



Notified Concession Officer's Report to Decision Maker

1. Ruapehu Alpine Lifts Limited (RAL) has made application to the Minister of Conservation for a Licence to occupy land to conduct a ski field on land. The application is for the continuing operation of the Turoa Ski Area, for which the applicant currently holds a licence
2. Permissions record number 48601-SKI
3. File number PAC 00 18 08
4. The total term sought is 60 years.

Background

5. In the early 1950's the Ohakune Mountain Road Association was formed to promote the construction of an access road into the park from Ohakune. The first licence for ski related activity at Turoa commenced in the mid 1960's. Subsequently in 1977 a 45-year licence was signed by Alex Harvey Industries. This licence was assigned various times and the business was ultimately purchased by Ruapehu Alpine Lifts Limited in 2000 when the then concessionaire was placed in to receivership. It is this licence, that RAL currently operate under and that is due to expire in 2022 (five full winter seasons remain on the term) that has motivated the lodging of this current application.
6. RAL is a public company and was formed in 1953. It is a registered company under the Companies Act 1993 and trades as a Public Benefit Entity. The company constitution prevents any dividend or benefit being provided to shareholders, with all financial surpluses being reinvested into the ski areas. RAL operates the Turoa Ski Area, which is the subject of this application and the Whakapapa Ski Area, both within the Tongariro National Park.
7. The Ruapehu Alpine Lifts Trust was created in 1983 to protect the interests of the company and its shareholders and to preserve the company's integrity for future generations. The Trust controls 45% of shares on issue and has a stated aim of "preserving RAL in its current form", with the intention of preventing any individual, group of individuals or organisation from being able to action a takeover of the company.

8. The Board of Directors of RAL is chaired by Murray Gribben, currently Chief Executive of Crown Irrigation Investments Limited, he also holds other chairmanship roles and trustee roles. He has held a variety of senior roles in the finance sector. Duncan Fraser, Phil Royal, Debbie Birch, Geoff Taylor, and Michelle Trapski are the remaining directors and individually hold senior roles in a variety of organisations, including Directorships, Chairmanships and membership of Boards.
9. The Management team of RAL is currently led by Dave Mazey, having almost 30 years' experience with the company. He is supported by a senior leadership team that includes staff with significant experience with the company. Dave has recently announced his retirement from the company, however he will continue in his role until such time as the Board appoints a new CEO.
10. RAL has maintained a constant presence in the Tongariro National Park since its inception in 1953. Through until 2000 their activities were confined to the ski area at Whakapapa. Since gaining approval from the Commerce Commission to purchase Turoa from the receivers in 2000 they have operated both of the ski areas maximising the efficiencies of single concessionaire regimes as required by the Tongariro National Park Management Plan 2006 - 2016.
11. The Department of Conservation, Ministry of Tourism and Tourism Industry Association in August of 2008 agreed to a process described as a 'Preferential right to apply' for a limited supply concession. The preferential right to apply recognises the value of well performing incumbent operators. RAL met the qualifying criteria and were offered the preferential right to apply for a new concession for Turoa. The agreed process states that concessionaires be offered a term of 15 – 20 years and longer where significant infrastructure is located on public conservation land.

The process to date

12. In 2012 RAL approached the Department to commence discussions on their desire to lodge an application for a new licence for the Turoa Ski Area, knowing that the current licence expires in 2022. As these discussions progressed, in July 2013 the Department advised RAL that as a result of the 'Fullers' decision that the Whakapapa licence was not able to be renewed as was previously thought. This prompted the focus to the application and processing of the Whakapapa application. The information gathered and presented through the Whakapapa process has also informed the application process for the Turoa Ski Area.

13. The application for the Whakapapa licence was approved by the Minister's delegate in December of 2015 and subsequent to that approval, this application was lodged. The application is substantial and comprehensive in the information provided. This is as a result of the Whakapapa Ski Area application process.

The Application

14. The application contains in accordance with section 17S of the Conservation Act 1987 the following:
 - (a) a description of the proposed activity:
 - (b) a description identifying the places where the proposed activity will be carried out and indicating the status of such places:
 - (c) a description of the potential effects of the proposed activity, and any actions which the applicant proposes to take to avoid, remedy, or mitigate any adverse effects:
 - (d) details of the proposed type of concession for which the applicant is applying:
 - (e) a statement of the proposed duration of the concession and the reasons for the proposed duration:
 - (f) relevant information relating to the applicant, including any information relevant to the applicant's ability to carry out the proposed activity.

The requested information is supplied in the form of the core application, plus supplementary information relating to an Ecological assessment, Landscape assessment, Economic assessment, Policy assessment and Business Viability and Resilience assessment. A Cultural Impact Assessment has been commissioned but not yet received.

15. The application includes both the ability to locate structures and facilities on the land and the conduct of the activities of the business within the wider licence area.
16. The location of the Turoa Ski Area is within the Tongariro National Park. The nucleus of the park was a tuku (gift) to the people of New Zealand by Te Heuheu Tukino IV, paramount chief of Ngati Tuwharetoa, in 1887. The mountain peaks were set aside to be protected for and enjoyed by all of the people of New Zealand. From the initial tuku, the park has now grown to an area of 79,598 hectares. Ohakune township is located on the edge of the Park and at the bottom of the ski area access road, the Ohakune Mountain Road.

17. The application for a licence encapsulates all existing activities, buildings and structures and those that have previously been approved for construction within the Turoa Ski Area. There are no new activities, buildings or structures under application.
18. The ski area at Turoa is approximately 496 hectares. Turoa has been extensively developed and comprises a base area with RAL buildings to service visitor's needs (including cafe, retail store, rental equipment, ticketing, ski instruction, medical facilities, management facilities etc.), including those buildings and facilities they provide for general public use without charge, beginner slopes, intermediate and advanced terrain and lift services to access the terrain. Other facilities include reticulation of sewage for treatment and disposal in the Ruapehu District Council's Ohakune treatment plant, water storage for snow making, the terminus of the access road and car parking.
19. The Turoa Ski Area has 180,000 – 240,000 visitor days per annum during a winter season. It has previously operated in summer and in future may do so again, depending on the recreational activities to support this. The property, plant and equipment at Turoa is valued at approximately \$90m and the average annual capital investment programme is in the vicinity of \$4 - \$5m.
20. The structures and facilities under application are detailed in schedule 4 of the draft licence.
21. The licence area under application is the same as the current licence area, as described in the Tongariro National Park Management Plan and depicted in schedule 4 of the draft licence.
22. RAL has clear aims and aspirations for the Turoa Ski Area. They are striving for a high quality tourism product. While no new development has been sought in this application, RAL have clearly outlined through the indicative development planning process that they are proposing upgrades and replacements over the next 20 years. This includes an upgrade of the Movenpick Lift, a new quad detachable chairlift to replace the Jumbo T bar, a new chalet at Blyth Flat to replace the current chalet at the top of the Giant chairlift, expansion of the Alpine and Snowflake cafes and increased snow making reticulation and capacity. Over recent years they have also decreased the volume of fuel storage capacity from what they were authorised to have. Prior to progressing with any planned infrastructure upgrades or replacements in the future the relevant detailed considerations and approvals, if appropriate, will need to be sought by RAL. This will include full environmental, cultural and planning assessments.

23. RAL's Company Values are as follows

"Around here we:

- Are customer driven
 - o *Everything we do should benefit the customer in some way*
- Have fun
 - o *We are in the business of helping our customers have fun and being a fun place to work, we have fun as employees*
- Keep each other safe
 - o *Safety is a priority for our customers and staff. The best way to achieve this is by looking out for each other*
- Show respect
 - o *We show respect for each other, the World Heritage Area we work in and the Gift*
- Are passionate about what we do
 - o *We love our jobs, the mountain and our business and we want to share this with our customers*
- Walk the talk
 - o *We don't just talk about it, we do it!*

24. As a result of the recent processing and granting of approval to the application for a new licence for the Whakapapa Ski Area, the Department received a full and comprehensive application from RAL. The only additional information that was requested was a cultural impact assessment. RAL commissioned a cultural impact assessment in 2014 but have not yet received the report. RAL remain in ongoing discussion with Ngati Rangi and Uenuku on this application.

Information contained within the application was supplied to the Department's satisfaction to enable a recommendation to be made on this application. Further detail in relation to the cultural impact assessment may be provided and considered by the final decision maker on the application.

25. Internal assessment on the Whakapapa application was undertaken and a range of functions within the Department provided requested input. The application for Turoa is substantially similar to the Whakapapa application and therefore the analysis from that application has contributed to this report and draft licence document.

