OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant SUB 451

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Molly Aitken
Organisation	Individual
Date	09/02/2024

D. Statement of Support, Neutrality or Opposition

☒ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☐ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

All parts. I **support** the granting of concessions to Pure Turoa Ltd.

My reasons for my objection or submission are:

I **support** the granting of concessions to Pure Turoa Ltd because:

- My family have had strong links to the Ruapehu area especially Ohakune and Raetihi. Since the early 1980's. There are five life passes in our immediate family, although Pure Turoa acquiring Turoa means the end of our life passes it is about much more than our life passes. This is about much more than our life passes its about the future of Ohakune and Turoa. Pure Turoa is the only realistic option for Turoa moving forward. Pure Turoa is led by Sec 9(2)(a) and Sec 9(2)(a) they are both very successful savvy businessmen, passionate respectful mountain users and are very passionate about Ohakune and the surrounding communities. Pure Turoa has a lot of support in the Ohakune area including long standing successful business.

- As noted on p35 of the Tongariro National Park Management Plan (2006) Mt Ruapehu is 'nationally important' for skiing as it is the only place in the North Island where lift-serviced alpine Snowsports can be provided (notwithstanding a small club field at Taranaki). Given the failure of Ruapehu Alpine Lifts, it is important to ensure that another entity takes over immediately. Snow sports account for about half of all TNP visitors according to the TNPMP.

- The proposal is within the amenity area of Turoa Ski Area identified in the TNPMP and is generally consistent with the TNPMP's objectives.

- Granting the concession would **foster recreation** and therefore be consistent with section 6(e) of the Conservation Act, which states:

  > *"to the extent that the use of any natural or historic resource for recreation or tourism is not inconsistent with its conservation, to foster the use of natural and historic resources for recreation, and to allow their use for tourism."*

- While there are reasons to consider delaying the granting of concessions until after Te Tiriti o Waitangi claims have been settled, I believe that the applicant's growing relationship with Ngāti Rangi and others, combined with the relatively short term sought (compared with the current RAL concession's 60 years) and the proposal to eventually remove and replace the Ngā Wai Heke, Park Lane, Wintergarden and Giant lifts with one gondola or high capacity chair with a mid-station, plus the fact that the infrastructure will be damaged by ice if not operated each winter, mean granting the concession now and then working with iwi collaboratively is the best approach.

- While the prospect of lifts being removed does not fill me with joy Pure Turoa have been left with very little choice. The Parklane was installed in 1978, The Giant in 1979 and the Movenpick in 1987. All three lifts have been loyal servants with the Movenpick being the main work horse since it was installed. Unfortunately, RAL decided to defer maintenance and neglect these lifts over the last ten years. Millions of dollars are currently being spent on the Parklane and Movenpick however this will only give the lifts about five years of life before they need to be removed. This seems to be a fact lost on the Ruapehu Ski fields Stake Holders Association (RSSA).

- Pure Turoa are respecting the wishes of Iwi by reducing the footprint of the ski area by removing the Nga Wai Heke chairlift, this has been heavily criticised by the RSSA and their "executive" Pure Turoa would rather not remove the Nga Wai Heke but they will respect the wishes of Iwi. The RSSA have made it very clear that should the current 60 year concession be retained the Nga Wai Heke will not be removed and will continue to be operated. This stance goes against the wishes of Iwi.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

I submit that the Department of Conservation:

1. **Grant the concessions** sought by Pure Turoa Ltd to operate Turoa Ski Area.

2. Consider how the term of the concession can be extended to provide sufficient time for payback of the capital investment required to remove and replace some of the lifts as shown in the indicative development plan, while also respecting and providing for collaboration with Ngāti Rangi and any other relevant iwi so that the outcomes of their treaty settlement can be recognised and provided for by the applicant and DOC when the time comes.

3. Note that climate change will potentially render commercial ski areas on Mt Ruapehu economically unviable at some point during this century if the 2,300m elevation remains the upper limit for development, so allowing lift development in the 1,900m – 2,300m zone within the current ski area boundary may be desirable to ensure that popular and rewarding lift-serviced alpine snow sports can continue on the mountain for as long as possible.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment

How do I submit my objection or submission?

Complete this form and email to mtruapehusubmissions@doc.govt.nz. You may also mail your objection and submission to: Director-General, c/o Permissions Hamilton, Department of Conservation, Private Bag 3072, Hamilton 3240.

OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 452

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Aaron & Jenny Jack
Organisation	
Date	8 February 2024

D. Statement of Support, Neutrality or Opposition

☒ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☐ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

My reasons for my objection or submission are:

We fully support Pure Turoa Ltd in their application for the above activities.

We are New Zealanders and long time passionate "enjoyers" of the Ruapehu District and all it has to offer.

We are keen skiers and are raising our children to also love the natural experience of Ruapehu.

In the past, we have owned property in Ohakune and we presently own a property in National Park Village (although we reside in Hamilton).

We want to see snow activities continue on Mt Ruapehu. Especially snow users to be able to ski, snowboard, hike and "play" in the snow. We have introduced visitors from Australia, Canada and Germany to the beauty of the area and the mountains.

We believe that Pure Turoa have the best intentions, business experience and most importantly the passion to create a positive long term solution to allow us all to continue to enjoy this outstanding part of Godzone, close up.

We believe it is necessary for the survival of the entire Ruapehu District and those who dwell within it, to allow a group as Pure Turoa to take over the running and management of Turoa. If this does not happen, we fear for the economic failure of the whole region. Let alone the extreme hardship and distress on the residents in the area. It would be devastating.

The flow on effect of businesses being forced to close would also have a negative effect on summer operations and activities such as mountain biking and hiking due to the reduced infrastructure and facilities in the surrounding villages and towns.

Property valuations would also plummet effecting the lives of thousands of kiwis.

With no other alternatives, people who are passionate enough to hunt down the snow, will be forced to go skiing/snowboarding in the South Island or overseas, which is often out of reach for the average New Zealander.

We want our children and future grandchildren to be able to grow up experiencing the magic of skiing on Ruapehu.

After following the process thus far and gathering as much information as possible including the Pure Turoa application, we feel that Pure Turoa has a plan and will endeavour to do the best by the Maunga, local iwi, the local and regional communities and snow lovers from all over New Zealand.

We encourage the Department of Conservation to approve this license and lease application.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

We are happy with all of the Pure Turoa application and the statements they have made, so do not wish any further conditions to be placed on the license.

