above, these submissions interrelate with platform location/fencing and zipline height in relation to track users.

These submissions and objections discuss whether the application documents adequately address the risks presented by the proposed zipline spanning over deep cliffs, a powerful river and within a busy Reserve.

Moreover, the Panel notes that a lot of objections identified concerns with the zipline in relation to kayakers and rafters on the river. These objections expressed that the zipline may distract these river users in high risk situations. However, due to lack of information, these effects weren't fully understood.

### Objections

#### **Written Objection 9 – point 3 & 6 – Maggie Crownshaw**

3. *“Further to the above; due to the steep terrain, requirement to prevent public access and need to safely restrain zip line users from a significant fall from height it is difficult to comprehend that the platforms will consist of small, low timber platforms up to 500mm high.”*
6. *“Is there any health and safety risks to walkers from having people hurtling over the top of their heads every two minutes? How have these risks been addressed?”*

#### **Written Objection 14 – Point 2(e) – Peter Lodge**

7. *“The area has many trees that fall down fairly regularly and doesn't seem like a super safe place to have zip lines in the tree canopy? There aren't many old growth trees in the reserve and the few there are we should look after.”*

#### **Written Objection 17 – Point 5, 7, 8(a,c & d) – Andrew Blackford**

5. *“Given riders typically hang on a tether, 0.5-1m long, how close would the feet of a rider come to someone walking on the track? What potential health & safety implications arise from a zip line this close to a public walking trail (or overhead of a walking trail in general) and how are these being mitigated? How is the amenity value for a trail user compromised by having someone's feet pass a few metres above their head?”*
7. *“They provide an opportunity to “herd” all the customers into one area. This keeps the customers in one space, where they can be observed by the guides, observe what is happening as others customers are loaded on to the wire, act as spectators to view other customers depart (a natural inclination to see first what they will experience), it keeps them safe in what is typically an environment with a significant risk of falling.”*

- 8.
- a. *“Where do customers stand while waiting for their turn or waiting for the rest of the group to complete their turn – there doesn’t appear to be room on the platforms for 12-14 people as currently shown. If not on the platform then:
 
    - i. *How are the roots of adjacent trees protected from soil compaction?*
    - ii. *What keeps the customers safe from exposed ridges/steep banks? What does this infrastructure look like? Is it visible from the walking tracks?”**
  - ...
  - c. *“What are the guides tethered to when loading customers or operating the braking system at the downstream end of the line?”*
  - ...
  - d. *“What infrastructure (stairs/boardwalks/barriers etc) is required to safely convey users from a low wooden platform/cobbled ground at the edge of very steep bank (such as Platform 4) to a safe area or to the next platform (Platform 5). What does this look like for users of the adjacent walking track?”*

**Written Objection 38 – Point 5(a) – Peter Brown**

- 5. *“From a Commercial and recreational river users health and safety issues are as follows.
 
  - a. *With the implement of a zipline crossing the river at Tutea Falls and the pool below, there would no longer be able to do helicopter rescue evacuations, (twice the helicopter has been used to remove an injured person from the bottom of the waterfall). The helicopter will not risk a rescue if there is wire rope in the area.”**

**Written Objection 43 – Point 6 – Justin Hutton**

- 6. *“The area where platform 4 will be is only a very narrow ridge and it is difficult to see how they will be able to accommodate the infrastructure and safely land and corral the participants in this area without them ending up on the existing walking track.”*

**Other objections and submissions relating to this issue:**

<b>Written</b>	
<b>Submission -</b>	<b>Objection -</b>

<b>Verbal</b>	
<b>Submission -</b>	<b>Objection 2, 7</b>



## **Panel Recommendation**

The objections regarding Health and Safety Management within the Reserve are relevant. The objections should be allowed.

### **Legislative Rationale:**

Section 17U (1) of the Conservation Act 1987 requires that the Minister shall have regard to an array of matters as listed within that section.

These objections raise matters of significance that must be considered so as to ensure matters of health and safety are considered appropriately.

Objections identify that the application doesn't adequately address all relevant health and safety matters.

One important matter that has been identified as not avoidable (as the application currently stands) is that the zipline wires will restrict the ability to do helicopter rescue evacuations within key areas of the river.

- The Applicant recognises this risk and expresses that as a river user, he understands the issue. Within the Applicant's Right of Reply, he expressed that a helicopter extraction has never been used before and that an extraction on a rescue board is a suitable alternative approach.
- Moreover, he expressed that they have considered implementing a zipline winch for the extraction of injured river users. This is something that could be developed upon.

Other objectors express that the location presents many health and safety risks such as fall risks and personal injury to both customer and guide.

The Department is a conservation agency, not a safety agency. The Department does not possess the necessary expertise in safety matters to assess a safety plan.

All businesses undertaking recreation and tourism related activities on public conservation land require an independently audited safety plan. The auditor certificate must be received by DOC before the activity begins. Ziplines will likely be considered as an adventure activity and will resultingly be subject to higher health and safety standards; this will be determined by the auditor.

The Ministers Delegate should ensure that the appropriate steps have been taken to ensure health and safety matters are covered.

### **Panel Summary & Recommendations for Issue Two – sub issue (c):**

- The objections regarding the management of health and safety within the Reserve are relevant. The objections should be allowed.

- Objections request further information on this matter.
  
- A review of the new information received between notification and receipt of this Hearing Report would be recommended before seeking further information (as requested by the submissions/objections).
  - Following this review – it is recommended that if a shortfall remains (being that the health & safety matters still cannot be fully understood) further information should be requested. This might include information such as:
    - How to ensure the Applicant has appropriately covered all risks within their health and safety plan?
    - How to ensure the Applicants health and safety plan has been audited?
    - How close would the feet of a rider come to someone walking on the track?
    - How to understand the risk of restricting helicopter rescue evacuations; or
      - What if a zipline extraction idea could be adopted?
  
  - These questions should act as prompts and should be developed on appropriately so as to address all relevant concerns.

## d. Braking Systems

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This point encompasses all submissions and objections relating to the proposed braking systems on the zipline within the Reserve.

### Objections

#### Written Objection 17 – Point 9, 10 & 12(d) – Andrew Blackford

9. *“The application contains little detail on the braking system intended to be used. There is a single reference to the use of a Zip Stop (proprietary eddy current braking system) and an “emergency brake block” in the Safety Operation Plan. Several of the zip lines proposed are steep at around 6-7% gradient and one is very steep at 12% (based on gradients stated in the SOP). At 12% it would be one of the steepest zip lines in the country. The infrastructure required for even the most rudimentary braking system can be significant.”*
10. *“Guide to Guide communications, guide to client safety commands – often yelled to ensure they are followed, for example “brace brace” to ensure customer is in correct brace position as hit braking system (as referenced in applicants SOP).”*
12. *“Braking systems may be greater than stated.”*

#### Written Objection 43 – Point 5 & 6 – Justin Hutton

5. *“I have discussed the proposal with other zipline operators to try and get an idea of the effects of the operation. Other gravity braked lines have a long landing ramp, as people will come in at different speeds and heights depending on their weight. The applicant has stated that the take-off and landing areas will have a relatively small footprint but there is no evidence of how this will be done safely, and it appears to be contrary to other similar operations.”*
6. *“The applicant has not shown how they intend to undertake the activity safely using a much smaller footprint and without the mechanical braking systems of other similar operations.”*

#### Other objections relating to this issue:

Verbal
Objection 2

#### **Panel Recommendation**

The objections regarding the Zipline braking systems within the Reserve are relevant. The objections should be allowed.

Legislative Rationale:

Section 17U (1) of the Conservation Act 1987 requires that the Minister shall have regard to an array of matters as listed within that section. 17U(1)(b) includes the effects of the activity, structure, or facility and (c) includes any measures that can reasonably and practicably be undertaken to avoid, remedy, or mitigate any adverse effects of the activity.

These objections raise matters of significance that must be considered so as to ensure matters of zipline braking systems are considered appropriately.

Objections identify that the plans don't adequately address all relevant zipline braking system matters. Many comments relate to gravity assisted braking systems and express uncertainty as to how the system will work.

One matter that also ties into the effects on other users (Issue one (a)) has been raised. This effect is how to understand and consider the noise related to the braking systems. Objections identified that the braking system may make a noise and that guides may also need to vocalise instructions to the zipline users such as "brace brace" to ensure the customer is in the correct brace position.

There are submissions in support on this sub issue.

The Panel recognises the reoccurring trend of limited information. As seen throughout the other sections, it is recommended that further information is sought to address these objections appropriately.