- o District Office Operations
- o Terrestrial Ecosystems
- o Historic Heritage
- o Planning

- Landscape
- Commercial Partnerships
- Strategic Finance
- Legal

From an effects perspective, the advice from the staff of the Department is that in relation to terrestrial ecosystems, landscape, historic heritage (excluding cultural heritage issues which is discussed separately in this report), the effects of the proposal will be, as RAL contend, minimal.

26. The importance of the contribution the Turoa Ski Area makes to the local economy was identified by Price Waterhouse Coopers in the report titled 'Lifting the region: The economic benefits of the Ruapehu Ski-fields' included as part of the application. While the Department considers these comments to have merit and does not seek to diminish the millions of dollars that the ski field contributes to the local economy through direct, upstream and downstream effects, matters of economic benefit are not able to be considered as a relevant matter under Part 3B of the Conservation Act 1987.
27. RAL have not at this stage supplied a cultural impact assessment (CIA) or suitable alternative. It wishes to develop that in conjunction with Ngati Rangī and Uenuku. RAL have advised it intends to have that CIA or suitable alternative prepared for the final report for the decision maker, should there be a decision of intention to grant the concession. Ngati Rangī and Uenuku have formally advised the Department that they agree to this application being processed up to and through public notification phase without that CIA or other suitable alternative having been completed and made available for consideration.
28. RAL has proposed to Ngati Rangī and Uenuku that they enter into a relationship agreement, similar to that which they hold with Ngati Tuwharetoa for the Whakapapa Ski Area. The relationship agreement relates to the manner in which RAL is to carry out certain aspects of the proposed concession activity. The performance measures will focus on RAL demonstrating its commitment to Culture, Conservation, Community and Customer. A special condition will be drafted for the final version of the licence document should this agreement be reached by RAL with Ngati Rangī and Uenuku.
29. The Department considers such a condition as has been suggested has considerable merit. If this proposed relationship arrangement is not agreed by the time of a final decision, then RAL acknowledges that that might result in Ngati Rangī and Uenuku altering its position and the Department re-evaluating the merits of the application at that time.

30. RAL has acknowledged that the advice from Ngati Rangī and Uenuku does not preclude it from making a submission during public notification of the proposal, or on providing advice to the decision maker about the cultural values and on the effects the proposal might have on those values. RAL acknowledge that such advice could result in a final decision that differs to the current intent.
31. It is noted other Iwi too have a right to make submissions on any public notification of an intention to grant.
32. In the meantime, the decision maker needs to have information on such values to be satisfied the application is complete. In the absence of the CIA or other suitable alternative the decision maker can consider what the Department already knows about such values. An assessment is attached as Appendix 2. In addition, there is discussion on this issue in paragraphs 42 – 50 below.
33. The Department and RAL have undertaken a range of consultation and engagement with tangata whenua within the area of interest of the application. As noted above Ngati Rangī and Uenuku have advised that they agree to the RAL application being processed through the first determination phase. Feedback was received from Ngati Tuwharetoa following consultation by the Department. Ngati Tuwharetoa acknowledge the manawhenua of Ngati Rangī and Uenuku with the Turoa Ski Area and therefore have advised that they support the role of Ngati Rangī and Uenuku in this process.

Ngati Haua provided their views on the application and noted that this should be considered to be a submission. They noted that as Treaty of Waitangi claims for the Tongariro National Park had not yet been settled by the Crown that decision making on this application should be deferred. Ngati Haua noted their opposition to the current Tongariro National Park Management Plan and expressed their desire to be involved in a full review of this plan. Concerns regarding the tuku or gift area were raised. Note that this application is not seeking for any activity to be conducted within the tuku area. Concerns are also raised with regard to the dual World Heritage status. There is further discussion on this matter in paragraphs 58 – 62. Noting the concerns raised by Ngati Haua, staff of the Department will continue to work together with them and RAL with a view to seeking resolution of those issues prior to a final decision being made on this application.

34. The application was formally presented to the Tongariro Taupo Conservation Board on the 4th of March 2016. The application was discussed at several Board meetings and formal feedback was provided to the Department from the Board following their meeting on the 8th of July 2016. In general, the Board consider that the application is in accordance with the provisions of the Tongariro Taupo Conservation Management Strategy and the Tongariro National Park Management Plan, however the Board did raise several points for consideration.

Indicative development plans (IDP): While approval is not being sought for any new activities through this licence process, the Board did indicate their concern at

some of the proposals. The Department's response to this is that in due course, when RAL are ready to progress with any of the proposals in their IDP they will be required to submit full environmental, cultural and planning assessments for considerations before any approval may be granted. Therefore, the concerns raised by the Board will be addressed at that time.

Description of activity: The Board has proposed that the approved activity be described as "Undertake alpine tourism and snow *related* recreation activities with associated ancillary services and infrastructure within the licence area as provided for in the Tongariro National Park Management Plan". The Department's response is that the definition sought by the Board is too narrow for the current range of activities undertaken by RAL and likely to be undertaken in the future. For example, the Matariki festival that has successfully occurred in recent years, would not be appropriate under the Board's proposed definition. Neither would community and commercial events such as 'The Goat' and 'Peak to Powderkeg' or normal activity such as guided walking or tramping. In addition, the Tongariro National Park Management Plan specifically considers that infrastructure should be available year round and particularly states in section 5.2.15 policy 1 that "The Department will promote the summer use of ski area facilities insofar as they increase access to and enjoyment of the park by summer users".

35. It is considered that there is sufficient information for the decision maker to be satisfied the application is complete for this initial decision for the purposes of section 17S of the Conservation Act 1987. The Department notes the full CIA or suitable alternative is intended to be prepared before any final decision is made, so at that stage comprehensive information on this topic should be available to the decision maker. The Department considers that the approach adopted by RAL and Ngati Rangi and Uenuku in addition to their agreement to the application being processed to an initial phase, in conjunction with the information in the appendix ensures that there is enough information for the decision maker to consider the application to be "complete" to enable an initial decision to be made. RAL has formally accepted that a subsequent absence of a CIA or suitable alternative could result in an initial decision being reversed at the final decision phase or result in delays to the final decision phase.
36. Decision making provisions common to all concessions
- Please note that the provisions are summarised here briefly
- You may grant concessions in the form of leases, licenses, permits or easements (section 17Q(1))
 - You may decline on the basis of adverse effects (section 17U(2))
 - You must decline if the activity is contrary to the purpose for which the land is held (section 17U(3))
 - If the Conservation Management Strategy or National Park Management Plan provides for the issue of a concession, you must not grant a concession, unless it is consistent with the strategy or plan (section 17W(1))

- You may decline an application if you consider that a review of the conservation management strategy or National Park management plan is more appropriate (section 17W(3))
- You may impose conditions (section 17X)

Decision making provisions relating to types of concessions or land status

- You must not grant an easement if a lease, licence or permit is more appropriate (section 17Q)
- You must decline an application for a structure if the activity could be undertaken at another location where adverse effects are significantly less (section 17U(4))
- You may only grant a lease in the circumstances set out in sections 17U(5) and (6)
- You must be satisfied, before granting a concession in a National Park that it will not permanently affect the rights of the public or be inconsistent with section 4 of the National Parks Act

37. RAL are seeking a licence for the whole activity under application. DOC considers a licence can be the appropriate form of concession for this activity. In this case DOC considers a licence granting an interest in land is the better form of licence for RAL's fixed structures and a licence allowing them to carry out the activity, for which no interest in land is required, in a defined area e.g. snow grooming.

In seeking a licence RAL must have satisfied themselves that they do not require exclusive occupation rights which a lease would grant.

As requested by RAL the application is being treated as being one for a licence. As mentioned above the licence has 2 components, one a licence for an interest in land and the other a licence, not granting an interest in land but a right to conduct the activity on other areas of the land.

38. Tongariro National Park is internationally recognised for its outstanding natural and cultural values and has been awarded World Heritage Status. These mountains hold immense significance to Iwi.
39. Physically, the national park has a high degree of natural character, with minimal development. The Turoa Ski Area, while much more modified than the wider park area and supporting a concentration of structures, still retains a high degree of natural character including lava outcrops, rock bluffs and deep gullies. In addition, the Turoa alpine flush is a unique part of the ski area that is protected by policies in the management plan and its exclusion from the amenities area.
40. The Department acknowledges the significance of the mountains to Ngati Tuwharetoa, Ngati Rangī, Uenuku and Whanganui Iwi. It is because of this cultural significance, that the mountains and park are recognised in both the national and international context as 'a living cultural landscape and World Heritage site'.