G. Attachments

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SUB 453

From: Malcolm Bates
To: Mtruapehusubmissions
Subject: Concession for PTL at Turoa.
Date: Friday, 9 February 2024 4:43:28 pm

You don't often get email from Sec 9(2)(a) . Learn why this is important

Good afternoon my name is Malcolm Bates, I have been skiing at Turoa since 1983 which is now in excess of 40 years. I remember my first days learning to ski and while that was playing out I always loved the environment in which I was very fortunate to enjoy on the Maunga Ruapehu.
I have loved skiing under the Not for Profit model run by RAL for the last 20 years and I was always saddened to see Turoa almost collapse under earlier 'for profit' models where it was always profit at the expense of people.
I have encouraged and promoted Turoa to many hundreds of young people and ultimately the families they started then having their own children enjoying affordable skiing.
I am against Pure Turoa Limited being awarded a 10 year concession because the way I see it, they intend to limit the number of people on any given day and ultimately that will push prices to a elite level where New Zealand families will not be able to afford skiing in this national park where Maunga Ruapehu was gifted to the people of New Zealand to enjoy. Allowing a private company to be allowed to operate a skifield means we are likely to see removal of older lifts but still serviceable in place of a single modern lift. That's just wrong in so far as it congests mountain runs close to a lift line rather than spread people out to see and enjoy so much more of the Turoa terrain.
We all know mountain weather at Turoa is very fickle and often a season can see more closed days than open days, this scenario can bring skifield operators to their knees so to grant a 10 year concession is too short sighted and ultimately a 'not for profit' model could never revive the skifield if PTL decided to pull the pin.
Now is the time to stay with the status quo and allow a tried and tested system that does work and in this case I believe there are already plans afoot to change the management of RAL and operate both Whakapapa and Turoa together where they can operate more efficiently and better still they have 60 year concessions already in place and can be sure to see Turoa be successful and affordable to us all in New Zealand.
Here's hoping common sense will prevail and the government department driving this will let (new) RAL rise again to allow the skifields to reinvest their profits into the local communities and skifield infrastructure.

Yours faithfully
Malcolm Bates
New Zealander
Turoa skier.

OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 454

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Jay Waters
Organisation	
Date	9.02.2024

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☒ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☐ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☒ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

1. The plan is inadequate and lacking evidence of my concerns below.

My reasons for my objection or submission are:

1. The application is inconsistent with promises made by Minister of Regional Development made to iwi.
2. There is no evidence of appropriate iwi support for the application.
3. The proposed application compromises the world heritage status of the National Park
4. The application is inconsistent with the conservation strategy and management plans.
5. The application doesn't present sufficient evidence required for the Minister of Conservation to issue the concession.
6. Impacts on the neighbouring wilderness zone and surrounding water catchments are not mentioned.
7. The long term impacts beyond 10 years are not addressed.
8. The need for more buildings has not been shown to be consistent with the legislated requirements.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

The assurances made by the crown need to be honoured, and the points above need to be resolved.

Issues regarding the gift zone need to be resolved.

G. Attachments

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OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 455

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Melinda Harwood
Organisation	N/A
Date	09/02/2024

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☒ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☐ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☒ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

De-commissioning of lifts.

My reasons for my objection or submission are:

Nga Wai Heke – Removal of this lift removes return access from one of the longest in field runs in the country (Triangle) that retains snow all season. Also access further out to the glacier. It is, along with the area out west (Organ Pipes), what makes Turoa so special for me.

The Giant - Removal of this lift which is used by so many intermediate and advanced skiers will only increase pressure on the High Noon with more intermediates mixing it with them on advanced terrain.
It will also shrink the length of the season as the High Noon takes a lot of snow to open. Not enough snow low down and not enough high up due terrain. No Giant then what. Also, early and late season people use it as a return from out West especially when snow cover is marginal or not even there, not allowing access back to Base lifts.

An eventual two lift system confines everyone to the inner field unless full snow cover and tightens the skiable season. A lot of advanced skiers enjoy heading out East or West – takes them off the main runs for half an hour at a time.

Redundancy – Loose the High Noon – effectively that's the season over with rising snow levels. From a business perspective its very risky plan likely to push any business back to this current situation in advent of lift failure.

Consider the days the High Noon has been not open due visibility or avalanche clearing unable to be completed. However, the Giant and Nga Wai Heke were.

These two lifts are in the snow line. The base lifts won't be. Just the High Noon on its own is not that attractive skiing.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

Retain the Giant and Nga Wai Heke lifts in some form. The Naa Wai Heke could be a T bar – The Giant really needs to be chair. It's been upgraded recently for $5M or so, it should be good for some years yet.

I would approve if the above conditions met.

G. Attachments

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OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant SUB 456

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Glenn Broadbent
Organisation	
Date	09/02/24

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☒ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☐ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☒ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

The significant works that are proposed, including unnecessary buildings, earthworks and infrastructure.

My reasons for my objection or submission are:

The Mountain holds a dual world heritage status, it is significant to many, and needs to be appropriately respected along with the varying policies, management plans and strategies.

I am passionate about skiing at Turoa, Mt Ruapehu and Turoa itself. And although I wish for skiing to continue and the business to succeed the proposed modifications are too much.

I have witnessed too many land modifications at Turoa in the name of progress.

The applicant should be given the ability to take ownership the existing concession to enable them to progress and provide a more complete application in the future.

New concession

It seems non sensical to require a new lease and licence simply due to a new concessionaire.

I understand this need where there are changes in small operations where an operator may have a strong influence but on a large-scale concession a transfer seems more appropriate and prevents new issues and demands.

I would support the company, Pure Turoa, taking on the existing concession in its entirety and with more time enable a revised new concession to sort.

For context it is the works proposed within the Indicative Development Plan extending beyond 2028 are my main areas of concern along with the earthworks proposed in that Plan across the field. Subject to the snow factory and works being clear of the Alpine flush area.

I primarily object to additional new builds (the beginners base building and Cultural building), further significant earthworks in any area including Clarry's track and carpark 2 without further detail and assessments, general earthworks work across the ski area and anything that may disturb the Alpine flush area.

The lift arrangement as shown in the Indicative Development Plan 2028 ensures ongoing alternative exit routes to assist with safe evacuation and the spread of skiers enabling better enjoyment of the environment.

I support the Movenpick upgrade to a detachable chair lift.

Licence – matters to consider.

A license should include the ability to "guide' /provide guidance to skiers and others over the area, providing a general guide service. This could lead to cultural and historical knowledge sharing through expert guides.

Lease and easements may be required to include the present Ngā Wai Heke drive and return buildings to enable retention of these if not removed or until removed, and that area being under "all" overhead cables, enabling access to the poles and cables (ie; under all the lift alignments).

Year 3 review

If a concession is granted it is proposed that in "Year 3 1. Review of PTL's performance against iwi expectations".

Review of PTL's performance against iwi expectations should not be required but if it is then it should be reviewed against expectations of all that have a cultural connection to the Mountain.