### **Panel Summary & Recommendations for Issue Two – sub issue (c):**

- The objections regarding the zipline braking systems within the Reserve are relevant. The objections should be allowed.
- Objections request further information on this matter.
- A review of the new information received between notification and receipt of this Hearing Report would be recommended before seeking further information (as requested by the submissions/objections).
  - o Following this review – it is recommended that if a shortfall remains (being that the effects from the braking system still cannot be fully understood) further information should be requested. This might include information such as:
    - How will the proposed braking system suitably work in this specific environment and has this information been audited by a suitably qualified zipline expert?
    - How to understand potential noise effects resulting from the braking system?

## Issue 03 Cultural Significance

Issue 03 covers matters of cultural significance and includes submissions and objections that question whether iwi and hapu views have been heard, understood and respected.

For the purposes of clarity, this issue is broken into sub issues as prescribed and elaborated on throughout the sections below.

Quotes from both submissions and objections can be found under each heading and have been used to reflect the views expressed as they relate to the activity.

These sub-issues encompass the following:

- a. Consultation completeness / understanding the views of iwi and hapu
- b. Application of section 4 of the Conservation Act 1987 (Treaty Partner Relationships)

### **a. Consultation completeness / understanding the views of iwi and hapu**

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This point encompasses all submissions and objections revolving around completeness of consultation.

Some objections request that additional consultation is required. They express that the area has many different groups with different views and that they should all be heard and understood.

## **Objections**

### **Written Objection 28 – Point 5 – Henry Taira Wichman**

5. *“I have also been told that iwi support it. However, I have been informed by many local iwi that they do not. The proposal reserves minimal information relating to iwi feedback. Effective engagement with iwi requires skill and time – it needs to be done properly with full transparency and provision for a balanced view. It is easy to preach benefits such as employment for local iwi – which is important but not as important as complete ownership of a business venture (often the promise of employment – a common theme - is highly patronising). When considering the detail of this proposal there does not seem to be any real technical barriers that prevent iwi from undertaking this venture (and rafting) on their own.”*

### **Written Objection 42 – Point 1(a) & 5 – Roland Kingi**

1. *“The cultural effects consideration (section 7.6) only affords one paragraph within this 211 page document. Ngati Pikiao’s 400 year association with the river and indeed the lakes is far more extensive than a mere paragraph. The river commands that a wider consultation back to the earlier discussions should have taken place.”*
5. *“That an extensive Cultural Impact Assessment be done before the process continues further, Ngati Pikiao have a number of practitioners working in this area that must be considered. They*

*should be from Ngati Hinekiri – Ngati Hinerangi and Ngati Hinekura of Ngati Pikiao. This would be at the cost of the applicant and the consenting authority.”*

## Submissions in Support

### Written Submission 31 – Point 1(b) – Warren John Webber

1. *“Comprehensive consultation with impacted mana whenua (Ngati Hinekiri & Ngati Hinerangi) which I understand to include agreement in principle for a profit-share arrangement.”*

### Written Submission 37 – Point 2 – Nardia Gower

2. *“There is a very small number of established businesses that seek positive collaboration opportunities to utilise their industry knowledge and business experience to assist iwi into successful tourism businesses.*

### Other objections and submissions relating to this issue:

Verbal
Objection 6

### **Panel Recommendation**

The objections and submissions regarding the completeness of Treaty Partner consultation within the Reserve are relevant. The objections should be allowed, and submissions should be accepted.

#### Legislative Rationale:

#### **Section 4 of the Conservation Act 1987**

This Act shall so be interpreted and administered as to give effect to the principles of the Treaty of Waitangi.

This section applies to all other legislation as prescribed under Schedule 1 – ‘Other enactments administered by Department’.

The Reserves Act 1977 falls under this Schedule, meaning that s4 shall be applied to this decision under Section 59A.

These objections raise matters of significance that must be considered so as to ensure iwi consultation matters are considered appropriately.

Objections are best summarised by the following three comments:

- *“The proposal reserves minimal information relating to iwi feedback. Effective engagement with iwi requires skill and time – it needs to be done properly with full transparency and provision for a balanced view.”*

- *“The cultural effects consideration (section 7.6) only affords one paragraph within this 211-page document.”*
- *“That an extensive Cultural Impact Assessment be done before the process continues further.”*

Submissions in support express that consultation has been undertaken and that arrangements have been made to give effect to the aspirations of Treaty Partners with an interest in the area.

- *“Comprehensive consultation with impacted mana whenua (Ngati Hinekiri & Ngati Hinerangi)”*

It is paramount that the Ministers Delegate ensure that appropriate consultation is undertaken. Note – while the Applicant has undertaken their own consultation, responsibility ultimately rests with the Department to ensure that section 4 is given effect to.

**Panel Summary & Recommendations for Issue Three – sub issue (a):**

- The objections and submissions regarding the completeness of Treaty Partner consultation within the Reserve are relevant. The objections should be allowed, and submissions should be accepted.
- Discussions should be had with the Applicant about these concerns. These discussions should seek to highlight that objectors feel that not enough consultation has been undertaken.
- Regardless of whether the Applicant undertakes further consultation, the responsibility for the Department to engage with relevant Treaty Partners, as prescribed under section 4 of the Conservation Act 1987, should be given full effect.
- Consultation with impacted Treaty Partners should result

## **b. Giving effect to the principles of the Treaty of Waitangi – Section 4**

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This point encompasses all submissions and objections revolving around giving effect to the principles of the Treaty of Waitangi.

The key principles that apply to DOC's work are:

1. Partnership – mutual good faith and reasonableness: The Crown and Māori must act towards each other reasonably and in good faith;
2. Informed decision-making: Both the Crown and Māori need to be well informed of the other's interests and views;
3. Active protection: The Crown must actively protect Māori interests retained under the Treaty as part of the promises made in the Treaty for the right to govern;
4. Redress and reconciliation: The Treaty relationship should include processes to address differences of view between the Crown and Māori.

Some objections request that additional consultation is required. They express that the area has many different groups with different views and that they should all be heard and understood.

### **Objections**

#### **Written Objection 9 – Point 4 – Maggie Crownshaw**

4. *“The application suggests interpretation of the cultural and ecological aspects of the reserve will be included. Presumably this will be on the walking trails (as it is difficult to comprehend it happening on the zip lines)? Does this involve signage to talk to and what does this look like?”*

#### **Written Objection 26 – Point 3 – Stuart and Michelle Daniel**

3. *“The applicant explains that cultural education would be an important part of this proposition. There are opportunities to weave cultural importance of this special place, into the existing experiences. I would encourage that this cultural education on the walkway particularly would be a valuable addition to the historical signboards referring to harvesting power. There does not need to be a new, and invasive activity to fulfil this requirement.”*

#### **Written Objection 38 – Point 6 – Peter Brown**

6. *“While the idea and the values associated with Okere Adventures has great ideals for the public education of the local iwi for what it means to all and for the proposed nature improvement of the area, I feel that this still can be done successfully with a scaled down activity within the reserve, the negative outweighs the positives.”*

#### **Written Objection 42 – Point 2 and 4 – Roland Kingi**

2. *“There does not seem to be local Maori experts involved in the repatriation of native planting in the reserves. Ngai Pikiaio have many weaving and traditional medicine exponents familiar with the local gene pools and must be included.”*



4. *“Suggest that should the application be successful, that before any works start that Ngati Pikiao Cultural Monitors are installed to monitor works, especially earth works.”*

## Submissions in Support

### **Written Submission 3 – Point 2 – Ian Wills**

2. *“I think the way that this will be handled seem to be great. Lots of kaitiaki initiative in using minimal impact methods, native tree planting and also predator control.”*

### **Written Submission 5 – Point 1(c) – Maraea Grant**

1. *“Willingness to work with and include local iwi as a way of mentoring a business venture which has flow on affects.”*

### **Written Submission 11 – Point 1 – Denise Martin**

1. *“Local iwi and community to see all parties benefit. Sam has his employees best interest at heart, he is generous and kind natured.”*

### **Written Submission 37 – Point 2 – Nardia Gower**

2. *“There is a very small number of established businesses that seek positive collaboration opportunities to utilise their industry knowledge and business experience to assist iwi into successful tourism businesses. Mr Sutton is seeking to do just that and give mana whenua a solid foundation and security of partnership, to partake in industry that has been operating in their own back yard without them.”*

## **Other objections and submissions relating to this issue:**

<b>Written</b>	
<b>Submission 16, 44</b>	<b>Objection 28</b>

<b>Verbal</b>	
<b>Submission -</b>	<b>Objection 6</b>

### **Panel Recommendation**

The objections and submissions relating to giving effect to the principles of the Treaty of Waitangi are relevant. The objections should be allowed, and submissions should be accepted.