41. During the development of the Tongariro National Park Management Plan 2006, the Department worked with Iwi and the community to better understand and better describe these values. The management plan reflects the progress made at the time. Further work will be progressed by the Department and Iwi to better understand and describe these values.

Cultural Impact Assessment (CIA)

42. RAL, in their application, acknowledge earthworks and upgrades on the mountain can adversely affect cultural values. Over the years, RAL has changed many aspects of its upgrade plans and operations management to demonstrate respect for the cultural significance of the mountain. For example, all human effluent is now removed from the mountain for treatment and disposal.
43. The Indicative Development Plan (IDP) produced by RAL for the Whakapapa and Turoa Ski fields as a requirement of the Tongariro National Park Management Plan (TNPMP) acknowledges the need for the company to better understand and better protect the cultural values of the Maunga in their operation of the ski areas.
44. Over time, the scale of intended development on the mountain reflected in the IDPs has been significantly decreased. The downscaling of the development plans is in the main part in response to the cultural values of the mountain.
45. He Kaupapa Rangatira, in the Tongariro Taupo Conservation Management Strategy (CMS) and TNPMP comprises a set of Treaty principles and related objectives, and directs the development of a framework and protocols to give effect to these principles and objectives in the management of Tongariro National Park. The framework and protocols described in the CMS and TNPMP are not yet operative. This is discussed in more detail below.
46. The application must be consistent with the TNPMP including the policies, Key Management Philosophies and He Kaupapa Rangatira. It is important to consider the requirements of the Treaty Principles, the intent of *He Kaupapa Rangatira* and the significance of the Maunga.
47. Sections 3.1.5 and 4.1.2 of the TNPMP refer to the principles and objectives of the Treaty of Waitangi. It directs the development of He Kaupapa Rangatira, a framework and protocols to give effect to these principles and objectives in the management of Tongariro National Park. The framework and protocols described in the CMS and TNPMP are not yet operative. However, Section 3.1.5 of the TNPMP refers to the Treaty principles and He Kaupapa Rangatira, and that these principles “must be given force through this plan”. The principles and objectives of He Kaupapa Rangatira as outlined in Section 4.1.2 are assessed in Appendix 2 of this Report and summarised in the latter part of this report.

48. Key issues raised by the assessment of the matters covered by He Kaupapa Rangatira include:
- Balancing of the Key Management Philosophies, He Kaupapa Rangatira principles and objectives, and the policies of the TNPMP.
 - The application is not inconsistent with the policies of the TNPMP.
 - Iwi expectations of participation and partnership in the management of TNP may not have been met.
49. While matters of Iwi expectations in participation and partnership in the management of the park itself might not directly be a matter to be factored into a concession decision, the RAL proposal for a partnership arrangement should at least partly address this concern. Also the advice from Ngati Rangī and Uenuku referred to in paragraph 27 of this report could be regarded as being an interim view that until such time as the Cultural Impact Assessment (CIA) has been completed this should not preclude the making of an initial decision of an intention to grant the concession. Again, as noted in paragraph 30 if such a decision is made and then after public notification the CIA and/or Ngati Rangī and Uenuku consider the effects on cultural values are unacceptable to them, then this will be factored into the final decision which may be different to the initial decision of the intention to grant.
50. Accordingly, at this stage the Department considers the matters referred to in paragraph 49 do not preclude making the initial decision of the intention to grant the concession.

National Parks Act 1980

51. The area under application is part of the land held as Tongariro National Park, managed under the National Parks Act 1980. Section 4 of the National Parks Act provides that national parks are held for the purpose of preserving in perpetuity for intrinsic worth and the benefit, use, enjoyment of the public, scenery, ecological systems and natural features so beautiful, unique or scientifically important that their preservation is in the national interest. Section 15 of the Act provides for the setting aside and use of amenities areas within national parks that are in accordance with the Act and the management plan, for public use and enjoyment. The TNPMP also identifies 3 Ski Areas. With the exception of two lifts, the entire ski field infrastructure is located within the amenities area and all the proposed works are within the TNPMP's defined Ski Area boundaries.
52. Section 43 of the National Parks Act 1980 provides that National parks are to be managed in accordance with provisions of the relevant National Park Management Plan. The Tongariro / Taupo CMS management objectives for the Tongariro – Ruapehu area are that Tongariro National Park is managed in accordance with the TNPMP.

53. With respect to the proposed Concession Activity, both the location of the infrastructure including lifts and buildings and the recreational activities provided such as ski instruction, skiing and snowboarding etc., are located either within the amenities area or the TNPMP's Turoa Ski Area. Where they are located in the former, s 15(3) of the National Parks Act 1980 provides that the principles applicable to National Parks shall, despite, s 4 of the Act, apply only so far as they are compatible with the development and operation of such amenities and services. Where they are located in the latter, they accord with the requirements of the TNPMP. As this provides for management of the Park in accordance with the Act then the Department considers the proposed activity contained in Turoa Ski Area is consistent with Section 4 of the National Parks Act 1980

General Policy for National Parks 2005

54. The General Policy for National Parks 2005 provides national direction for the administration of national parks. In particular, policy 2 (e) requires consultation with tangata whenua on specific proposals involving places of significance to them and policy 10.4 (a) states national park management plans will identify the conditions under which applications for ski fields and their modifications may be considered.
55. The General Policy for National Parks recognises that activities such as is proposed by RAL can be catered for (reference GP 10.4 and 10.5). The TNPMP also recognises that activities such as this proposal can be managed. The plan has a full chapter on Ski Area management and specific Ski Area Policies. The TNPMP seeks to limit the effects of large-scale development and intensive use to existing areas (4.2.4 and 5.2.1) and recognises that ski lifts and associated facilities may need to be located outside of the amenities areas (5.2.1.2) and infrastructure should not extend above the 2300m contour (5.2.1.9).
56. While the policies in the General Policy for National Parks (GPNP) are not a matter the decision maker is expressly required to take into account when considering a concession application, it must be remembered that the policies in the GPNP are implemented through the Conservation Management Strategies and the Management Plans. In relation to this application the detailed provisions in the TNPMP address the matters raised in the GPNP. The provisions in the TNPMP are discussed below. Suffice to say that if the application is consistent with the TNPMP then in view of the planning document hierarchy, the application will also be consistent with the GPNP.
57. In accordance with section 172 of the Operational Guidelines for the World Heritage Convention, the Department notified the World Heritage Centre of the Whakapapa Ski area application, to advise receipt of the application and to advise of the process. While no direct comment was specifically sought, opportunity to provide feedback to the Department was available. No response to this letter was received by the Department. The Department has also notified the World Heritage Centre of this application in respect of the Turoa Ski Area.

58. Tongariro National Park was granted World Heritage status for both its outstanding natural (1990) and cultural values (1993). Having World Heritage Status requires the park to be managed in a manner consistent with the articles against which the application was approved and consistent with the respective statutes and management plan for the park.
59. The International Union for Conservation of Nature (IUCN) technical evaluation 1990 recommended granting of World Heritage status for natural values because of its exceptional natural beauty and for ongoing geological processes. It noted that the Maori cultural aspects add further to its significance and reinforce its natural values. Concerns raised in the evaluation were:
 - a) The extent of ski development plans at the time for expansion, the impact of those developments on cultural values and image of the park. It was suggested that the ski fields would be very susceptible to effects of global warming which would require upward movement of skiing activity.
 - b) The extent to which the cultural values of the park are given prominence and the level of involvement by the local Maori people.
60. Ski field infrastructure was present on the mountain when World Heritage Status was conferred in 1993; however, both IUCN and ICOMOS raised concerns at that time about the possible expansion of infrastructure into the most sensitive summit areas of Mount Ruapehu.
61. IUCN believed these issues were resolved by the then new management plan (that management plan has now been superseded by the current TNPMP (2006 – 2016) which they viewed as protecting the natural values of the park and enhancing the cultural and spiritual values. Ski field development was constrained within specific zones and limits placed on their expansion and operation. The current TNPMP also better promoted cultural values. In general, the pristine areas were to be managed to avoid development and to conserve natural, cultural and historic values.
62. The Department has been consulting Iwi on the drafting of the Retrospective Statement of Outstanding Universal Values (RSOUV) for the World Heritage Committee consideration. It will outline the values on which the mountains and park were granted World Heritage status. In the absence of the RSOUV this application has been assessed in terms of the criteria as set out in the Operational Guidelines for the Implementation of the World Heritage Convention and the original Nomination of Tongariro National Park for inscription onto the World Heritage Cultural List. This is set out in Appendix 3.