Concession winter and summer – should be winter only with the ability to carry out necessary maintenance etc within the summer months.
Others operators, should be able to seek concessions to use the area in the summer or a minimum any considered summer activities should be clearly defined within this application.

New cultural experience building and new beginners area building

There is no need for any additional buildings, and they should not be allowed.
Cultural experience can be obtained using buildings at the foot of the mountain rather than a new build.
The application also provides no detail of the proposal so physical impacts cannot be considered.

World heritage status and National Park - Disney on ice

Creating a Disney on ice, with more buildings, machines and the effects that come with it, visitors arriving for the click and go with no care for the environment or its protection.
Carrying out significant earthworks, installing a 'snow factory' to create an artificial experience, one that can be obtained in a building elsewhere, installation of additional lifts and buildings is not recognising the World Heritage status and it is not protecting nor appropriately managing the Tongariro National Park.

***National Parks Act 1980 for public benefit**, use and enjoyment. The Act also provides for the public to have freedom of entry and access to national parks, so that the public may receive the inspiration, enjoyment, recreation, and other benefits that may be derived from mountains and other natural features.*

People should therefore be able to have access to those areas near the carpark rather than new buildings, further restrictions by new lifts. Those thousands of visitors will no longer have places to play in the snow or slide down a slopes.

Lift removal and other works
Removal of lifts and replacement with new facilities in a different location, requiring significant cut and fill within the World Heritage area will have significant effects, altering landforms and tributaries. Carrying out such work will result in significant damage to vegetation that is trying to regenerate and to downstream waterways as sedimentation can not be controlled even with the use of barriers.

Terrain modification
Tongariro National Park Management Plan 2006-2016, states within Pt *12* –
No further terrain modification should be approved.
This is a very clear statement. It does not say some, it says no further terrain modification.

Limited lift servicing – overhead access by lifts is best for the environment.
Limited lift servicing of lower areas such as removal of Wintergarden lift and the café / storm shelter will result in increased overland traffic that will result in continuing physical damage to the area. Silt, stones and rocks moving, due to increased use of vehicles and ski traffic. Overhead access is best for the environment and necessary to ensure safe evacuation.

Tongariro National Park Management Plan 2006-2016

Many sections of this section of the TNPMP are not complied with.

3.1 Key Management Philosophies
10. To minimise infrastructure to that essential to provide for visitors' benefit, use and enjoyment of the park

Further infrastructure is not required to increase enjoyment of the park. Indeed the discussed works, (including new cultural build, lifts, and snow factory, which will come with pipes and lots of land disturbing and/or ugly infrastructure) will have a detrimental effect on enjoyment of the park. I recognise many may enjoy a new building for a cultural experience or snow like experience with machine made snow, but this is not enjoying the park and these experiences can be obtained anywhere across New Zealand. But are not suitable for a world heritage area.

Whether the activity will have an effect on indigenous plants and animals, natural features, scenic values, sites of historical or cultural interest, on soil stability, on water quality and the natural state of the park;
There is a lack of supporting information and studies to address the effects created by the various identified earthworks and building construction.

Section 4.4.1 Concessions General

What effect the activity will have on other park users, natural quiet, other activities already taking place in the park or the ability of staff to manage the park;

The additional infrastructure, snow machine, lifts in the base area, and buildings (café extension, viewing decks, building extensions, lift chair storage and new cultural building) along with over half the skiers runs terminating at the base area, will lead to huge amount of activity in this confined area. Rather than spreading people across the mountain for quite enjoyment.

It will ruin the environment in this easy accessed location.

f To limit the effects of large-scale development and intensive use to existing amenities areas.
As mentioned above the additional infrastructure within the base area will significantly intensify the use in this area confined area losing loss of enjoyment of the environment.

6. A range of skiing opportunities compatible with national park values and objectives will be fostered.
The removal of chair lifts removes significant opportunities for visitors to safely explore the wider ski field area. For example where once people of a wide range of skills, including family and their children were able to explore and enjoy the amazement of a glacier and return safely on the Ngā Wai Heke, this opportunity will be removed. Likewise, removal of other lifts will remove the opportunity to see the various waterfalls and rock formations to the west due to limited return access particularly when the snow cover is not 100%.

Replaced instead by a bustling manmade environment within the lower area served by manmade snow (for want of a better description)

Base area
5.2.3 Base Area Strategies

3. snow play areas
Snow play areas will significantly reduce. The application falls short providing no drawing detail of the proposed activities in the base area, but it is clear from the few location dots that play areas will significantly reduce.

4 At Tūroa Ski Area, the alpine flush area should be protected from irreversible damage
The additional skier and foot traffic numbers in the base area will undoubtably cause further damage to the alpine flush area and the location of the snowmachine, and machine activity around the area, will see the ruin of the alpine flush.

12 ***No further terrain modification should be approved****.*
This is a very clear statement that must be respected.

5.2.6 Ski Area Licences
Objectives
a To protect the values of Tongariro National Park through co-ordinated, efficient licence management for ski areas.
I am amused by the applicant's reason "This is no longer relevant" without detailed explanation.

b To facilitate high quality skier experience in line with the objectives of the respective licensees.
The quality of skiing will reduce significantly with less facilities to enable enjoyment of the mountain and to reach those hard-to-reach places with skiers channelled through narrow gulleys and manmade snow. And a lack of lifts to provide safe exit from the mountain in the event of a single lift failure or poor weather conditions. It is very feasible to see that it will result in people having to walk out in dangerous conditions.

5.2.13 ***Public Safety***
Removal of lifts and buildings on the ski field will lead to significant safety issues with lack of emergency shelter and alternative exists in the event of lift failure. The existing lifts are required to provide the safety buffer. With only two chair lifts effectively running end on end, a shut- down of either lift could result in lost lives with lack of shelter or alternative means of safe exit.

Removal of the existing lifts and buildings would lead to significant environmental disturbance with very little environmental gain and result in a very unsafe environment for users.
Proposed terrain modification (read 'earthworks in a world heritage area') would not be as necessary if chair lifts were not being removed.

3. Tongariro /Taupo conservation management strategy 2002 -2012
Key Principles
Principle 1
Protection and Enhancement of the Natural Environment within the Conservancy

Highest priority will be given to retaining and restoring natural biodiversity and protecting threatened indigenous natural resources within the conservancy.

If the alpine flush area has not already been destroyed by the large number of people using the area, then this noted valuable area needs protection and the proposed development of the area is not appropriate.

Surely this area alone is worthy of an in-depth Ecological assessment.

No earthworks or land disturbance activities should be carried out. The environment is too valuable.

Indicative Development plan

Widening of Clarry's track
This piece of work would have a significant impact environmentally and visually and am surprised it does not come with a full explanation, Landscape and Visual Effects, and a Ecological Assessment.
It is on a very steep slope, traverses a stream and scour feeds directly to a stream. Works would ruin a lovely environment enjoyed by those that use the lift and the many that enjoy its natural beauty throughout the year climbing and exploring the immediate area.
(I wonder if temporary bridging could be installed.)