#### **Legislative Rationale:**

**Section 4 of the Conservation Act 1987**

This Act shall so be interpreted and administered as to give effect to the principles of the Treaty of Waitangi.

This section applies to all other legislation as prescribed under Schedule 1 – ‘Other enactments administered by Department’.

The Reserves Act 1977 falls under this Schedule, meaning that s4 shall be applied to this decision under Section 59A.

These objections raise matters of significance that must be considered so as to ensure it is understood how a decision on the application is made while ensuring that the principles of the Treaty of Waitangi are given effect to.

Objections mainly revolve around three main things:

1. *Cultural stuff can be done without the need for this expansive zipline proposal:*

- *“I would encourage that this cultural education on the walkway particularly would be a valuable addition to the historical signboards referring to harvesting power. **There does not need to be a new, and invasive activity to fulfil this requirement.**”*

2. *Ngati Pikiaio has not been involved:*

- *“Suggest that should the application be successful, that before any works start that Ngati Pikiaio Cultural Monitors are installed to monitor works, especially earth works.”*

3. *Submissions support the wider idea of supporting mana whenua. One submission expressly supports the plan to transfer ownership of the zipline:*

- *“Mr Sutton is seeking to do just that and give mana whenua a solid foundation and security of partnership, to partake in industry that has been operating in their own back yard without them.”*

Both objection 1 and 2 should be considered relevant and should be allowed, however, submission points relating to employment of mana whenua should not be allowed.

When considering these matters, the Ministers Delegate should be cognisant of the Ngāi Tai Supreme Court judgment<sup>1</sup> and how it has confirmed and built on how the Department of Conservation should give effect to the Treaty principles.

One main development that came out of this case is that giving effect to the Treaty Principles may require recognition and the according of a degree of economic benefit. The following quote has been taken from a cabinet paper in response to this case.

“The judgement clarifies that DOC is required in some circumstances to consider the possibility of according a degree of preference to iwi as well as the potential associated economic benefit of doing so.”<sup>2</sup>

According a degree of economic benefit has been associated with the Treaty Principles of Right to Development and Active Protection.

However, with regard to these objections and submissions, it is important to note that the according a degree of economic benefit should not be construed so as to interfere with matters of employment law and should not impose a requirement on a concession to employ persons of a particular iwi or hapu. It is on this basis that objections and submissions relating to employment law should not be accepted or allowed.

<sup>1</sup> *Ngāi Tai Ki Tāmaki Tribal Trust v Minister of Conservation [2018] NZSC*

<sup>2</sup> <https://www.doc.govt.nz/globalassets/documents/about-doc/cabinet-papers/cabinet-paper-ngai-tai-ki-tamaki-supreme-court-decision-response.pdf>

### **Panel Summary & Recommendations for Issue Three – sub issue (a):**

- The objections and submissions relating to giving effect to the principles of the Treaty of Waitangi are relevant. The objections should be allowed, and submissions should be accepted.
- The submissions and objections raise that the Reserve falls within an area with multiple overlapping interests from a wide range of iwi and hapu.
- It is important that a full and thorough process is adopted so as to understand the full impact of these matters. Furthermore, it must be recognised that these section 4 policies should be applied as a lens across all facets of the concession process.
- This is a constantly developing space for the Department and these submissions and objections request that these matters are given due consideration.
- Employment related matters fall outside the scope of the Minister’s discretion under the Conservation Act 1987.

## **Issue 04      Protection and preservation of the reserve and its intrinsic values**

Issue 4 contains some of the most substantive/analytical information in relation to this proposed concession activity and the Scenic Reserve in which it is proposed to be undertaken.

The submissions and objections contained below, express views pertaining to the concession statutory framework, more specifically – the Reserves Act 1977 and the Conservation Act 1987 (Part 3b).

For clarity, Issue 04 has been broken into two sub issues. These sub-issues are as follows:

- a. Application of the Reserves Act 1977
- b. Application of the Conservation Act 1987

These provisions mainly speak to the wider matters the Ministers Delegate must consider in order to meet all tests while making their final decision.

- Note: Other sections above partially overlap with this section. For example – section 4 of the Conservation Act 1987, and other comments pertaining to an effects assessments under s17U(1). For the purpose of this document, this section will not duplicate comments that have already been addressed above.

### **a. Application of the Reserves Act 1977 (“the Reserves Act”)**

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This point encompasses all submissions and objections relating to the provisions of the Reserves Act and how they apply to this concession application.

There is one main provision within the Reserves Act that these comments relate to. This is section 19 – Purpose for which the land is held.

### **Objections**

#### ***Written Objection 9 – Point 11 – Maggie Crownshaw***

11. *“The proposal is not in keeping with the high recreation value provided by the reserve and should be rejected outright.*

*The application does not serve to increase the recreational benefits provided by the reserve and will detract against those already provided by the walking trails and river users, whether kayakers or commercial rafting operations.*

*At the very least the zip lines should be away from the river, the walking tracks and especially the main river viewing points.”*

**Written Objection 23 – Point 1 – Will Hand**

1. *“I oppose this application as the location of the proposed zipline is within a scenic reserve. DOC is responsible for preserving and protecting the scenic value of its scenic reserves. This proposal will involve clearing native bush and constructing permanent structures.”*

**Written Objection 26 – Point 2 – Stuart and Michelle Daniel**

2. *“There is already great opportunities for visitors to the area to view and experience the special place of Kaituna River, either on the water (kayaking/rafting/boarding) or off the river on a beautiful peaceful walk through the bush, with adequate viewing points along the way.*

*The addition of another commercial activity to this landscape, in our view, would unnecessarily impose on the landscape, eating into the New Zealand bush setting that currently provides a place of beauty for users to enjoy.”*

**Written Objection 28 – Point 6 – Henry Taira Wichman**

6. *“At the heart of my concern is that the proposal may only be the start of what is to come – it allows the applicant to get a foot in the door and will open the door for others. In time we will see further and more elevated levels of commercial activity – especially if the venture is successful. This will open the door to new concepts in adventure tourism bringing even further development. And twenty years from now we will no longer have any idea of what a natural river in Okere looks like. The upper Kaituna will be transformed into a fun park. And then this commercial venture will start popping up all over the country – not because people cannot exist without it but simply because business cannot exist without thrashing an opportunity. Employment and enterprise is simply not a good enough excuse for consenting this proposal.”*

**Written Objection 29 – Point 4, 8, 11 – Jamie Stuart**

4. *“Okere Falls Scenic Reserve is an area of land (and river) classified as a scenic reserve pursuant to s19 of the Reserve Act 1977”...*
8. *“Pursuant to s17U the Minister, or their delegate, must weigh several statutory tests. s17(U)3 provides that “the Minister **shall not** grant an application for a concession if the proposed activity is contrary to the provisions of this Act or the purposes for which the land concerned is held.” (emphasis added). Okere Falls Scenic Reserve is held “for the purpose of protecting and preserving in perpetuity for their intrinsic worth and for the benefit, enjoyment, and use of the public, suitable areas possessing such qualities of scenic interest, beauty, or natural features or landscape that their protection and preservation are desirable in the public interest.*

*FMC’s position is that the proposal is highly abrasive to the scenic interest, beauty and landscape qualities of Okere Falls Scenic Reserve. There is little doubt that criss-crossing a small reserve with a series of long wires which in many instances traverse the river gorge, and will be occupied regularly by tourists throughout the entire day, every day, and even into the night, will affect the visual and aural aesthetic.*

FMC would also like to observe that where the development of scenic reserves is contemplated in the Reserves Act (s19(2)(c), reference is to “open portions of the reserve”, where facilities are “necessary to enable the public to obtain benefit and enjoyment from the reserve”. The area being proposed for development is not “open” and the facilities being proposed are certainly not “necessary”. There is clear evidence that the “public is already obtaining benefit and enjoyment from the reserve.”

11. “Pertinent sections of Conservation General Policy - Chapter 9: Peoples Benefit and Enjoyment, include:
  - “New Zealanders and international visitors are attracted to public conservation lands and waters by the sights and sounds of wild nature, qualities of remoteness, peace and natural quiet, recreational challenges, opportunities to connect with our heritage, **or to just get away from the pressures of modern living**” (emphasis added).
  - “Recreational opportunities at places should be managed to avoid or otherwise minimise any adverse effects (**including cumulative effects**) on ... **the qualities of peace and natural quiet**, solitude, remoteness and wilderness, where present; **and the experiences of other people**” (emphasis added).”