Tongariro Taupo Conservation Management Strategy

63. The operative Tongariro Taupo Conservation Management Strategy 2002 – 2012 (CMS) contains no specific policies in relation to the Turoa Ski area, therefore the application has been assessed against the key management principles in section 2.1.2 of the CMS.
64. The following Principles are contained within section 2.1.2 of the Tongariro Taupo Conservation Management Strategy
65. Principle 1: Protection and Enhancement of natural environment within the Conservancy
The management actions relate to the protection and management of biodiversity, including protected species as well as introduced species. There is specific reference to the removal of past developments which no longer fulfil a function. RAL achieves this by complying with works approvals when they seek to construct new facilities. There is always a requirement to remove any redundant infrastructure that is not planned to be used for another appropriate purpose, and RAL have always met such requirements.
66. Principle 2: Protection of Historic Resources where they are managed by the Department
The singular management action relates to identification and conservation of historic resources. There are no identified historic resources or actively managed historic sites within the Turoa Ski Area boundaries.
67. Principle 3: Development of an effective conservation partnership with Tangata Whenua
The management actions relate to the Department's engagement and work with Tangata Whenua as an agent of the Crown, including the requirement to give effect to the principles of the Treaty of Waitangi. RAL support the Department's actions by engaging with Tangata Whenua on a range of matters. In addition, as noted in paragraph 30 above RAL are wishing to enter into a partnership agreement with Ngati Rangi and Uenuku. This is consistent with RAL developing a relationship with Ngati Rangi and Uenuku.
68. Principle 4: Fostering recreation use of public conservation land
A key contribution that RAL makes is to the contribution to the recreational facilities that provide for experiences for the public on conservation land. A range of activities, from safe snow fun, sightseer experiences, beginner skier through to the provision of expert ski and snow board trails, are all provided by RAL. Approximately half of the visitors to the Tongariro National Park visit to recreate at the ski areas and traditionally Turoa has been one of the most visited ski areas in New Zealand.

69. Principle 5: Limiting non-recreation commercial use of public conservation land
The purpose of RAL's activities is to provide for recreational use.
70. Principle 6: Enhancing advocacy outcomes and community relations
As a key member of the community RAL has demonstrated a willingness to become involved in and advocate for conservation outcomes and community relations. They actively provide ski programmes for local youth and discounted access to the ski area for local school students. The Department may wish to work with RAL in the future to increase mutual conservation outcomes.
71. It is considered that the application is consistent with the Key Management Principles of the Tongariro Taupo Conservation Management Strategy 2002 – 2012

Tongariro National Park Management Plan

72. The current Tongariro National Park Management Plan (TNPMP) is the primary statutory policy framework against which decisions are made in relation to the park. Section 4 of the park plan provides general use objectives and policies for the park, more specifically, the policies in section 4.4.1 while section 5 objectives and policies are specific to ski areas within the park. It should be noted that while there are a large number of policies relating to the operation of the ski areas, these are mostly operational in nature and guide decision making in respect of the changing nature of the ski areas and the ongoing evolution and development that occurs as they respond to technological advances, societal and customer changes.
73. Section 3.1 outlines the Key Management Philosophies. Appendices 1 and 2 of this report assess these matters. Key issues include:
- Balancing of values for the National Park
 - The Key Management Philosophies focus on reducing development
 - The licence area impact on the peak of Ruapehu and the cultural values of Ngati Rangi and Uenuku
 - Balancing of the Key Management Philosophies, He Kaupapa Rangatira and policies of the TNPMP
74. Sections 3.1.5 (Key management philosophies) and 4.1.2 (He Kaupapa Rangatira) refer to the principles and objectives of the Treaty of Waitangi. The specific protocols referred to in 5.2.1.14 (*He Kaupapa Rangatira*) have yet to be developed between the Department and Iwi and therefore there are no formal protocols established for the involvement of tangata whenua in the development and management of the ski area. RAL are seeking greater Iwi involvement and this will be borne out when the proposed partnership framework is in place.

75. Section 4.1.3 seeks to protect the park's natural landscape values and ensure infrastructure is designed and located to avoid impacts on landscape values. Section 4.1.3, in accordance with many other sections within the plan, also includes a requirement to remove redundant infrastructure. While this application doesn't seek authorisation for any new infrastructure that has not yet been approved, nevertheless when considering applications for replacement infrastructure this is a matter that is given effect to through the works approval process. The preparation of a landscape assessment was undertaken by a suitably qualified expert and is included in the application. The Department is satisfied that the landscape effects are well managed and that buildings, structures and facilities are located in such a way as to minimise the effects on landscape values.
76. Section 4.1.14.1 relates to volcanic hazards. The most obvious natural hazard within the park is volcanic activity and risks from this hazard take two main forms: ground hugging flows such as lahars, and airborne explosive material such as rock, ash and pumice. Buildings, structures and facilities are located in such a way as to minimise the risk of harm in the event of a volcanic event. While volcanic events pose less of a risk at Turoa than they do at Whakapapa, RAL maintains a current safety management system for, amongst other things, volcanic hazards. It is a condition of the draft licence that this safety management system is audited by a suitably qualified expert on an ongoing basis.
77. Section 4.1.14.2 relates to Avalanche and Erosion. Where necessary for public safety and enjoyment, avalanche control will be permitted within ski area boundaries and outside of the ski area boundary if the avalanche danger poses a direct threat to the safety of users of the ski area. The facilities of RAL are located in a manner that minimises the risk of damage or loss in the event of an avalanche. A current safety management system is in place for avalanche hazards. It is a condition of the draft licence that this is audited by a suitably qualified expert on an ongoing basis.
78. Section 4.1.17 relates to Waste, Discharges, Contaminants and Noise. The most recent and significant discharge event occurred at the Turoa Ski Area when 19,000 litres of diesel was discharged into the Makotuku River. The fuel storage tank had been approved for installation, following an assessment process, by the Department in May of 2006; however, it became apparent that the spill was a result of unsuitable modifications and irregular maintenance or maintenance being carried out by a person that was not suitably qualified for the task. The systems and procedures that have been put in place since this event gives the Department the confidence that there will not be a repeat event.

79. Other policies within section 4.1.17 relate to use of buildings being only for the essential purposes and that there is a preference for maintenance activities, for example to occur outside of the park. RAL maintain a workshop outside of the park for this purpose. All effluent generated from within the ski area is collected and transported outside of the park to the Ohakune treatment centre for treatment and discharge. In comparison to other areas within Tongariro National Park, there is an expectation and acceptance that ski areas will be areas of less natural quiet because of the nature of ski operations. Noise generated by the chairlifts must comply with the District Plan noise standards. Standard conditions in the draft licence require compliance with all other Acts and Regulations.
80. Section 4.3.2 relates to Recreational Objectives and Policies and it notes that the Tongariro National Park has a strong history of recreational use. The Turoa Ski Area is an important part of the recreational mix of opportunities in the park as it enables visitors to enjoy the natural values of the park. While the ski area occupies less than 1% of the total land area, the ski area attracts some 20 – 30% of all visitors to the park who come for an alpine recreation experience in a safe and managed way.
81. Section 4.4 relating to Concessions provides broad guidance to decision makers on all concession types and in particular specific guidance on a narrow range of activities that does not include ski areas. This is due to a separate section of the TNPMP containing specific policies with regard to the operation of the ski area.
82. Section 5.1.1.3 relates to Ski Area Development and Slope Capacity. The area under application does not seek to expand the upper limit of the ski area and in addition RAL agree that the comfortable carrying capacity to 5500 skiers per day as detailed is appropriate. This means that any future plans for infrastructure development will be tested against this, such as requests for additional car parking. RAL have a stated desire of improving the quality of the alpine recreationalists experience and to enhance midweek opportunities rather than creating additional facilities to service peak days of demand.
83. Section 5.2.1 relates to the management of existing ski areas. As an established ski area, Turoa is recognised and no additions or extensions to the ski area boundary or licence area are proposed. The application is consistent with policy 2, in that it is considered that some ski lifts and associated facilities are provided for outside of the amenities areas. RAL acknowledges that administration buildings, car parks, cafes, ski school etc. should be accommodated within the amenities area. The activity is consistent with policy 7, in that no aircraft are used for the purposes of placing skiers. Summer activities are currently not being provided. RAL consider that there is scope to increase the summer recreational activities in the future and this is supported by the TNPMP.