Creation of an alternative summer access trail to Blythe Flat. Options under consideration include up Home Run where a former summer trail existed.
You can already walk this route and it should not be altered. It is an area of the ski field that can be seen for many kilometres, especially at the setting sun, and any rock disturbance, even with the utmost care, can be seen for many kilometres.

New snow wall at the foot of the Alpine meadow to restrict access to the meadow for non-ski visitors and enhancing the safety of all users.
Creation of snow walls use machines along with the environmental effects and do not always result in the desired results. Visitors should simply not be encouraged to the area by increased intensification.

Appreciate the applicant's honesty in providing a long list of desired terrain modifications with earthworks, need to remove rocks and do other works to improve the skiing experience, (required because of the removal of existing lifts and ski routes), methods employed across the industry, but this is not a private resort with skier only terrain, but a world heritage area and no rock movements should be undertaken.

Carpark 2 earthworks
Such significant earthworks in such a prominent position should be considered only with thorough Landscape and Visual Effects, and Ecological Assessments.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

No new buildings including Cultural building. (this does not include extensions to existing buildings)

No earthworks, including no general earthworks or rock removal across the ski area, other than minor to enable the Movenpick tidy up and upgrade.

No earthworks or modification of carpark 2

No earthworks to Clarry's track

Long term protection of the Alpine flush area

Retention of at least 4 of the chair lifts. (including Parklane and Giant). Due to safety and environment reasons the Giant chairlift and Parklane chairlift are to be retained, including all parts and accessories to maintain them in an operating condition.

I support the Movenpick upgrade to a detachable chair lift.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment

How do I submit my objection or submission?

Complete this form and email to mtruapehusubmissions@doc.govt.nz. You may also mail your objection and submission to: Director-General, c/o Permissions Hamilton, Department of Conservation, Private Bag 3072, Hamilton 3240.

A. Permission Application Number and Name of Applicant SUB 457

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Brett Huband
Organisation	N/A
Date	9th February 2024

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☒ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

1. The duration of the concession is only 10 years.
2. The Tongariro National Park (TNP) treaty claim(s) have not been negotiated or settled.
3. Not enough information to know if Pure Tūroa Limited (PTL) will be financially sound.
4. The decreased access to the mountain if the concession is awarded.
5. The concession excludes wider alpine snow sports assets on Mt Ruapehu, specifically Whakapapa.
6. Compressed negotiation and consultation period.
7. Redaction of important information, including parties involved and consulted.

My reasons for my objection or submission are:

1. There currently remains an existing concession on the site of 60 years.

The short length of the concession sought indicates a clear lack of a long-term commitment to the operation, to the wider area and opens the door for asset stripping and an imbalance between commercial priorities and public interest. Environmentally, the longer the commitment to a place, the more invested a party is in the sustainability of a place. The PTL concession falls short on this front.

2. Tongariro National Park (TNP) treaty claim(s) may lead to immediate litigation costs.

The well publicised interests of other parties (including those under a Treaty claim) in the existing concession and RAL assets mean that should this PTL concession be awarded at this time, there is high risk of conflict and subsequent litigation which will bleed resources which could otherwise be used to enable and ensure equitable access to the assets and the ski field.

3. It is difficult to tell if the business will be financially viable.

Appendix 7 cash flow model makes it difficult to tell if the business makes commercial sense.

Information provided excludes information on what DoC and MBIE will need to pay to remove infrastructure from the mountain if the business fails.

4. Increased costs and decreased mountain capacity will make Tūroa less accessible to New Zealanders.

The reduction in capacity with the removal of the Nga Wai Heke chair, Giant Chair, and the Wintergarden Platter and less operational days, longer inactive vs active time on the mountain and lowered accessibility to the Maunga during the operating season. The lower capacity of 4500 would see increased demand, leading to price increases which will take the cost of utilising this natural resource beyond the reach of most New Zealanders.

5. Competing business interests with Whakapapa and lack of complementary business operation.

A lack of synergy between the other snow sports assets on Mt Ruapehu lowers the chance of mitigating partial operational closure across the Maunga – further reducing access for those who have travelled some distance to stay and experience the thrill and majesty of Mt Ruapehu.

6. Past concessions negotiations took around four years.

The short period of time between the consultation period and opening of the 2024 season means that there cannot be full consideration of important aspects.

7. Key information has not been provided.

The extensive redaction of names (e.g. Directors of PTL), this information is a matter of public record and should not be redacted.

Iwi engagement has been completely redacted.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

Any concession needs to be for a longer period of time (minimum 30 years).
Any concession needs to show partnership and/or endorsement from mana whenua. Cease ignoring iwi and retract from seeking new concessions, as they have said they will not approve new concessions until Treaty claims are settled on the Maunga.
Keeping the existing RAL concession in place provides a safe working relationship while the TNP treaty claims are being negotiated between the Government and various iwi interests over coming years.
Any concession should be for the whole mountain, being Whakapapa and Tūroa.
Any concession needs to show active consideration of ongoing accessibility (including socio-economic) to the Operation within this National Park. Especially as a non-profit operator is seen as being more compatible with public access to a National Park environment.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

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OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 458

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Sahil Arora
Organisation	Tongariro Suites
Date	09/02/2024

D. Statement of Support, Neutrality or Opposition

☑ **I Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☐ **I Oppose** this Application (I am making an objection).

E. Hearing Request

☐ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☑ **I Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

Help in growing local town, businesses

My reasons for my objection or submission are:

I believe if the Turoa ski field is opened and concession is given to Pure Turoa, local towns and local businesses will benefit from this as it will generate more jobs and people will tend to visit our town. This will also help our business to grow during the times. Pure Turoa is local and understand the local people which will help locals if the field is opened.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

N/A

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

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OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 459

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Phil Cattin
Organisation	N/A
Date	09 Feb, 2024

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☒ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

1. The duration of the concession is only 10 years.
2. The Tongariro National Park (TNP) treaty claim(s) have not been negotiated or settled.
3. Not enough information provided to know if Pure Tūroa Limited (PTL) will be financially sound.
4. The decreased access to the mountain if the concession is awarded.
5. The concession excludes wider alpine snow sports assets on Mt Ruapehu, specifically Whakapapa.
6. Compressed negotiation and consultation period.
7. Insufficient information on outcome for existing Life Pass Holders.

My reasons for my objection or submission are:

1. There currently remains an existing concession on the site of 60 years.

The short length of the concession sought indicates a clear lack of a long-term commitment to the operation, and an imbalance between commercial priorities and public interest. Environmentally, the longer the commitment, the more invested a party is in sustainability. The PTL concession falls short on this front.