**Written Objection 33 – Point 6 & 7 – Neville Wilson and Mathew Barnard**

6. “We attach correspondence from the Department of Conservation in response to a proposal of minute scale and impact in comparison to the zipline proposal which was a polite request to express interest in having a storage container in a scenic reserve at Lake Okareka, Rotorua. We quote “This area has been set aside as a scenic reserve rather than a recreational reserve – our focus is on protecting scenic values rather than recreational values” and we further quote “The other alternative is that you submit an application for a lease but I must suggest it is unlikely to be approved”.”
7. “On the basis that the Department of Conservations stance on a more than minor storage container at a Scenic Reserve which currently has shelters, campers, bollards, signs, campervans, a ski lane, sealed road ways and carparks at Lake Okareka, Rotorua. We would suggest to the Department of Conservation that the proposal to construct 7 ziplines and associated platforms and walking tracks for commercial recreation purposes in the Okere Falls Scenic Reserve which is, with the exception of walking tracks and viewing platforms and one carpark that does not allow campers, for the most part un-touched regenerating native bush, is out of the question based on their values to protect scenic values rather than recreational values. We would find the Department of Conservation highly hypocritical to allow this proposal to proceed on the basis of their priorities outlined to our company in the attached correspondence. We would view the Department of Conservation to be showing commercial favouritism if they grant this lease.”

**Written Objection 38 – Point 6 – Peter Brown**

6. *“Given that the both are over 300 in length, the experience of what Okere Adventures will be able to achieved in regard to planting, history and sustainability awareness of the reserve and surrounding area can offer the same product. Having zip line all the way down the river is overkill, to me its more about zip line experience rather than the ethos of nature, cultural significance.”*

## Submissions in Support

### Written Submission 13 – Point 2 – Theo Vos

2. *“I believe that its character and amenity will be improved, because of pest control and the new plantings across the river.”*

### Written Submission 44 – Point 1 – Will Bamford

1. *“While I believe the proposed zipline operation will have a negative impact on the values outlined in Section 19 of the Reserves Act 1977, notably that of Clause 19 (1) (a) which states one of the purposes of the reserve status over this whenua as being that to protect and preserve in perpetuity the scenic interest and landscape values of the whenua, the proposed location is probably one of the better locations to do this due to it being contained within an area where the scenic and landscape values are already impacted on by the existing tourism operations of rafting and river sledging. The reason why I am supportive of this application is that the extent of the activity is contained within an already affected area. However, I believe operating times must be adjusted to allow non-commercial activities to be able to take place within reasonable daylight hours, without experiencing the negative impacts of the commercial activities on the scenic, landscape, and recreational values of the reserve.”*

### Other objections and submissions relating to this issue:

<b>Written</b>	
<b>Submission</b> 11, 13, 16	<b>Objection</b> 14, 18, 22, 32, 34, 35, 36, 39, 41, 43, 45

<b>Verbal</b>	
<b>Submission</b> -	<b>Objection</b> 1, 3, 4, 5

### **Panel Recommendation**

The objections and submissions relating to the application of the Reserves Act 1977 are relevant. The objections should be allowed, and submissions should be accepted.

### Legislative Rationale:

Section 17U(3) of the Conservation Act 1987 stipulates that the Minister shall not grant an application for a concession if the proposed activity is contrary to the provisions of this Act or the purposes for which the land concerned is held.

The Okere Falls Scenic Reserve is administered as a Scenic Reserve pursuant to s19(1)(a) of the Reserves Act 1977.

### **S19 Scenic Reserves**

*(1) It is hereby declared that the appropriate provisions of this Act shall have effect, in relation to reserves classified as scenic reserves -*

*(a) for the purpose of protecting and preserving for their intrinsic worth and for the benefit, enjoyment, and use of the public, suitable areas possessing such qualities of scenic interest, beauty, or natural features or landscape that their protection and preservation are desirable in the public interest*

Section 19(2) further develops upon the purpose for which a (1)(a) scenic reserve shall be so administered and maintained.

### **On another note:**

It is also noted that an Administering Body shall prepare and submit a management plan to the Minister for his or her approval subject to section 41(1) of the Reserves Act 1977. This has not occurred for Okere Falls Scenic Reserve. This will be developed on in Issue 4 – sub issue (b).

### **Submissions and Objections**

Objections against the concession application in relation to this issue are substantial and provide a range of different viewpoints.

The majority of Objections feel that the activity should not be approved in this location because it is not consistent with the purpose for which the Reserve is held. They emphasise that the activity is recreationally/commercially focused and more suited for a recreational reserve or another location where the scenic values aren't as significant.

On the other hand, written submission 44 recognises the negative impacts, but feels that the location is suitable for the zipline as the landscape values are already impacted on by the existing tourism operations of rafting and river sledging. This submission adopts the notion that a certain existing use of the Reserve can influence future interpretation of the overarching purpose for which the land is held.

The Ministers Delegate needs to be cognisant of the statutory tests so as to ensure appropriate consideration of the relevant matters.

*Written submission 29 – Point 11 & 12* counters the above point (submission 44) with a reference from the Conservation General Policy – Chapter 9: Peoples Benefit and Enjoyment include:

- *“All activities on public conservation lands and waters which require a concession or other authorisation should, where relevant, avoid, remedy or mitigate any adverse effects (including cumulative effects) and maximise any positive effects on natural resources and historical and cultural heritage, and on the benefit and enjoyment of the public, including public access.”*



It is recommended that the Ministers Delegate consider all views when determining how the concession application should be assessed against the legislative framework.

Other objections delve into section 19 further and highlight specific parts of the legislative regime:

- *FMC would also like to observe that where the development of scenic reserves is contemplated in the Reserves Act (s19(2)(c), reference is to “open portions of the reserve”, where facilities are “necessary to enable the public to obtain benefit and enjoyment from the reserve”. The area being proposed for development is not “open” and the facilities being proposed are certainly not “necessary”. There is clear evidence that the “public is already obtaining benefit and enjoyment from the reserve.”*

The panel is not in a role to speak to the merits of these claims within this report.

The Ministers Delegate must ensure that they are informed of the existing statutory framework as it stands in relation to the Reserve and what options are available.

With regard to this sub issue, the key question to answer is whether the activity is consistent with s17U(3) of the Conservation Act, being that it is not contrary to the purpose for which the land is held. To understand the nuances surrounding this question, it is important that the Legislative Rational section of Issue 4 – sub issue (b) is read in conjunction with this section (specifically s17W).

*When considering a concession for a Reserve under Section 59A of the Reserves Act, it is important to recognise that the provisions of the Conservation Act and Reserves Act become interwoven.*

**Panel Summary & Recommendations for Issue Four – sub issue (a):**

- The objections and submissions relating to giving effect to the principles of the application of the Reserves Act 1977 are relevant. The objections should be allowed, and submissions should be accepted.
- An assessment of this concession application against the purpose for which the land is held will provide a key foundation for this decision-making process.
- It is recommended that the Ministers Delegate consider these comments and take steps to understand these provisions to the extent to which they apply. Understanding the full and final concession proposal must be achieved first.