84. The Turoa Ski Area is an important visitor asset within the Park. The redevelopment of infrastructure within the ski area over time to both meet the needs of visitors and to consolidate infrastructure is consistent with section 5.2.1 which requires careful long term planning and integration with other management policies and approaches within both the ski area and park as a whole. This has been done to date within the TNPMP and the Turoa Ski Area Indicative Development Plan.
85. Indicative development plans are provided by RAL in accordance with 5.2.2 of the TNPMP and they signal future works proposals for approval by the Department. Likewise, when any changes are required to the base area, a base area strategy is provided in accordance with section 5.2.3.
86. For the Turoa Ski Area to function fully and to optimise the recreational opportunity that the ski area presents, lift access to the central and upper reaches of the ski area is critical. For skiers to be able to utilise and enjoy the upper reaches of the ski area and the terrain within the ski area boundary, lift access to as near as possible to the 2325m contour is required. The location of existing lifts achieves that requirement. The indicative development plan outlines the next suite of possibilities for development that RAL may consider should this application be granted and they have security of tenure enabling them to progress these concepts.
87. With the proposed mitigation measures and inclusion of special conditions to manage adverse effects, as outlined in this report, the application is considered to be consistent with the provisions of the TNPMP.
88. The current management plan provides for the concept that within the ski area section of the plan that “a greater level of development would be acceptable within the current ski area boundary” based on the concept of the “best utilisation of the existing disturbed area to maximise the skiable terrain and skier experience” and protecting the upper reaches of the mountain above the 2300m contour as pristine.
89. This then meant that the development of snow making and significant terrain modifications on the lower and middle reaches of the ski area were provided for in the plan to balance the greater protection of the upper mountain.

Other relevant matters

90. Relevant matters include the incident that came before the Courts in relation to the applicant and the conduct of their activities relating to the operation of a diesel storage tank at the Turoa Ski Area. RAL have been convicted on charges under the Hazardous Substances and New Organisms Act for failing to adequately maintain a diesel storage container and were fined \$60,000. In addition, they were also charged and convicted under the Resource Management Act for the unlawful discharge of a contaminant onto land in circumstances where it may have entered water and fined \$240,000. Staff of the Department are confident that subsequent to the incident, the correct procedures and monitoring have been put in place to ensure that there is not a repeat of the incident that occurred between 26 and 27th of September 2013. This includes the maintenance and monitoring of the system. The storage tank in question was fully approved for installation by the Department on 5 May 2006 following an assessment process.
91. RAL has held concessions for over 60 years with the Department and its predecessors. It is likely that over that total term there have been instances that could have amounted to minor breaches of the terms and conditions of the concessions held. Management responses to any of these incidents will have occurred over time and no incidents resulted in suspension or termination of the concessions held. The Department and RAL continue to have a positive working relationship where issues are raised and dealt with as they become known.
92. No credit check was undertaken. RAL have held a concession for over 60 years and maintained an account with the Department and its predecessors during that time. Over that time, all payments have been made to the Department within the terms of the various licences held or by negotiated agreements.

Term

93. The term under application is a total of 60 years. It is proposed by RAL that an initial term of 25 years be provided and that 1 extension of 10 years and 5 extensions for further periods of 5 years each then make up the next 35 years of the term, in the following manner:

The proposed Term shall be divided into:

- (a) an initial period of twenty-five (25) years from 1 May 2017 to 30 April 2042 (Initial Period);
and
- (b) an option for the Concessionaire (at its discretion) to take consecutively up to one (1) further extension periods of ten (10) years (in 2027) and up to five (5) further extension periods of five (5) years each (Extension Periods):
 - the first Extension Period on the 1 May 2027 Exercise Date (or such later date as may apply) and, having done so, the Term shall not expire prior to 30 April 2052;
 - the second Extension Period on the 1 May 2032 Exercise Date (or such later date as may apply), and, having done so, the Term shall not expire prior to 30 April 2057;
 - the third Extension Period on the 1 May 2037 Exercise Date (or such later date as may apply), and, having done so, the Term shall not expire prior to 30 May 2062;
 - the fourth Extension Period on the 1 May 2042 Exercise Date (or such later date as may apply), and, having done so, the Term shall not expire prior to 30 April 2067;
 - the fifth Extension Period on the 1 May 2047 Exercise Date (or such later date as may apply), and, having done so, the Term shall not expire prior to 30 April 2072.
 - The sixth Extension Period on the 1 May 2052 Exercise Date (or such later date as may apply), and, having done so, the Term shall not expire prior to 30 April 2077.

94. RAL have proposed that there be four overarching performance criteria that will inform decision making as to whether a right of renewal would be approved in years 10, 15, 20, 25, 30 and 35. These performance criteria can be categorised as "Culture, Conservation, Community and Customer". RAL propose that the performance criteria be developed through a process involving Ngati Rangi and Uenuku, that they are a key element of the proposed relationship agreement and that they be incorporated into the final report on this application, should there be a decision to grant.
95. The proposal is that RAL, assuming they meet the criteria, will during the initial 25-year term always have a period of 20 - 25 years to run (25 years at the first extension period and 25 years immediately prior to the award of the next extension). This will enable them to make investment decisions based on the ability of the investments to make a suitable return that would therefore make them worthwhile to undertake. It is anticipated that sometime soon after the 40th year of the licence RAL would commence discussions about a new licence. This long sighted approach is evidenced by the discussions that commenced on this process prior to 2012 between the department and RAL.
96. The benefit to RAL and to the Department of these proposed extensions is that it requires performance from RAL in order to meet the proposed performance criteria, rather than a right to extend based on limited decision making criteria. This means that environmental standards will be imposed and will need to be met on an ongoing basis. Likewise, standards will be set for ensuring cultural standards and customer service standards are met.
97. RAL have proposed that provided the performance criteria are met, that an extension be granted. They have also proposed that should the performance criteria not be achieved in one period that it may be 'earned back'. It is noted that if the performance criteria are not met and are not "earned back" then the final expiry date would be reduced.
98. RAL operate a business that requires ongoing capital investment that is unlike a business such as a hotel where, build, operate and maintain are the more usual patterns of investment that are seen. It is more akin to a forestry operation, whereby over time trees are harvested and replanted in cycles. Once harvesting in one section is completed, replanting and therefore reinvestment will only occur if there is sufficient term left to enable the investment to be sufficiently recouped. This is the same principle used when upgrading or constructing new ski lifts, meaning that there is ongoing investment of capital during the term of the concession.
99. A recent cessation of all capital investment, other than that which is required for the purposes of health and safety, to enable the ski area to operate, has occurred. Until such time as a new licence for the ski area is granted, the RAL directors cannot make investment decisions and must, while endeavouring to secure a new licence, ensure the business is managed as if it will come to a close in 2022.

100. In accordance with section 17Z (1) a licence may be granted for a term (including all renewals) not exceeding 30 years or, where the Minister is satisfied that there are exceptional circumstances, for a term not exceeding 60 years. The Act does not define exceptional circumstances.
101. However, the Department considers the expression means circumstances well outside the normal run of circumstances. They do not need to be unique or very rare, but they cannot be those regularly, routinely or normally encountered. So they need to be a true exception, not the rule. There may be instances where high capital expenditure, long lived assets and a payback period well in excess of 30 years would satisfy this test.
102. RAL have demonstrated through the business case and financial information provided that the investment required to support the ongoing facilities and periodic upgrades and replacement of those facilities requires a term in excess of 30 years in order to undertake the necessary investment and recoup that investment by generating an acceptable rate of return. From the information provided by RAL and the assessment undertaken by Departmental staff a term of 60 years is considered appropriate in order for RAL to undertake the required investment needed for the ongoing viability of the business. Further analysis of this commercially sensitive matter is provided in appendix 4.

Fees

103. The Department and RAL are continuing ongoing discussions as to an appropriate market rental for the opportunity that this licence would provide, if it were granted.

Public notification

104. If the intention to grant is accepted then in accordance with 17T(4), public notification is required as the application is for a licence with a term exceeding 10 years. In accordance with section 49 of the Conservation Act it is considered that the application is of regional interest only, being limited to interest in the North Island only. It is therefore recommended that the intention to grant the concession be publicly notified in the daily newspapers published in Auckland and Wellington, as well as Taumarunui, Ohakune and Taupo. In addition, the intention to grant will also be notified on the official Department of Conservation website. Those individuals or organisations will then have not less than 40 working days from the date of publication of the notice to object in writing or make written submissions to the Director General of Conservation.