2. Tongariro National Park (TNP) treaty claim(s) may lead to immediate litigation costs.

The well publicised interests of other parties (including those under a Treaty claim) in the existing concession and RAL assets mean that should this PTL concession be awarded at this time, there is high risk of conflict and subsequent litigation which will bleed resources which could otherwise be used to enable and ensure equitable access to the assets and the ski field(S).

3. It is difficult to tell if the business will be financially viable.

The advised cash flow model makes it difficult to tell if the business makes commercial sense. Information provided excludes information on what DoC and MBIE will need to pay to remove infrastructure from the mountain if the business fails.

4. Increased costs and decreased mountain capacity will make Tūroa less accessible to New Zealanders.

The reduction in capacity with the removal of the Nga Wai Heke chair, Giant Chair, and the Wintergarden Platter and less operational days, longer inactive vs active time on the mountain and lowered accessibility to the Maunga during the operating season. The lower capacity of 4500 would see increased demand, leading to price increases which will take the cost of utilising this natural resource beyond the reach of most New Zealanders.

5. Competing business interests with Whakapapa and lack of complementary business operation.

A lack of synergy between the other snow sports assets on Mt Ruapehu lowers the chance of mitigating partial operational closure across the Maunga – further reducing access for those who have travelled some distance to stay and experience the thrill and majesty of Mt Ruapehu, which noting the location, covers the majority of Skiers.

6. Past concessions negotiations took around four years.

The short period of time between the consultation period and opening of the 2024 season means that there cannot be full consideration of important aspects.

7. Key information has not been provided.

The extensive redaction of names (e.g. Directors of PTL), this information is a matter of public record and should not be redacted.

Iwi engagement has been completely redacted.

The outcomes that need to be addressed by this application are:

Any concession needs to be for a longer period of time (minimum 30 years).
Any concession needs to show partnership and/or endorsement from mana whenua, as they have said they will not approve new concessions until Treaty claims are settled on the Maunga.
Keeping the existing RAL concession in place provides a safe working relationship while the TNP treaty claims are being negotiated between the Government and various iwi interests over coming years.
Any concession should be for the whole mountain, being Whakapapa and Tūroa.
Any concession needs to show active consideration of ongoing accessibility (including socio-economic) to the Operation within this National Park. Especially as a non-profit operator is seen as being more compatible with public access to a National Park environment.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment

How do I submit my objection or submission?

Complete this form and email to mtruapehusubmissions@doc.govt.nz. You may also mail your objection and submission to: Director-General, c/o Permissions Hamilton, Department of Conservation, Private Bag 3072, Hamilton 3240.

OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant SUB 460

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	RICHARD PETER MILLICAN
Organisation	None
Date	09/02/2024

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☒ I am **Neutral** on this Application (I am making a submission).

☐ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

I am concerned about the following issues in the PTL application, that need further explanation:

- Short length of the concession (10-years)
- Removal of key lifts (Nga Wai Heke chair, Giant Chair, and the Wintergarden Platter)
- Reduced skier capacity from 5,500 to 4,500
- assets to be left on the mountain (or removed) make little sense whilst the Tongariro National Park Treaty negotiations remain underway with mana whenua
- the more extensive facilities at the Whakapapa ski resort (ref. the liquidation and receivership of RAL)
- the presumption that "snow making" will resolve lower-mountain coverage issues, as with vague references to public transport options.

My reasons for my objection or submission are:

- Short length of the concession (10-years):
  - compares inappropriately with the prior/existing RAL Concession
  - presumes a rolling +20 Years renewal/ extension, which is an unknown at this stage
  - is not appropriate to giving surety to the investment programme offered by PTL (the removals/upgrades, once actually enacted, and over a reasonable execution period).
- Removal of key lifts (Nga Wai Heke chair, Giant Chair, and the Wintergarden Platter)
  - It is inappropriate for DoC to simply remove the Nga Wai Heke Chair:
    - It supports the return from the north-eastern corner of the ski area (including the "Triangle" area) and is an adequately challenging run in its own right.
    - This approach shows the discrepancy between the area for the Concession that is needed for the activity's operating assets, and the actual ski-area
    - retention of this lift has little impact on the shear mass of reserved space on Mt Ruapehu, outside of the Turoa ski area.
    - This also assumes too much about the non-use of this chair, in the last two snow seasons, by RAL – RAL were pressed for resource to maintain this lift, only, during this spell.
    - It is misleading for PTL to indicate that there is much additional effort now needed to operate this asset.
  - It offers poor value for skiers and snowboards to remove the Giant - whilst only replacing the Movenpick with another technology BUT on the same delivery line. Mapping shows that the Giant supports the mid-field and avoids the need to ride down through poorer snow conditions and (for intermediate and advanced skiers/boarders) the Beginner area to get back to the lift. This fits poorly with the more extensive detail offered in RAL's Long Term Plan (openly published on RAL website).
  - The Winter Platter offers a reasonably reliable Beginner-into-Intermediate service, where the snow will be available for a longer period in the season than that on the lower Alpine Meadow. It is misleading to believe that PTL could support extended Beginner facilities, where even lower down the Mountain!
- Reduced skier capacity from 5,500 to 4,500 –

  this offers poor service for this side of the mountain, and poor value for users; and offers no reasonable relationship to the service offered prior by RAL in prior time, nor by Pure Turoa in this last year's (withdrawn) offering. The public need a clearer message as to the basis for this number reduction; and, to what extent DoC are behind this change.
- References to viable public transport options are irrelevant at this stage, counting the lack of useful facilities available at any time in prior usage of both sides of this mountain ski area; and the farce that is de-camping to National Park bus park, when turned away by DoC staff on an ad-hoc basis, these last three seasons.
- The presumptions made about the operating area of this Concession and of assets to be left on the mountain (or removed) make little sense whilst the Tongariro National Park Treaty negotiations remain underway with mana whenua – this does not show good process. I note also that Iwi had previously wished to enter this operational space.
- This does not address the issue of the more extensive facilities, of more recent maintenance, at the Whakapapa ski resort (ref. the liquidation and receivership of RAL). It has only just been publicly announced that WHL dropped their proposal for Whakapapa in January 2024.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

Amendments to PTL's annex to their Application section "Tūroa Ski Area, Mt Ruapehu - Application for Licence and Lease Proposal Outline and Environmental Impact Assessment (230352 8 December 2023)" –
to include the following:
2.3 ~Lease areas – to include Nga Wai Heke and Wintergarden Lift & operating areas
2.4 Licence Term
2.5 ~Upgrades & Replacements –
paras 4 and 5 ("bullets", listed facilities)
para 6 (reduction of capacity)
Figure 3(corrected facilities present, better value from new Movenpick Express lift – incl. landing point).
Textual references to snow-making as a solution to all lower mountain coverage problems
Textual references, without supporting information, to "safety" – the assumptions offered to supposedly benefit users and seem far-fetched.
Content does not adequately cover:
that Tongariro National Park Treaty negotiations remain underway with mana whenua.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment
None		

How do I submit my objection or submission?