## b. Application of the Conservation Act 1987

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### Written Objection 29 – Point 5, 7, 8, 9, 11 – Jamie Stuart

1. *“FMC considers that many of the requirements in s17S have not been met. In particular the description of the potential effects of the proposed commercial activity on recreational and scenic values is inadequate.”*
2. *“FMC believes that this application should have been either returned to the applicant under s17S(A), or further information requested under s17S(D). Since this has not happened, FMC urges the Minister to commission an independent assessment on the effects of this proposal on the scenic and landscape values of the reserve, and on the experience of current and future recreational users of the Reserve, pursuant to s17S(E). This assessment will need to consider the significance of these recreational experiences in local, regional and national contexts.”*
3. *“Pursuant to s17U the Minister, or their delegate, must weigh several statutory tests. s17(U)3 provides that “the Minister **shall not** grant an application for a concession if the proposed activity is contrary to the provisions of this Act or the purposes for which the land concerned is held.” (emphasis added).”*
4. *“s17(U)4 provides that “The Minister **shall not** grant any application for a concession to build a structure or facility, or to extend or add to an existing structure or facility, where he or she is satisfied that the activity—could reasonably be undertaken in another location that— (i) is outside the conservation area to which the application relates;” (emphasis added).”*
5. *“Conservation Management Strategies and Reserve Management Plans provide thoroughly considered agreed visions for the future of publicly owned spaces within a relevant statutory framework and provide bases for assessing potential effects.”*
6. *“The Lake Rotoiti Scenic Reserve Board has no current management plan for the Okere Falls Scenic Reserve (though has signalled an intent to start consulting on one this year), while the Bay of Plenty Conservation Management Strategy 1997-2007 contains little guidance for its specific management*

*In the context of a lack of specific statutory planning, it is necessary to refer to Conservation General Policy for decision-making guidance. Conservation General Policy is a statutory policy document that all relevant strategies and plans need to be consistent with, including Reserves Act Management Plans (s15A Reserve Act).*

*These principles encapsulate how the Department of Conservation and other administering bodies have successfully managed our public conservation land, and ensured our natural environment and recreational opportunities are protected for future generations, over the last 20 years. Reflecting on the principles it is hard to imagine how the proposed commercial*

*attraction could possibly be consistent with their proper application, a reality which is reflected in the almost complete absence of similar commercial activity from public conservation areas regularly used for recreation across New Zealand.”*

**Written Objection 36 – Point 4 – Sheree Ann Briggs**

4. *“Relocate activity to a more remote area, away from an already oversubscribed small location which becomes highly congested with people + vehicles. Relocate away from a river that is used by other operators and away from this area of special significance.”*

**Other objections and submissions relating to this issue:**

<b>Written</b>	
<b>Submission -</b>	<b>Objection 18, 33</b>

<b>Verbal</b>	
<b>Submission -</b>	<b>Objection 4</b>

**Panel Recommendation**

The objections relating to the application of the Conservation Act 1987 are relevant. The objections should be allowed (in part).

**Legislative Rationale:**

Part 3B of the Conservation Act 1987 consists of sections s17O to s17ZJ and includes a wider array of considerations.

These considerations include provisions such as s17U(1) to (6) which comprise of matters such as an effects assessment and a determination as to whether the activity (structure) can reasonably be undertaken in another location eg - (outside the conservation area to which the application relates). These objections also include comment on s17W and the need to consider the relationship between concessions and the conservation management strategies and plans.

When considering Part 3b (specifically s17W) it is important to recognise s59A(3) of the Reserves Act 1977 stipulates the following:

- *‘In the case of any concession in respect of a reserve controlled or managed by an administering body, any reference in the provisions referred to in subsection (1) to any conservation management strategy or conservation management plan shall be read as if it were a reference to a management plan approved under section 41.’*

Section 41(1) of the Reserves Act stipulates that an Administering Body shall prepare and submit a management plan to the Minister for his or her approval. This has not occurred for Okere Falls

Scenic Reserve. This means that the Reserve does not have an active management plan for the reserve.

Moreover, the Conservation General Policy stipulates that:

- *“This General Policy provides guidance for the administration and management of all lands and waters and all natural and historic resources managed for the purposes of the above Acts, **excluding reserves administered by other agencies under the Reserves Act 1977.**”*

As at the date of the hearing, the Reserve has limited guidance as to how it should be managed appropriately. The Reserves Act 1977, especially section 19, will be pivotal for assessing the suitability of this activity in the Reserve.

### **Submissions and Objections**

One objection has provided comprehensive coverage of the application of the Conservation Act 1987 in relation to this concession application.

The specific objection identifies a range of considerations such as s17U(3) and (4), and discusses whether the conservation management strategies and conservation general policy are consistent with the proposal.

With regard to s17U(3), the objector comments:

- *“Reflecting on the principles it is hard to imagine how the proposed commercial attraction could possibly be consistent with their proper application, a reality which is reflected in the almost complete absence of similar commercial activity from public conservation areas regularly used for recreation across New Zealand.”*

With reference to the legislative rationale immediate above, the Panel emphasises that because the Reserve is controlled and managed, the Conservation Management Strategy and Conservation general Policy are not matters that can be considered by the Ministers Delegate in the decision process.

Both objections above ask for the activity to be relocated to a more remote area away from an already oversubscribed small location which becomes highly congested with people and vehicles. Many objections touch on this notion and express that there must be other locations better suited for an activity of this nature. This is a relevant consideration under s17U(4).

With regards to the decision-making process at hand, the Ministers Delegate must ensure that all provisions of Part 3B are appropriately considered.

One Objection recommends that *“the application should be declined in the absence of a community negotiated management plan for the reserve.”*

Note: Section 17W(3) prescribes that the Minister may decline any application, whether or not it is in accordance with any relevant conservation management strategy or conservation management plan,

if he or she considers that the effects of the activity are such that a review of the strategy or plan, or the preparation of a strategy or plan, is more appropriate.

**Panel Summary & Recommendations for Issue Four – sub issue (b):**

- The objections relating to the application of the Conservation Act 1987 are relevant. The objections should be allowed (in part).
  - Objections relating to the Bay of Plenty Conservation Management Strategy or the Conservation General Policy are not matters that can be considered by the Ministers Delegate in the decision process and therefore should not be allowed.
  
- The panel recommends that the Ministers Delegate must appropriately understand the and consider which tests within Part 3B and the wider Conservation Act 1987 apply when making their decision.
  - Objections emphasise that s17U(4) is significant and that the activity could reasonably be undertaken in another location that is outside of the conservation area to which the application relates.
  
  - Given the absence of an operative management plan for the reserve, an objector recommends that the application should be declined. This is possible under s17W(3).

## **Issue 05    Other matters raised**

This section includes an array of ancillary submission/objection points relating to matters such as operation of a concession (if approved), operation of electric vehicles to transport clients from accommodation and use of adjacent private lands.

Given the lower complexity of these submissions, all sub-issues have been summarised within one table at the bottom of Issue 05.

### **a. Ethics and experience of operator**

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This point encompasses all submissions and objections relating to the provisions of the Reserves Act and how they apply to this concession application.

There is one main provision within the Reserves Act that these comments relate to. This is section 19 – Purpose for which the land is held.

### **Submissions in Support**

#### ***Written submission 3 – Point 1 – Ian Wills***

1. *“It’s exciting to see a business with ethics and values that add value to the environment.”*

#### ***Written Submission 5 – Point 1(d) – Maraea Grant***

1. *“Having a well-connected and respected sportsman and businessman in his area, this proposal adds even more value to a priceless landscape.*

*I think the benefits speak for themselves. I do not currently see any aspects that need amending.”*

#### ***Written Submission 11 – Point 1 – Denise Martin***

1. *“Sam is a considerate and kind leader, who is genuinely in support of working alongside local iwi and community to see all parties benefit. Sam has his employees best interest at heart, he is generous and kind natured.”*

#### ***Written Submission 16 – Point 2 – Andi Uhl***

2. *“Sam Sutton with Rotorua Rafting was the first one to actually put resources back into the area and since he is involved with Okere Adventures (the zipline project) I am confident that this company will pull through and succeed with their conservation projects that will go ahead together with the zipline operation.”*

### **Other objections and submissions relating to this issue:**

<b>Written</b>	
<b>Submission 20, 27, 46</b>	<b>Objection –</b>

## **b. Use of electric vehicles**

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This sub issue captures objections relating to use of electric vehicles to ferry clients from their accommodation to the site. Clients may be transported to private land beside the reserve which means that these vehicles never access the reserve.

These objections raised concern about the Applicant leasing adjacent private land.

### **Written Submission 15 – Point 4 – James Garrod**

3. *“The impacts for the community look to be extremely positive. With no good public transport service to town, this is very appealing having a regular service to cut down on driving person vehicles.”*

### **Written Objection 43 – Point 12 – Justin Hutton**

12. *“The applicant has suggested that as part of mitigation he will use electric vans to minimise his footprint. However, he stated at the meeting on September 15<sup>th</sup> that the vehicle will only seat 10 including the driver so if tours are at capacity (14 people) an alternative vehicle will need to be used or it may be necessary to make two trips, increasing the traffic volume even further.”*

<b>Written</b>	
<b>Submission 4, 27, 31</b>	<b>Objection 38</b>

## **c. Other considerations**

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This sub issue captures objections relating to wider matters raised during the notification process.

Objections raised concern about the Applicant leasing adjacent private land.