The draft licence

105. Departmental staff have met with RAL to see if agreement could be reached on a draft licence. It was anticipated at the commencement of this process that the licence for the Turoa Ski Area would be consistent with the licence for the Whakapapa Ski Area.
106. Staff are continuing discussions with RAL in relation to the appropriate concession fee to be paid and the cultural impact assessment or suitable alternative/relationship agreement is still to be resolved before any final decision is made on the application, subsequent to public notification of approval in principle, if so granted.
107. The draft officer's report was provided to RAL for their comment. They provided some minor comments and edits that were incorporated in to the report. RAL are comfortable with the current draft licence.

9.0 Recommendations to decision maker


Pursuant to the delegation dated 29th August 2013 it is recommended that the acting Deputy Director General Operations:

1. **Deem this application to be complete in terms of s17S of the Conservation Act 1987; and**
2. **Note that if this application is approved in principle then the intention to grant the concession will be publicly notified; and**
3. **Agree that having regard to s49(1) of the Conservation Act 1987, be satisfied that any intent to grant the concession would be of wider regional interest only, in which case the publication of the public notice on this matter be limited notice in the Dominion Post, New Zealand Herald, Taupo Times, Ruapehu Press and Ruapehu Bulletin. In addition, there will also be notification on the Department of Conservation website.**
4. **Approve in principle the granting of a Notified Licence concession to Ruapehu Alpine Lifts Limited subject to the attached draft licence;**


 Deidre Ewart
 Permissions/ SLM Manager
 Date: 24/8/2016

Recommendation:

1. Agree / Disagree
2. Noted
3. Agree / Disagree
4. Approve / Decline

Signed: 
 Martin Kessick
 Deputy Director General Operations (acting)
 Date: 24 | 8 | 2016.

Appendix 1

Cultural values

Cultural values

A Cultural Impact Assessment (CIA) has not yet been completed, but is underway as part of this application. Due to the CIA not yet being complete, general information about cultural values known to the Department and relevant to this proposal is included here, drawn predominantly from the Tongariro National Park Management Plan, also from the World Heritage Nomination for Cultural Values and project papers.

The Tongariro National Park Management Plan outlines the special relationship between the iwi of the Volcanic Plateau and the mountains of Tongariro National Park. Through whakapapa all life forms originated from the same parents, Papatuanuku and Ranginui, so that all are in harmony with one another in the bonds of kinship. Ruapehu is a revered ancestor and this relationship reminds of the direct connection between today's people and their human ancestors. The mountains are an extension of personal and tribal identity and are recalled in ancient tribal stories as great forces in a universe where everything is alive. They are the resting place of tribal atua, they are places of spiritual forces with their own mauri, which command and give life to the natural world. Accordingly, they are regarded with respect, reverence and pride.

The whole of the mountain is tapu, and the mountain peak is particularly tapu. Tapu outlines a code to human interaction and behaviour to safeguard people, atua and the landscape. The influence of tapu is very far reaching and has spiritual and physical responsibilities and consequences which can impact on generations of people.

Tangata whenua have a unique relationship with the park derived from tikanga, mana whenua and whakapapa. The whakapapa connection places an obligation on iwi to be guardians of all things in the natural world. The management plan acknowledges that Ngati Tuwharetoa and Ngati Rangi hold mana whenua over the park and are compelled to exercise kaitiakitanga in perpetuity. It also acknowledges that Uenuku asked for their status as tangata whenua be recognised in the plan and that this may be clarified through the Treaty of Waitangi claims process. Uenuku are a mandated claimant for the Tongariro National Park claim. Iwi are acknowledged as the kaitiaki of the park and its management must recognise and support this relationship. There are physical and spiritual responsibilities inherent in kaitiakitanga. Effectively protecting the tapu, mauri and mana of the mountains, is intrinsically linked with the mana of iwi.

The recently released Te Kahui Maunga Report on the National Park Inquiry by the Waitangi Tribunal is of immense value to better understand the history to the formation of the park and the aspirations and objectives of iwi leadership at that time to ensure protection of the mountains, recognition of their significance to iwi, and iwi involvement in their management and governance. It also acknowledges the mountains' tapu, mauri, mana, whakapapa and the perpetual obligation of kaitiakitanga on the Iwi.

Iwi view the mountain as an extension of personal and tribal identity and all impacts on cultural values consequently also impact negatively on the iwi, and their whakapapa and kaitiaki responsibilities, as well as, the mana of the tribe overall.

Dual World Heritage status

Tongariro National Park was granted dual World Heritage status for outstanding natural (1990) and cultural values (1993). This nomination was presented by Sir Tumu Te Heuheu in Germany, who was later appointed as the first ever New Zealand chair of World Heritage in 2006. Having World Heritage status requires the park to be managed in a manner consistent with the articles against which the application was approved and consistent with the respective statutes and management plan for the park.

The IUCN technical evaluation recommended granting of World Heritage status for natural values because of its exceptional natural beauty and for ongoing geological processes. It noted that the Maori cultural aspects add further to its significance and reinforce its natural values. Concerns raised in the evaluation were:

- a) The extent of ski development, plans at the time for expansion, the impact of those developments on cultural values and image of the park. It was suggested that the ski fields would be very susceptible to effects of global warming which would require upward movement of skiing activity.
- b) The extent to which the cultural values of the park are given prominence and the level of involvement by the local Maori people.

IUCN believed these issues resolved by a new management plan which they viewed as protecting the natural values of the park and enhancing the cultural and spiritual values. Ski field development was constrained within specific zones and limits placed on their expansion and operation. The plan also better promoted cultural values. In general the pristine areas were to be managed to avoid development and to conserve natural, cultural and historic values.

The ICOMOS evaluation recommended the granting of World Heritage Status for cultural values because the mountains are of great cultural and religious significance to the Maori people and are potent symbols of the fundamental spiritual connections between this human community and its natural environment. The cultural values of Tongariro National Park are intimately linked with its natural qualities.

An assessment of the project proposal in regards to the Guidelines for the Implementation of the World Heritage Convention is included in the latter part of this report

Tongariro National Park Management Plan

During the development of the Tongariro National Park Management Plan 2006 to 2016, the Department worked with iwi and the community to better understand and better describe these values (refer Sections Part II 2.1 to 2.4).

The Department's understanding of how to weave together the international, cultural, business and community values of the park is still evolving. Further work has recently been progressed by the Department and iwi through development of the Shared Values Project. The Department and iwi are commencing 'He Kaupapa Rangatira', a Joint Initiative formalising the relationship between the Department and iwi. In time this further work will guide management policy and decision making in regards to the park. This ongoing work will, in time, inform and better prepare the Department and iwi for their future relationship and management of the park.

The Tongariro National Park Management Plan is the primary statutory policy framework against which decisions are made in relation to the park. Section 4 of the park plan provides general use objectives and policies for the park, while section 5 objectives and policies are specific to ski areas within the park.

He Kaupapa Rangatira

Sections 3.1.5 and 4.1.2 of the Tongariro National Park Management Plan refer to the principles and objectives of the Treaty of Waitangi. It directs the development of He Kaupapa Rangatira, a framework and protocols to give effect to these principles and objectives in the management of Tongariro National Park. The framework and protocols described in the CMS and TNPMP are not yet operative. However Section 3.1.5 of the Tongariro National Park Management Plan refers to the Treaty principles and HKR, and that these principles “must be given force through this plan”. The principles and objectives of He Kaupapa Rangatira as outlined in Section 4.1.2 are assessed in Appendix 2 and summarised below.

Summary

Key issues raised by the assessment against He Kaupapa Rangatira include:

- Balancing of the Key Management Philosophies, He Kaupapa Rangatira principles and objectives, and the policies of the Tongariro National Park Management Plan.
- The application is not inconsistent with the policies of the TNPMP,
- Ruapehu is a taonga of significance to Ngati Rangi and Uenuku.
- Iwi expectations of participation and partnership in the management of TNP may not have been met through the duration of the Management Plan.

Appendix 2

Assessment of the project proposal against He Kaupapa Rangatira

Section 4.1.2 He Kaupapa Rangatira

A Joint Initiative

Principles of the Treaty of Waitangi and Objectives

Assessment against project proposal

Key Issues Including and recommendations for special conditions and or possible mitigation

1 Kāwanatanga (Article I of the Treaty)

The authority to make laws for the good order and security of the country.

Objective

a To manage the Tongariro/Taupō Conservancy in accordance with the Conservation Act 1987 and the acts listed in the First Schedule to the Conservation Act 1987 and to interpret and administer these acts so as to give effect to the principles of the Treaty of Waitangi.