Complete this form and email to mtruapehusubmissions@doc.govt.nz. You may also mail your objection and submission to: Director-General, c/o Permissions Hamilton, Department of Conservation, Private Bag 3072, Hamilton 3240.

A. Permission Application Number and Name of Applicant

SUB 461

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Caroline Williams
Organisation	
Date	09/02/24

D. Statement of Support, Neutrality or Opposition

☒ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☐ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

My reasons for my objection or submission are:

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

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OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 462

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Chelsea Owen
Organisation	
Date	9.02.24

D. Statement of Support, Neutrality or Opposition

☒ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☐ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☐ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☒ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

Pure Turoa running Turoa as a ski field and future developments

My reasons for my objection or submission are:

I believe that Pure Turoa will do a great job at looking after Turoa Skifield. The positive changes that they are planning, removing the Nga Wai therefore reducing the footprint on the Maunga and the upgrades on the other ski lifts. I am an Ohakune local so the positive impact on the town, employing people and keeping the region operating is essential.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

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Takiri te ata ki runga Tongariro, he ata kai taua, he ata kai tangata.
He mihi kau atu ki runga i ngā tini āhuatanga o te wa.

Patutokotoko Position Statement

As communicated to the Crown multiple times last year, Patutokotoko are unified with Ngā Iwi o te Kāhui Maunga in our belief that any proposed solution/s for the ski fields of Tūroa and Whakapapa must, primarily:

- Uphold all our settlement agreements
- Not prejudice future settlement negotiations related to the Tongariro National Park
- Not prejudice the outcome of the terms and conditions of any concession license/s to be issued.

The position of Patutokotoko, has always been that adequate consideration, time, resource, information and consultation should be afforded to all iwi and hapū ahead of the finalisation of any proposed ski field transition plan/s and yet, here we are again. (refer Appendix 1)

Timeframes

We note that the notification period for this consultation is between 18 December, 2023, and 9 February, 2024. Given the importance of this kaupapa, we believe that relying on the bare minimum statutory timeframes is unreasonable. While this time frame allowed for the government shut-down period it does not take into regard, the many pressures on Ngā Iwi o te Kāhui Maunga, Hapū and whānau. During this time period critical cultural events including the Tira Hoe Waka, Rātana Celebrations and Waitangi Day all take place.

Patutokotoko has repeatedly raised our concerns throughout the Ruapehu Alpine Lifts (RAL) discussion and continues to experience a significant lack of information, time and engagement from the Crown. Despite being safeguarded through a number of te Tiriti o Waitangi settlements and numerous governmental acts, policies, management plans and laws, we as tangata whenua have been continually compelled to advocate for the protection of our rights and interests.

We reiterate, any decision the Department makes regarding the possible issuing of a concession to Pure Tūroa limited **must not** prejudice future settlement negotiations relating to the Tongariro National Park

Whole of Government Approach

The Minister of Conservation is aware of the concerns that have been raised by Patutokotoko throughout the RAL liquidation process. Our first pānui, “Ruapehu Ski Fields – Ownership Change” was sent to Crown and respective Ministers on 12 May, 2023 (refer Appendix 3). Concerns that have been constantly raised over the last nine months include the trading of the Tūroa name, the proposed length of term and inexperience of the new concessionaire, the inadequacies of the previous concession (including appropriate exit arrangements for the concessionaire) and the ongoing environmental effects of the ski field activity.

We continue to have these concerns as we do not believe they have been addressed in any meaningful way.

Until lodgement of the concession, the Crown committed to a whole of government response to the concerns raised. As part of this approach, Patutokotoko has met with Crown Ministers for an urgent meeting in Tūrangi and then again in Pukawa with senior Government officials from across the sector including Te Arawhiti, Department of Conservation and MBIE.

Patutokotoko have also begun meeting with Te Arawhiti on a regular basis.

Patutokotoko believe that these concerns need to be addressed in constructive and meaningful way and resolved in their entirety and again the Crown's approach to try and separate the issues across multiple agencies including DOC, Te Arawhiti and MBIE without adequate resolution is, inappropriate.

We believe that Ministers - through their officers - had committed to a whole of Government approach and are well aware of the risks associated with ignoring the kōrero of tangata whenua. This risk was highlighted in the DOC *Briefing to the incoming Minister of Conservation November 2023*:

> *"Given some of the positions expressed by iwi regarding a commercial operation on Mount Ruapehu, there is a risk of a prolonged concession process, legal challenges and additional costs to the Crown to keep running the ski fields prior to the completion of any transaction."*[1]

MBIE's *Briefing to the incoming Minister for Regional Development November 2023* pertaining to the ongoing RAL discussions states, "there is a range of complex matters to consider including iwi views".

We support the kōrero of Te Ariki Tumu te Heuheu when he informed the Minister of Treaty of Waitangi Negotiations, Minister of Regional Development that he would not support a private commercial tender for the purchase of Ruapehu Lifts[2]. In his opinion this would not only be detrimental to the settlement agreement of Tūwharetoa but would also, "invite a situation where there is a prejudicing of our National Park negotiations, or the terms and conditions of the concession associated with Tongariro Maunga."

Iwi & Tongariro National Park

The Department of Conservation (DOC) clearly acknowledges that Ngā Iwi o te Kāhui Maunga carry, "a perpetual responsibility of kaitiakitanga in protecting and safeguarding the tapu, mauri and mana of these sacred places" [3]. For tangata whenua there are both the physical and spiritual responsibilities inherent in the practices of kaitiakitanga. For Patutokotoko this means having the ability to proactively and effectively protect the tapu, mauri and mana of our lands and tūpuna maunga of the Tongariro National Park.

This highly sacred relationship we have with the Tongariro National Park was formally recognised internationally in 1993 with the site becoming the first in the world to receive a Cultural World Heritage classification from UNESCO following application from DOC.

In awarding their citation the UNISCO board stated that:

> "The Department of Conservation was committed to a consultation process that will support an exemplary code of ethical conduct and field conservation practice that emphasise social responsibility and cultural sensitivity."[4]

Management of the Tongariro National Park

Patutokotoko acknowledge that alongside the National Parks Act 1980 and Conservation Act 1987 there is an adherence to multiple other governing document including the Tongariro National Park Bylaws 1981 and Tongariro/Taupo Conservation Management Strategy 2002 – 2012 and Tongariro National Park Management Plan (TNPMP) 2006-2016 which, both the Crown and Iwi, hapū and whānau must consider.