### **Written Objection 6 – Point 1 – Robert Norton**

1. *“I am one of ten owners of the vacant Maori freehold land known as Okere 1B3C3A. This 1601 square meter section which is partly fenced, is located at 763 State Highway 33, Okere Falls, Rotorua.*

*Samuel Mark Sutton, owner of Rotorua Rafting and majority shareholder of Okere Adventures Limited, currently leases two sections either side of Okere 1B3C3A. One section is used for his*

*rafting base operations and the other is a carpark for the proposed zip line venture as stated in the consent application.*

*Nine of the ten owners of our section were not advised nor consulted about the proposed zip line venture. One of the ten owners, Rawiri Kingi has leased his privately owned land Okere 1B3C3B2 (1232m2) to Samuel Sutton as a carpark for the proposed venture.*

*Rawiri Kingi called a meeting of owners of Okere 1b3C3A on March 31 2019, as Samuel Sutton wish to lease the front part of our section. A formal proposal, written or verbal, was not put forward to the owners by either Rawiri Kingi or Samuel Sutton who was not present at the meeting. The proposed zip line venture was not mentioned in any shape or form. The request to lease was unequivocally declined by the owners.”*

<b>Written</b>	
<b>Submission –</b>	<b>Objection 8</b>

#### **d. Concession process and management**

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This sub issue includes objections and submissions regarding the concession process and concession monitoring/management (if approved).

### **Objections**

#### **Written Objection 9 – Point 9 & 10 – Maggie Crownshaw**

9. *“The public notification of this application appears to be very limited. Can you Department confirm whether signage will be placed at the Reserve during the submission period to elude users to this application?”*
10. *“Does the Department have the resources to monitor the business to ensure these promises are fulfilled?”*

#### **Written Objection 33 – Point 12 – Neville Wilson and Mathew Barnard**

12. *“If the Department of Conservation chooses to decide in favour of the lease which is against their own values then the timing of the zipline activities shall only be allowed between 10am and 2pm daily.”*

#### **Written Objection 25 – Point 5 – Lewis Hogan-Estall**

5. *“If the lease is approved I would hope that the applicant will have to pay a significant contribution to DOC.”*



## Submissions in Support

### Written Submission 21 – Point 2 – Ben Robson

2. *“I would like to see the operating hours amended to just operate between 8am-5pm or the same schedule as rafting. Basically I feel that the river corridor needs to be given time to ‘rest’ from commercial activity. And that locals need time to enjoy the river free from commercial operations.”*

<b>Written</b>	
<b>Submission 44</b>	<b>Objection 30</b>

### **Panel Recommendation For Issue 5 (a), (b), (c) & (d).**

#### **Panel Summary & Recommendations for Issue Five:**

##### Sub issue (a)

- a. The submissions relating to the ethics and experience of operator are relevant. The submissions should be accepted (in part).
  - The submissions relating to ethics and experience of operator fall within the decision-making discretion so far as they speak to the character of the Applicant and ability to carry out the proposed activity. Refer to section 17S(f) of the Conservation Act 1987.

##### Sub issue (b)

- b. The Objections and Submissions relating to the use of electric vehicles to ferry clients from hotel accommodation to the site are relevant. The objections should be allowed, and submissions should be accepted so far as they relate to the Reserve. In the event that the vehicles drop clients on adjacent private land, the vehicles are not on the Reserve and therefore the effects of their use cannot be considered. Having said this, it must be recognised that this will reduce vehicle load from clients in the car park.
  - The submissions and objections relating to the electric vehicles should only be considered relevant where it directly relates to the Reserve (only parking within the Reserve park). Use outside the Reserve (on the road/travel to and from accommodation) is not relevant pursuant to s17(U)(2).

##### Sub issue (c)

- c. The Objections and Submissions relating to ‘(c) other matters’ are not relevant and should not be accepted or allowed. Matters relating to the lease of private land, fall outside the Reserve and cannot be considered.

Sub issue (d)

- d. The Objections and Submissions relating to concession process and management are relevant. The objections should be accepted, and submissions should be allowed. However, written objection 9, point 9 is a procedural matter and is not related to the concession application and should not be accepted. The standard notification process was followed. Comments relating to hours of operation could be provided for by way of concession condition under s17X of the Conservation Act 1987, if considered necessary. The Ministers Delegate should consider what hours would be appropriate.

Objection 25 - point 5 requests that compensation is paid by the Applicant to the Department to make good on conservation losses. This is a relevant consideration and could be considered appropriate pursuant to s17X(d) of the Conservation Act 1987. This is considered separate from offsetting effects.

## 7.0 APPLICANTS REPLY

The Applicant verbally provided a right of reply at the closing of the hearing and further provided a written right of reply ([DOC-6116828](#)).

Note: the following summary has been paraphrased and may not cover the order in which the Applicant presented their right of reply.

The Applicant addressed the room and thanked all submitters for presenting their views. He expressed that all submitters, including himself are passionate and feel strongly about how Okere Falls should be managed.

It was expressed that they are here today to listen and work through matters of concern so as to create a zipline within the Reserve that considers and mitigates impacts on all parties involved.

The Applicant has focused on intertwining the proposed activity with an ethos of giving back to the community, providing opportunities to mana whenua and promoting Kaitiakitanga.

- This proposal will provide this by slowly encouraging mana whenua to take over the whole venture commercially and will be a way to display Maturanga Maori to the world. Providing the whole experience to users of the reserve.
- To reach this point the Applicant expressed that they have endeavoured to engage with impacted hapu and iwi. They are open to further discussions with all who wish to speak on the matter.

With regard to an information shortage, the Applicant emphasised that they are in a difficult spot where they want to remain flexible enough to adapt to submitter concerns, while also not over investing into one proposed location. Geotechnical and full engineering reports for specific locations presents a large burden which could be lost if they propose changes.

- The Applicant noted that they have developed more reports (acoustic and others) since the notification period. This means that some of the shortfalls may have been addressed.
- Once the Applicant has greater certainty as to zipline route and design, they plan to use lidar mapping systems. These systems allow them to quantify vegetation removal accurately.
- The Applicant provided a response to most concerns raised and spoke on how they plan to address these concerns. This includes matters such as addressing braking systems, health and safety, platform and zipline locations and hours of operation.

The Applicant is open to work with DOC and invites their attendance during any construction or vegetation removal so as to ensure compliance and good practice is followed.

Sarah Hunt, a Cheal Consultants Limited Planner, spoke on behalf of the Applicant to address matters of statutory framework and policy. This discussion included matters regarding planning documents, adherence with the Reserves Act (s19) and effects assessments.

- These matters are further outlined in their written right of reply - [DOC-6116828](#).

Lastly, Ranganui Thomas provided input from a cultural perspective on behalf of the Applicant.

He emphasised how this proposal will provide great opportunity for mana whenua in many aspects, ranging from employment/hospitality to expanding commercial mindsets and also connection to the community.

*“The opportunity will provide mana whenua an opportunity to tell their story which would enrich the reserve and will promote Kaitiakitanga.”*

The speaker addressed a question raised by an objector, which was - Who is qualified to understand urupa? He responded with - kaumatua and elders, and they were involved in the recent meeting in which they provided the applicant a letter of support.

## 8.0 RECOMMENDATIONS

Pursuant to S49(2)(d) of the Conservation Act 1987, we have made recommendations to you in respect of the extent to which submissions should be (i) allowed and (ii) accepted, which we summarise in the table below where relevant. This considers the applicants right of reply.

Objectors express a clear dissatisfaction at the limited amount of information provided with the initial notified application documents. Since the application was publicly notified, additional information has been received from the Applicant. The panel recommends that a review of the new information would be required to determine whether information gaps still remain.

Following this review, it is recommended, that if an information shortfall remains (being that the effects of the activity still cannot be fully understood) further information should be requested.

### **Information shortfall**

Objectors and submitters have requested that further information is required to understand the following sub-themes:

- 1(a) – Existing Users
  - o Objections expressed that the effects on users were not well known and that river users were not considered sufficiently.
- 1(b) – Vegetation and landscape
  - o Objections expressed that the effects on vegetation and landscape were not clear and cannot be understood without a final proposal. Moreover, objectors expressed that no one understood the current distributions and populations of wildlife within the Reserve.
- 2(a) – Pathway and design of ziplines
  - o It was expressed that a pre-liminary proposal cannot be relied upon when considering the impact of the activity. It is recommended that a final route proposal is requested.
- 2(b) – Location and detail of platforms
  - o Objections expressed that little technical information was provided for each specific platform and mounting points.
- 2(c) – Health and Safety Management
  - o Ziplining of this nature is likely to be classified as an adventure activity and would therefore be subject to higher health and safety requirements. It is recommended that the Applicant engage with an external third-party health and safety auditor.
- 2(d) – Braking systems

- The panel recommends that further information regarding the braking systems is sought as objectors expressed that very little information was provided. Given the steep gradient of the zipline cables, rough terrain and smaller platforms, objectors felt that this was an important matter.
- 5(d) – Concession process and management
  - Objectors requested that consideration be given to the following two matters
    - Monitoring the activity for compliance assurance and to control hours operation.
    - Monetary contribution to the Department to enhance conservation efforts.