Note: In the *Whales Case* (Ngai Tahu Māori Trust Board v The Director General of Conservation) the Court of Appeal ruled that section 4 of the Conservation Act 1987 applied to all the acts in the First Schedule of the Conservation Act 1987 to the extent that the provisions of section 4 were not inconsistent with the acts of the First Schedule.

The application is consistent with the requirements of the National Parks Act 1980 and Conservation Act 1987.

The application for a licence is not inconsistent with the policies of the Tongariro National Park Management Plan 2006 to 2016. *However there are some inconsistencies with He*

A key issue is the balancing of the Key Management Philosophies, He Kaupapa Rangatira principles and objectives with the policies of the TNPMP. See main report

Kaupapa Rangatira principles and objectives of the TNPMP.

2 Tino Rangatiratanga (Article II of the Treaty, Māori version)

The right of Māori to exercise traditional authority and control over their land, resources, and taonga.

Objectives

a To recognise and actively promote the exercise by Iwi of tino rangatiratanga over their land and resources, and taonga of significance to them.

b To identify with Iwi opportunities for them to exercise an effective degree of control over traditional resources and taonga that are administered by the department, where this is not inconsistent with legislation. Note: "An effective degree of control" may vary from full authority at one end of the spectrum to a right to be consulted at the other end.

Ruapehu is a taonga of significance to Ngati Rangī and Uenuku

Traditional authority would likely include exercising the responsibilities of kaitiakitanga and protection of the tapu, mana and mauri of the mountains, when not inconsistent with legislation.

3 Exclusive and Undisturbed Possession (Article II of the Treaty, English version)

The right of Māori to exclusive and undisturbed possession of their land, forests, estates, and fisheries.

Objective

a To recognise, particularly when the department is exercising its advocacy function, the right of Māori to exclusive and undisturbed possession of land in Māori title, and resources and other taonga of significance to Iwi.

Currently the land that this proposal is to be undertaken on is National Park.

4 Ōritetanga (Article III of the Treaty, both versions)

The right of Māori and non-Māori alike to equality of treatment, and the privileges and responsibilities of citizenship.

Objective

a To ensure that tāngata whenua as individual citizens and taxpayers receive fair and equal access to the resources of the conservancy and the benefits offered by the department to the general public.

The Department will ensure the decision maker fully understands this as part of his/her section 4 responsibilities.

5 Kaitiakitanga

The right of Māori to undertake their duty of guardianship/custodianship/ stewardship of their land and resources, and taonga of significance to them.

Ruapehu is a significant taonga to Ngati Rangī and Uenuku and is an extension of their personal and tribal identity.

Objectives

a *To recognise and actively promote the exercise of kaitiakitanga by Iwi in respect of their land, including resources and taonga of significance to them and under the control of the department.*

They have a perpetual responsibility of kaitiakitanga to safeguard the tapu, mauri and mana of these sacred places.

b *To facilitate the exercise of kaitiakitanga by Iwi in respect of traditional resources and taonga of significance to them where these are administered by the department.*

There are physical and spiritual responsibilities inherent in kaitiakitanga. Effectively protecting the tapu, mauri and mana of the mountains is intrinsically linked with the mana of Ngati Rangī and Uenuku.

6 Whakawhanaungatanga

The Treaty provides for a partnership between Māori and the

RAL continue to work with Ngati

Crown, which requires the parties to afford each other reasonable co-operation and utmost good faith, in accordance with their Treaty obligations.

Objectives

a To identify with Iwi the means to provide opportunities for partnership and participation in conservation management, particularly in respect of traditional land, resources, and taonga administered by the department.

b To develop an active relationship of co-operation, utmost good faith, and mutual respect between the department and Iwi and to reflect the importance and quality of that relationship in the culture of the department and all of its operations.

7 Tautiaki Ngangahau

The duty of the Crown to ensure the active protection of taonga for as long as Māori so wish it.

Objective

a To actively protect the interests of Iwi in respect of land, resources, and taonga administered by the department or under the department's control where these are considered by Iwi to be of significance to them.

8 He Here Kia Mōhio

The duty of the Crown to make informed decisions.

Objective

Rangi and Uenuku in the preparation of a comprehensive cultural impact assessment for the application.

Protocols and frameworks to improve iwi participation and partnership are being developed by the Department through He Kaupapa Rangatira.

In this case the Tongariro National Park Management Plan is the key tool to give effect to the protection of the parks values.

RAL continue to work with Ngati Rangi and Uenuku in the preparation of a comprehensive cultural impact assessment for the application. No

A key issue is the balancing of the Key Management Philosophies, He Kaupapa Rangatira principles and objectives with the policies of the TNPMP.

a To engage in regular, active, and meaningful consultation with Iwi in respect of the work of the conservancy.

final decision will be made until such time as this work has been completed.

9 Whakatika i te Mea He

The duty of the Crown to remedy past breaches of the Treaty and to prevent further breaches.

Objectives

a *To avoid any action which might frustrate or prevent redress of Treaty claims.*

b To assist the Government actively in the resolution of Treaty claims where these relate to Tongariro/Taupō Conservancy.

c *To address any grievances which tāngata whenua might bring to the attention of the department, formally or informally, in respect of any act or omission of the department in the administration of the park.*

- a) *The application for licence if approved will not directly frustrate or prevent any possible redress mechanisms now or into the future. RAL acknowledge the mountain is subject to an existing treaty claim.*
- b) *The Department is active in its support to the Crown in settlement negotiations.*

Appendix 3

World Heritage Convention

Operational Guidelines for the Implementation of the World Heritage Convention 2012

II.A Definition of World Heritage

Assessment of project proposal

Cultural and Natural Heritage

1. Cultural and natural heritage are defined in Articles 1 and 2 of the *World Heritage Convention*.

Article 1

For the purposes of this Convention, the following shall be considered as "cultural heritage";

- monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are of Outstanding Universal Value from the point of view of history, art or science;
- groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of Outstanding Universal Value from the point of view of history, art or science;
- sites: works of man or the combined works of nature and of man, and areas including archaeological sites which are of Outstanding Universal Value from the historical, aesthetic, ethnological or anthropological points of view.

The ski areas within Tongariro National Park of Whakapapa and Turoa were present when the park was nominated for World Heritage listing however raised concerns for the IUCN and ICOMOS about impacts on cultural values and the park's image, and potential upwards movement of ski facilities with global warming.

Article 2

For the purposes of this Convention, the following shall be considered as "natural heritage":

- natural features consisting of physical and biological formations or groups of such formations, which are of Outstanding Universal Value from the aesthetic or scientific point of view;

The presence of the ski areas is acknowledged by the Tongariro National Park Management Plan, and policies on their management and development are included in the plan.

geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of Outstanding Universal Value from the point of view of science or conservation;
- natural sites or precisely delineated natural areas of Outstanding Universal Value from the point of view of science, conservation or natural beauty.

II. NATIONAL PROTECTION AND INTERNATIONAL PROTECTION OF THE CULTURAL AND NATURAL HERITAGE

Article 4

Each State Party to this Convention recognizes that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.

The Tongariro National Park Management Plan is the key tool to protect the values of the park and mountains. A key issue is the balancing of the Key Management Philosophies, He Kaupapa Rangatira principles and objectives with the policies of the TNPMP, and in light of the World Heritage status.

Article 5

To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavour, in so far as possible, and as appropriate for each country:

- (a) to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes;
- (b) to set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with an appropriate staff and possessing the means to discharge

The legislative framework of the National Parks and Conservation Act plus General Policy for National Parks are key tools to be used alongside the Tongariro National Park Management Plan to protect the values of the park and mountains.

their functions;

- (c) to develop scientific and technical studies and research and to work out such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;
 - (d) to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and
 - (e) to foster the establishment or development of national or regional centres for training in the protection, conservation and presentation of the cultural and natural heritage and to encourage scientific research in this field.
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Article 6

1. Whilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage mentioned in Articles 1 and 2 is situated, and without prejudice to property right provided by national legislation, the States Parties to this Convention recognize that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate.

This responsibility is fully understood by the Department.

2. The States Parties undertake, in accordance with the provisions of this Convention, to give their help in the identification, protection, conservation and presentation of the cultural and natural heritage referred to in paragraphs 2 and 4 of Article 11 if the States on whose territory it is situated so request.

3. Each State Party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage referred to in Articles 1 and 2 situated on the territory of other States Parties to this Convention.

Article 7

For the purpose of this Convention, international protection of the world cultural and natural heritage shall be understood to mean the establishment of a system of international co-operation and assistance designed to support States Parties to the Convention in their efforts to conserve and identify that heritage. This responsibility is fully understood by the Department

Mixed Cultural and Natural Heritage

2. Properties shall be considered as "mixed cultural and natural heritage" if they satisfy a part or the whole of the definitions of both cultural and natural heritage laid out in Articles 1 and 2 of the *Convention*.