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[1] Department of Conservation. (2023) Briefing to the incoming Minister of Conservation November 2023. 37.

[2] Tumu te Heuheu, (31 August 2023) Letter - Tūwharetoa Iwi – Ral Kaupapa

[3] Department of Conservation. (2017) Notified Concession Officer's Report to the Decision Maker, Permission Number 48601 - Tūroa Ski field. Appendix 2, 2.

[4] UNISCO World Heritage Centre. (1993). World Heritage List Tongariro. No.421rev.

Sections 3.1. and 4.1.2 of the TNPMP specifically refers to the principles and objectives of the Treaty of Waitangi and He Kaupapa Rangatira, a mechanism developed to give meaningful effect to ToW principles and objectives in all areas of management of the Park. In consideration of any concession application in the first instance, DOC is obligated to ensure the Crown are upholding the nine founding principles of He Kaupapa Rangatira including:

> **Principle 7**
> Tautiaki Ngangahau: The duty of the Crown to ensure the active protection of taonga for as long as Māori so wish it.
> Objective: 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.
>
> **Principle 8**
> He Here Kia Mōhio:
> The duty of the Crown to make informed decisions.
> Objective: To engage in regular, active, and meaningful consultation with iwi in respect of the work of the conservancy.
>
> **Principle 9**
> Whakatika i te Mea He: The duty of the Crown to remedy past breaches of the Treaty and to prevent further breaches.
> Objectives: To avoid any action which might frustrate or prevent redress of Treaty claims. To assist the Government actively in the resolution of Treaty claims where these relate to Tongariro/Taupō Conservancy. 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.

Pre-application processes

Prior to the application of PTL being lodged Patutokotoko were of the understanding that there had been a commitment to engaged with Patutokotoko and for the Crown to provide advice on appropriate conditions for the activity and how this mahi would be resourced. There has been no pre-application engagement of any sort by DOC with us prior to the release of this application through the public consultation process (refer Appendix 2).

Consideration of the concession application from PTL

The hapū of Patutokotoko are unified with Ngā Iwi o te Kāhui Maunga in our belief that any proposed solution/s for the ski fields of Tūroa and Whakapapa must, primarily:

- Uphold all our settlement agreements
- Not prejudice future settlement negotiations related to the Tongariro National Park
- Not prejudice the outcome of the terms and conditions of any concession license/s to be issued.

However, DOC has chosen to put out the concession of PTL straight to public consultation. As hapū at place, as tangata whenua of the Tongariro National Park, we now must consider what has been proposed.

We have some whānau who believe that this kaupapa is being driven by the MBIE and is a done deal but, as a good te Tiriti o Waitangi partner we will do what has been asked of us and, "have our say"[5]. This is evident

[5] https://www.doc.govt.nz/get-involved/have-your-say/all-consultations/2023-consultations/pure-turoa-limited/

with the Ngā Waiheke lift being closed and leaving it with the Department of Conservation for its removal at a time where the department has very little money going into core conservation mahi on the maunga.

Patutokotoko does not support the issuing of a license and lease for the Tūroa ski fields to PTL by the Crown without further direct engagement with the hapū to ensure that the issues raised by us are addressed.

PTL claims of engagement with Ngā Iwi o te Kāhui Maunga

Despite being well aware of the critical importance of the need for a licence to operate from at least, 20 June, 2023 (Watershed hui) and a clear understanding of the legislative requirements to engage with iwi PSGEs through the statement, "PTL are committed to mitigating cultural effects on an ongoing basis through the maintenance and enhancement of relationships with tangata whenua at governance and management levels"[6], there is little evidence shown in this copy-and-paste application that indicates any effort or level-of-care has been taken.

As indicated to PTL via email on 28 November, 2023, the Department states the, "CIA was commissioned with Ngāti Rangi which is only one of the four identified iwi groups interests at Tūroa" [7], we do not believe this was new knowledge to the applicant. Other than Uenuku | Te Korowai o Wainuiārua and Ngāti Rangi there has been no engagement identified by the applicant with any of our Kāhui Maunga whanaunga or Ngā Tangata Tiaki as identified in Appendix 10 Record of Iwi Engagement.

This Iwi engagement table notates a mere four kanohi ki te kanohi hui which in considering the desire of PTL to enhance their relationship with tangata whenua, this is unacceptable.

Prior to the application being lodged there was a commitment that Patutokotoko would be engaged to provide advice on appropriate conditions for the activity and that this mahi would be resourced. There has been no pre-application engagement sought by DOC for the concession (refer Appendix 2).

PTL, "wish to pursue a partnership or relationship agreement with Ngāti Rangi and Uenuku"[8]. The exact the same statement was made by RAL on their application for Tūroa in 2017. Seven years later, Uenuku | Te Korowai o Wainuiārua is still waiting to sign their partnership/relationship agreement with RAL and we note that the five-year review of operations is now two years overdue.

We do not believe that a like-for-like licence should be entered into. Should the Department continue their position of granting a licence to PTL it is the view of Patutokotoko that at a bare minimum, signed partnership agreements with both Uenuku | Te Korowai o Wainuiārua and Ngāti Rangi should be required before DOC confirms any licence issue.

The PTL application itself

On reading this application from a company who have never previously owned a ski field operation there was, for some reason, a degree of familiarity. On closer inspection, the vast majority of PTL's application was is a copy-and-paste of Ruapehu Alpine Lifts' previous application for Tūroa which was actually predominantly a copy-and-paste of their application for a concession for Whakapapa, all prepared by Cheal Consultants (refer image 1).

[6] PTL. (2023) PTL – Tūroa Ski Area application for licence and lease. 6.

[7] Email from DOC. (28 November, 2023) Turoa Applicaiton – cultural impact assessment

[8] PTL. (2023) PTL – Tūroa Ski Area application for licence and lease. 18.