### **Treaty Partner Consultation**

Objectors and submitters feel that consultation with Treaty Partners needs to be reviewed. There are concerns that not all parties have been consulted and that the views of iwi and hapu are not well understood.

Please consider the specific details in the Summary section for each sub-theme below.

- 3(a) – Consultation completeness / understanding the views of iwi and hapu
- 3(b) – Giving effect to the principles of the Treaty of Waitangi

### **Legislative Framework**

The Panel emphasises that a large portion of this statutory analysis will fall back on the key sections within the Reserves Act 1977 and the Conservation Act 1987. It is strongly recommended that the scope of this regime is well understood. Please consider the summary of each sub-theme below:

- 4(a) Application of Reserves Act 1977
  - An assessment of this concession application against the purpose for which the land is held will be necessary for this decision-making process.
- 4(b) Application of Conservation Act 1987
  - Submissions and Objections refer to policy within the Bay of Plenty Conservation Management Plan. However, in the case of any concession over or in respect of a reserve controlled or managed by an administering body, any reference in s59A(1) to any CMS or CMP shall be read as if it were a reference to a management plan approved under section 41.

- Pursuant to section 41 of the Reserves Act 1977, an administering body shall, within 5 years after the date of its appointment or within 5 years after the commencement of this Act, whichever is later, prepare and submit to the Minister for his or her approval a management plan for the reserve under its control. The Lake Rotoiti Scenic Reserve Board have not done this.
- Given the absence of a community negotiated management plan for the reserve, an objector recommends that the application should be declined. This is possible under s17W(3).
  - The Department could utilise this option if it considers it important to develop a management plan before making a decision on an activity of the like within this Scenic Reserve.

No further actions are recommended for the following sub-themes:

- 1(d) – Community and economic benefit
- 1(e) – Overflow effects of new users and greater tourism
- 5(a) – Ethics and experience of operator
- 5(b) – Use of electric vehicles
- 5(c) – Other considerations

I have made recommendations to you in respect of the extent to which objections should be allowed, and submissions accepted. I summarise in the table below where relevant with consideration of the applicants reply if they replied to these issues.

<i>Issues</i>	<i>Summary of Issues raised as an objection or submission</i>	<i>Recommendation</i>	<i>Reason</i>
<b>Issue 1: Effects on the Reserve</b>			
a. Existing Users	<b>Submissions</b> Believe that the activity will enhance the recreational values I enjoy within the Reserve.  <b>Objections</b> Application either lacks information and therefore judgement cannot be made, or that the activity will	<i>Accepted</i>   <i>Allowed</i>	These submissions and objections should be accepted and allowed on the basis that the effects on existing users of the Reserve should be understood and considered.  The Ministers Delegate shall have regard to effects of this nature when considering the concession pursuant

	unreasonably impact existing Reserve users.		to s17U(1)(a)-(f) of the Conservation Act 1987.
b. Vegetation and landscape effects	<p><b>Submissions</b> Expressed that the Applicant has a very good environmental action plan to help with the local ecosystems and will have little negative impact for walkers and river users.</p> <p><b>Objections</b> Objections don't accept that vegetation clearance will be minor and limited to a 1.5m corridor. It was expressed that a width closer 2.5m and preferably 3m is needed to provide safe passage.</p>	<p><i>Accepted</i></p> <p><i>Allowed</i></p>	<p>These submissions and objections should be accepted and allowed on the basis that the views and effects on the vegetation and landscape of the Reserve should be understood and considered.</p> <p>The Ministers Delegate shall have regard to effects of this nature when considering the concession pursuant to s17U(1)(a)-(f) of the Conservation Act 1987.</p>
c. Wildlife effects	<p><b>Submissions</b> The ecological effects of having this commercial operation will be hugely positive. The Reserve in its current state can do with a lot of enhancement.</p> <p><b>Objections</b> The adverse effects from construction would have an impact on extremely rare and threatened native wildlife that lives within the reserve or relies on the habitat for feeding, breeding or roosting.</p>	<p><i>Accepted</i></p> <p><i>Allowed</i></p>	<p>These submissions and objections should be accepted and allowed on the basis that the views and effects on the wildlife of the Reserve should be understood and considered.</p> <p>The Ministers Delegate shall have regard to effects of this nature when considering the concession pursuant to s17U(1)(a)-(f) of the Conservation Act 1987.</p>
d. Community/economic benefits	<b>Submissions</b>	<i>Not Accepted</i>	The submissions and objections should not accepted and allowed on



	<p>The economic and employment benefits are significant.</p> <p><b>Objections</b> There is no consumer or tourism need for this. The other zip liners are hidden in unused forest – Okere falls is already thriving.</p>	<i>Not Allowed</i>	<p>the basis that the economic benefit and matters of employment and local community prosperity are not relevant matters under the Conservation Act.</p> <p>There is no legislative provision to enable the Ministers Delegate to give effect or to consider these matters.</p>
e. Accumulative effects of new users/greater tourism	<p><b>Submissions</b> People were unhappy when the river was first rafted, now this industry draws tens of thousands of visitors to Rotorua each year.</p> <p><b>Objections</b> There is no justification for further traffic intensification and associated dangers relating to this application</p>	<p><i>Accepted (in part – as prescribed for in the recommendation section of this sub issue above).</i></p> <p><i>Allowed (in part – as prescribed for in the recommendation section of this sub issue above).</i></p>	<p>These submissions and objections should be accepted and allowed in part on the basis that the accumulative effects of increased new users and greater tourism on the Reserve should be understood and considered.</p> <p>The Ministers Delegate shall have regard to effects of this nature when considering the concession pursuant to s17U(1)(a)-(f) of the Conservation Act 1987. Having said this, the Ministers Delegate may only consider the effects so far as they relate to the Reserve itself. Submissions and objections which address matters outside the Reserve cannot be considered (eg traffic at the intersection, or impacts on adjacent private lands).</p>
<b>Issue 2: Infrastructure within the Reserve</b>			

a. Pathway and design of ziplines	<p><b>Objections</b> Compliance with industry standards needs to be demonstrated. More information needs to be provided to demonstrate this.</p>	<i>Allowed</i>	<p>These objections should be allowed on the basis that the views and effects of the zipline construction on the Reserve should be understood and considered.</p> <p>The Ministers Delegate shall have regard to effects of this nature when considering the concession pursuant to s17U(1)(a)-(f) of the Conservation Act 1987.</p>
b. Location and detail of platforms	<p><b>Submissions</b> Application is good as it stands. Utilisation of technology such as Soil Anchors to secure all zipline cables is well-proven technology.</p> <p><b>Objections</b> The structural design of the course should be completed and design documentation provided. More information is required</p>	<p><i>Accepted</i></p> <p><i>Allowed</i></p>	<p>These submissions and objections should be accepted and allowed on the basis that the views and effects of the platform construction on the Reserve should be understood and considered.</p> <p>The Ministers Delegate shall have regard to effects of this nature when considering the concession pursuant to s17U(1)(a)-(f) of the Conservation Act 1987.</p>
c. Health and safety management	<p><b>Objections</b> Must ensure the Applicant appropriately manages all health and safety risks.</p>	<i>Allowed</i>	<p>These objections should be allowed on the basis that health and safety is an important matter for all persons (customers/guides and other users) within the Reserve and should be understood and considered.</p> <p>The Ministers Delegate shall have regard to effects of this nature when considering the concession pursuant</p>