Cultural landscapes

- i. Cultural landscapes are cultural properties and represent the "combined works of nature and of man" designated in Article 1 of the *Convention*. They are illustrative of the evolution of human society and settlement over time, under the influence of the physical constraints and/or opportunities presented by their natural environment and of successive social, economic and cultural forces, both external and internal.

II.F Protection and management

3. Protection and management of World Heritage properties should ensure that their Outstanding Universal Value, including the conditions of integrity and/or authenticity at the time of inscription, are sustained or enhanced over time. A regular review of the general state of conservation of properties, and thus also their Outstanding Universal Value, shall be done within a framework of monitoring processes for World Heritage properties, as specified within the *Operational Guidelines*¹.

The Department has previously consulted with Iwi on drafting the Retrospective Statement of Universal Value for Tongariro.

This work has not yet been completed but will be submitted to the

¹ The processes of monitoring specified in the *Operational Guidelines* are Reactive Monitoring (see paragraphs 169-176) and Periodic Reporting (see paragraphs 199-210).

World Heritage Committee
when it is completed.

4. All properties inscribed on the World Heritage List must have adequate long-term legislative, regulatory, institutional and/or traditional protection and management to ensure their safeguarding. This protection should include adequately delineated boundaries. Similarly States Parties should demonstrate adequate protection at the national, regional, municipal, and/or traditional level for the nominated property. They should append appropriate texts to the nomination with a clear explanation of the way this protection operates to protect the property.

The legislative framework of the National Parks and Conservation Act plus General Policy for National Parks are key tools to be used alongside the Tongariro National Park Management Plan to protect the values of the park and mountains.

A key issue is the balancing of the Key Management Philosophies, He Kaupapa Rangatira principles and objectives with the policies of the TNPMP.

Legislative, regulatory and contractual measures for protection

5. Legislative and regulatory measures at national and local levels should assure the survival of the property and its protection against development and change that might negatively impact the Outstanding Universal Value, or the integrity and/or authenticity of the property. States Parties should also assure the full and effective implementation of such measures.

As above

Boundaries for effective protection

6. The delineation of boundaries is an essential requirement in the establishment of effective protection of nominated properties. Boundaries should be drawn to ensure the full expression of the Outstanding Universal Value and the integrity and/or authenticity of the property.

The Tongariro National Park boundaries and internal zones including the Ski Area boundaries and Amenity Area boundaries are well described and mapped within the Tongariro National

7. For properties nominated under criteria (i) - (vi), boundaries should be drawn to include all those areas and attributes which are a direct tangible expression of the Outstanding Universal Value of the property, as well as those areas which in the light of future research possibilities offer potential to contribute to and enhance such understanding. As above.

8. For properties nominated under criteria (vii) - (x), boundaries should reflect the spatial requirements of habitats, species, processes or phenomena that provide the basis for their inscription on the World Heritage List. The boundaries should include sufficient areas immediately adjacent to the area of Outstanding Universal Value in order to protect the property's heritage values from direct effect of human encroachments and impacts of resource use outside of the nominated area. As above.

9. The boundaries of the nominated property may coincide with one or more existing or proposed protected areas, such as national parks or nature reserves, biosphere reserves or protected historic districts. While such established areas for protection may contain several management zones, only some of those zones may satisfy criteria for inscription. As above.

Buffer zones

10. Wherever necessary for the proper protection of the property, an adequate buffer zone should be provided. This provision is allowed for within the Ruapehu District Plan.

11. For the purposes of effective protection of the nominated property, a buffer zone is an area surrounding the nominated property which has complementary legal and/or customary restrictions placed on its use and development to give an added layer of protection to the property. This should include the immediate setting of the nominated property, important views and other areas or attributes that are functionally important as a support to the property and its protection. The area constituting the buffer zone should be determined in each case through appropriate mechanisms. Details on the size, characteristics and authorized uses of a buffer zone, as well as a map indicating As above.

the precise boundaries of the property and its buffer zone, should be provided in the nomination.

12. A clear explanation of how the buffer zone protects the property should also be provided. As per the Ruapehu District Plan provisions.
13. Where no buffer zone is proposed, the nomination should include a statement as to why a buffer zone is not required.
14. Although buffer zones are not part of the nominated property, any modifications to or creation of buffer zones subsequent to inscription of a property on the World Heritage List should be approved by the World Heritage Committee using the procedure for a minor boundary modification (see paragraph 164 and Annex 11). The creation of buffer zones subsequent to inscription is normally considered to be a minor boundary modification.²

Management systems

15. Each nominated property should have an appropriate management plan or other documented management system which must specify how the Outstanding Universal Value of a property should be preserved, preferably through participatory means. The Tongariro National Park Management Plan.
16. The purpose of a management system is to ensure the effective protection of the nominated property for present and future generations. As above.
17. An effective management system depends on the type, characteristics and needs of the nominated property and its cultural and natural context. Management systems may vary according to different cultural perspectives, the resources available and other factors. They may incorporate traditional practices, existing urban or regional planning instruments, and other planning control mechanisms, both formal and informal. Impact assessments for proposed interventions are As above.

² In case of transnational/transboundary properties any modification will need the agreement of all States Parties concerned.

essential for all World Heritage properties.

18. In recognizing the diversity mentioned above, common elements of an effective management system could include:
- As above.
- a) a thorough shared understanding of the property by all stakeholders;
 - b) a cycle of planning, implementation, monitoring, evaluation and feedback;
 - c) the monitoring and assessment of the impacts of trends, changes, and of proposed interventions;
 - d) the involvement of partners and stakeholders;
 - e) the allocation of necessary resources;
 - f) capacity-building; and
 - g) an accountable, transparent description of how the management system functions.
19. Effective management involves a cycle of short, medium and long-term actions to protect, conserve and present the nominated property. An integrated approach to planning and management is essential to guide the evolution of properties over time and to ensure maintenance of all aspects of their Outstanding Universal Value. This approach goes beyond the property to include any buffer zone(s), as well as the broader setting.
- As above.
20. Moreover, in the context of the implementation of the *Convention*, the World Heritage Committee has established a process of Reactive Monitoring (see Chapter IV) and a process of Periodic Reporting (see Chapter V).
- The Department has fulfilled its periodic reporting obligations to the World Heritage Committee.
21. In the case of serial properties, a management system or mechanisms for ensuring the co-ordinated management of the separate components are essential and

should be documented in the nomination.

22. In some circumstances, a management plan or other management system may not be fully in place at the time when a property is nominated for the consideration of the World Heritage Committee. The State Party concerned should then indicate when the management plan or system will be fully in place, and how it proposes to mobilize the resources required to achieve this. The State Party should also provide documentation which will guide the management of the site until the management plan or system is finalized fully in place.
23. Where the intrinsic qualities of a property nominated are threatened by action of man and yet meet the criteria and the conditions of authenticity or integrity set out in paragraphs, an action plan outlining the corrective measures required should be submitted with the nomination file. Should the corrective measures submitted by the nominating State Party not be taken within the time proposed by the State Party, the property will be considered by the Committee for delisting in accordance with the procedure adopted by the Committee (see Chapter IV.C).
24. States Parties are responsible for implementing effective management activities for a World Heritage property. State Parties should do so in close collaboration with property managers, the agency with management authority and other partners, and stakeholders in property management.
25. The Committee recommends that States Parties include risk preparedness as an element in their World Heritage site management plans and training strategies.

Sustainable use

- ii. World Heritage properties may support a variety of ongoing and proposed uses that are ecologically and culturally sustainable, and which may contribute to the quality of life of communities concerned. The State Party and its partners must ensure that such sustainable use or any other change does not impact adversely on the Outstanding Universal Value of the property. For some properties, human use would not be appropriate. Legislations, policies and strategies affecting World Heritage properties should ensure the protection of the Outstanding Universal Value, support the wider conservation of natural and cultural heritage, and promote and encourage the active As allowed for within the Tongariro National Park Management Plan.

participation of the communities and stakeholders concerned with the property as necessary conditions to its sustainable protection, conservation, management and presentation.

Conclusion

Further work is required to be progressed in regards to the RSOUV, Shared Values Project and He Kaupapa Rangatira to give a better understanding of the cultural values and significance of the mountains of Tongariro National Park to all parties and how the relationship should be progressed for the management of the Park as a whole.

Appendix 4

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