			to s17U(1)(a)-(f) of the Conservation Act 1987.
d. Braking systems	<p><b>Objections</b> The application contains little detail on the braking system intended to be used. There is a single reference to the use of a Zip Stop.</p>	<i>Allowed</i>	<p>These objections should be allowed on the basis that braking systems for the zipline should be understood and considered.</p> <p>The Ministers Delegate shall have regard to effects of this nature when considering the concession pursuant to s17U(1)(a)-(f) of the Conservation Act 1987.</p>
<b>Issue 3: Cultural significance</b>			
a. Effective consultation / understanding the views of iwi and hapu	<p><b>Submissions</b> The Applicant has undertaken comprehensive consultation with impacted mana whenua</p> <p><b>Objections</b> The views of all relevant iwi and hapu should be understood. Appropriate consultation should be undertaken.</p>	<p><i>Accepted</i></p> <p><i>Allowed</i></p>	<p>These submissions and objections should be accepted and allowed on the basis that the views of iwi and hapu for the Reserve should be understood and considered.</p> <p>The Ministers Delegate shall give effect to the principles of the Treaty of Waitangi pursuant to section 4 of the Conservation Act 1987.</p>
b. Giving effect to the principles of the Treaty of Waitangi – Section 4	<p><b>Submissions</b> The applicant explains that cultural education would be an important part of this proposition. There does not need to be a new, and invasive activity to fulfil this requirement.</p> <p><b>Objections</b> Willingness to work with and include local iwi as a way of mentoring a</p>	<p><i>Accepted (in part)</i></p> <p><i>Allowed</i></p>	<p>These submissions and objections should be accepted and allowed on the basis that the views of iwi and hapu for the Reserve should be understood and considered.</p> <p>The Ministers Delegate shall give effect to the principles of the Treaty of Waitangi pursuant to section 4 of the Conservation Act 1987. Submissions which relate to matters</p>

	business venture which has flow on affects  Lots of kaitiaki initiative in using minimal impact methods		of employment should not be accepted as they are not relevant matters under the Conservation Act.
<b>Issue 4: Statutory considerations</b>			
a. Application of the Reserves Act 1977	<p><b>Submissions</b> The character and amenity of the reserve will be improved, because of pest control and the new plantings across the river</p> <p><b>Objections</b> The proposal is not in keeping with the high recreation value provided by the reserve and should be rejected outright.</p>	<p><i>Accepted</i></p> <p><i>Allowed</i></p>	<p>These submissions and objections should be accepted and allowed on the basis that the Ministers Delegate is making a decision pursuant to s59A of the Reserves Act 1977.</p> <p>The relevant provisions of the Reserves Act should be considered so as to ensure all legislative tests have been addressed appropriately.</p>
b. Application of the Conservation Act 1987	<p><b>Objections</b> Consider that many of the requirements in s17S have not been met. In particular the description of the potential effects of the proposed commercial activity on recreational and scenic values is inadequate.</p>	<p><i>Allowed</i></p>	<p>These submissions and objections should be accepted and allowed on the basis that the Ministers Delegate is making a decision pursuant to section 59A of the Reserves Act 1977.</p> <p>Pursuant to section 59A of the Reserves Act – The Minister may, in accordance with Part 3B of the Conservation Act 1987, grant a concession in respect of any reserve vested in the Crown, including any reserve controlled or managed by an administering body.</p>
<b>Issue 5: Other matters raised</b>			

a. Ethics and experience of operator	<p><b>Submissions</b> Applicant has his employees best interest at heart, and is a respected businessman</p>	<p><i>Accepted (in part – as prescribed for in the recommendation section of this sub issue above).</i></p>	<p>These submissions should be accepted on the basis that the ethics and experience of the operator speak to the character and ability of the Applicant to carry out the proposed activity within the Reserve.</p> <p>Refer to section 17S(f) of the Conservation Act 1987.</p>
b. Use of electric vehicle	<p><b>Submissions</b> The impacts for the community look to be extremely positive</p> <p><b>Objections</b> Vehicles will make multiple trips, increasing the traffic volume even further</p>	<p><i>Accepted (in part – as prescribed for in the recommendation section of this sub issue above).</i></p> <p><i>Allowed (in part – as prescribed for in the recommendation section of this sub issue above).</i></p>	<p>The Objections and Submissions relating to the use of electric vehicles to ferry clients from hotel accommodation to the site are relevant. The objections should be allowed, and submissions should be accepted so far as they relate to the Reserve. In the event that the vehicles drop clients on adjacent private land, the vehicles are not on the Reserve and therefore cannot be considered.</p>
c. Other considerations	<p><b>Objections</b> Knowledge of the zipline application was not presented when discussing the leasing of adjacent private land.</p>	<p><i>Not Allowed</i></p>	<p>The Objections and Submissions relating to ‘(c) other matters’ are not relevant and should not be accepted or allowed. Matters relating to the lease of private land, fall outside the Reserve and cannot be considered.</p>
d. Concession process and management	<p><b>Submissions</b></p>	<p><i>Accepted</i></p>	<p>The Objections and Submissions relating to concession process and management are relevant. The</p>

	<p>I would like to see the operating hours amended to just operate between 8am-5pm</p> <p><b>Objections</b> The public notification of this application appears to be very limited</p> <p>Does the Department have the resources to monitor the business to ensure these promises are fulfilled</p>	<p><i>Not Allowed</i></p> <p><i>Allowed</i></p>	<p>objections should be accepted, and submissions should be allowed. However, written objection 9 is a procedural matter and is not related to the concession application and should not be accepted.</p> <p>Objection 25 - point 5 relates to compensation paid by the Applicant to the Department. This is a relevant consideration and could be considered appropriate pursuant to s17X(d) of the Conservation Act 1987.</p>
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## 9.0 SIGNATORY SECTION

9(2)(a)

Deidre Ewart, Business Support Manager, Hamilton, Delegate of the Director General of Conservation as Chair of the Hearing Panel

Date: 24 March 2021

9(2)(a)

Accepted by

Stephanie Bowman, Hamilton Permissions Manager  
Delegate of the Director General of Conservation as Manager of the notification process

Date: 28 October 2020

### Recommendation:

1. Note and accept the recommendations as to the extent to which:
  - a. Submissions should be accepted or not accepted; and
  - b. Objections should be allowed or not allowed.

#### Issue 1: Effects on the Reserve

a. Existing Users

**Recommendation: Submissions Accepted / Objections Allowed**

Decision - <b><u>Accept</u></b> / Decline
b. Vegetation and landscape effects <b>Recommendation: Submissions Accepted / Objections Allowed</b>
Decision - <b><u>Accept</u></b> / Decline
c. Wildlife effects <b>Recommendation: Submissions Accepted / Objections Allowed</b>
Decision - <b><u>Accept</u></b> / Decline
d. Community/economic benefits <b>Recommendation: Submissions <u>Not</u> Accepted / Objections <u>Not</u> Allowed</b>
Decision - <b><u>Accept</u></b> / Decline
e. Overflow effects of new users/greater tourism <b>Recommendation:</b> <b>Submissions Accepted / Objections Allowed</b>
Decision - <b><u>Accept</u></b> / Decline
<b>Issue 2: Infrastructure within the Reserve</b>
a. Pathway and design of ziplines <b>Recommendation: Objections Allowed</b>
Decision - <b><u>Accept</u></b> / Decline
b. Location and detail of platforms <b>Recommendation: Submissions Accepted / Objections Allowed</b>
Decision - <b><u>Accept</u></b> / Decline
c. Health and safety management <b>Recommendation: Objections Allowed</b>



Decision - <u>Accept</u> / Decline
d. Braking systems  <b>Recommendation: Objections Allowed</b>
Decision - <u>Accept</u> / Decline
<b>Issue 3: Cultural significance</b>
a. Effective consultation / understanding the views of iwi and hapu  <b>Recommendation: Submissions Accepted / Objections Allowed</b>
Decision - <u>Accept</u> / Decline
b. Giving effect to the principles of the Treaty of Waitangi – Section 4  <b>Recommendation: Submissions Accepted / Objections Allowed</b>
Decision - <u>Accept</u> / Decline
<b>Issue 4: Statutory considerations</b>
a. Application of the Reserves Act 1977  <b>Recommendation: Submissions Accepted / Objections Allowed</b>
Decision - <u>Accept</u> / Decline
b. Application of the Conservation Act 1987  <b>Recommendation: Objections Allowed</b>
Decision - <u>Accept</u> / Decline
<b>Issue 5: Other matters raised</b>
a. Ethics and experience of operator  <b>Recommendation: Objections Accepted (in part)</b>
Decision - <u>Accept</u> / Decline
b. Use of electric vehicle

**Recommendation: Submissions Accepted (in part) / Objections Accepted (in part)**

Decision - Accept / Decline

c. Other considerations

**Recommendation: Objections Not Allowed**

Decision - Accept / Decline

d. Concession process and management

**Recommendation: Submissions Accepted / Objections Not Allowed / Allowed**

Decision - Accept / Decline

Comments:

9(2)(a)

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Damian Coutts, Operations Director, Central North Island - Delegate of the Minister of Conservation

Date: 20<sup>th</sup> January 2021