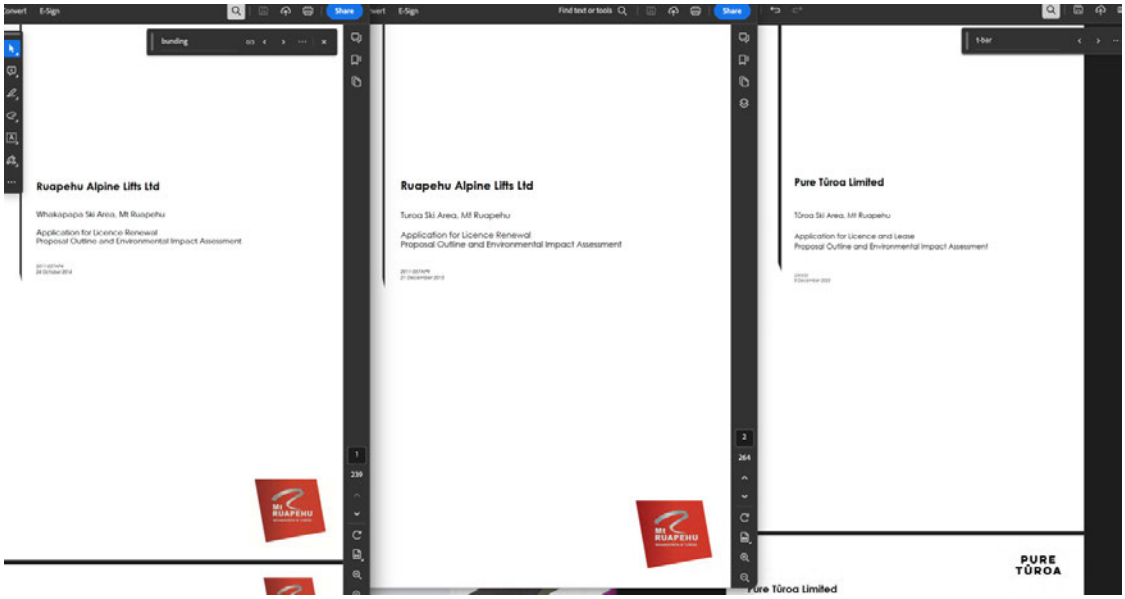


Image 1

Just 12 days before the agreed deadline of 10 December, 2023[9], on 28 November, 2023, the Department advised, "I think you mentioned you have RAL's previous applications. Use this as a guide when completing the new application"[10]. It is clear by the amount of plagiarism in this application that PTL did just this (refer images 2 & 3).

1. INTRODUCTION

RAL took over operation of the Turoa Ski Area in 2000. The Ski Area has a long history of commercial use and consequently has extensive infrastructure established onsite. Road access to the ski area was established and the first licence for skiing was issued in the mid-1960s. The ski area is operated to provide recreational opportunities all year round which cannot be located outside of the National Park due to the topography and altitude necessary for skiing and associated high alpine recreational activities and experiences.

Image 2: Ruapehu Alpine Lifts Application for Licence and Lease: page 7

PURE TŪROA

1. INTRODUCTION

The Tūroa Ski Area has a long history of commercial use and consequently has extensive infrastructure established onsite. Road access to the ski area was established and the first licence for skiing was issued in the mid-1960s. The ski area is operated to provide recreational opportunities all year round which cannot be located outside of the National Park due to the topography and altitude necessary for skiing and associated high alpine recreational activities and experiences.

Image3: PTL Application for Licence and Lease: page 7

[9] Email from DOC. (7 December, 2023) PTL lodgement information

[10] Email from DOC. (28 November, 2023) Turoa Application – cultural impact assessment

Factual inaccuracies

Owing to the copy-and-paste plagiarism of previous documents it is noted that some of the knowledge and claims being shared in both the Application and Indicative Plan are quite simply factually incorrect. Amongst others these include:

1) **Section 4.4 Structures and Built Form**: claims the existence of "T-bars" despite the Jumbo being removed over a decade ago, we know of no t-bars currently installed at Tūroa
2) **Section 6.4 Ecological Values:**
   a) "The initial report confirmed that the [fuel storage] structures in place in 2013 were compliant with all regulations''. The DOC are well aware that following the diesel spill of October 2013 it discovered the tank had not had a code of compliance inspection for a number of years and subsequently RAL was convicted for their failure to maintain the fuel storage system.
   b) "There are four permanent fuel tanks", the existence of only two have been identified in Appendix 1. We understand the fuel tank situated between the Snowflake café and snow-cat maintenance shed has been removed and are not aware of any replacement.
   c) "Bunding of petrochemical storage". We understood this had occurred across all fuel storage tanks post the 2013 spill. Is this not the case?
3) **Section 6.5 Recreational Values:** "there are no adverse impacts on recreational values – such as affecting pristine areas of the Mountain". The authors of the National Park Inquiry Report state that it is: "entirely inappropriate for the Department of Conservation to continue to decide, unilaterally what the extent of the restricted area [Pristine Area] should be" and that, "a Treaty-compliant process for ongoing decision making about this issue should properly be discussed between claimants and the Crown in the future. "Only then will tapu areas on the maunga be guaranteed of appropriate protection" [11] (refer Appendix 1).

TNPMP inconsistencies

Patutokotoko were unaware that a draft PTL Indicative Development Plan was also to be considered. Contained in this document are a number of inconsistencies and proposed breaches of the TNPMP. Examples of these include:

1) Design Carrying Capacity: *An Overview of our Environmental & Cultural Objectives Presented to iwi and DoC* was provided to some tangata whenua in August 2023. Page two informs us of a planned reduction in, "target daily skier numbers to a maximum of 3,500 – a significant reduction over the current 5,500". We note this licence application now states on multiple occasions this figure has decided to increase this figure to 4,500-skiers and PTL plan to cater for 30% non-skiers[12] which on peak days will place PTL in breach of the TNPMP carrying capacity of 5,500. The proposed IDP clearly acknowledges that capacity is not simply about the number of happy skiers can head up the maunga but that it also defines, "the volume of carparking, number of toilet and café facilities [sic]"[13]. The Department's ongoing ability to restrict the maximum carrying capacity numbers to all manuhiri rather than just "skiers" is a historical issue that must be rectified moving forward.

2) Carparking charges: TNPMP Section 5.2.3 (Base Area Strategies) states, "Concessionaires will incorporate car park fees into their lift ticket prices". However, Section 6.4 3 of the IDP states, "RAL and DOC may implement a charging regime of some form (eg carpark fee)".

Cultural Impact Assessment

As hapū at place in beginning to attempt to robustly consider this application from PTL, it must be said that a new Cultural Impact Assessment (CIS) is the first document we looked for. Unlike RAL previously we can't even

[11] Ministry of Justice. (2013). Te Kāhui Maunga: the National Park District Inquiry Report. Lower Hutt, Waitangi Tribunal. III. 864.

[12] PTL. (2023). PTL. (2023) PTL – Tūroa Ski Area application for licence and lease. Appendix 9, 6.

[13] PTL. (2023). PTL – Tūroa Ski Area application for licence and lease. Appendix 9, 8.

find one mention of a report even being commissioned in PTL's application. On 30 November, 2023, Sec 9(2)(a) sent an email to DOC[14] seeking the provision the previous iterations of a number reports including the CIA a requirement of which is heavily referred to throughout the 2017 *Notified Concession Officer's Report to the Decision Maker, Permission Number 48601 - Tūroa Ski field*.

In this emai Sec 9(2)(a) states, "I'm not sure what to write about CIA's when no one can find the old one, and not sure if new one has been engaged? No one has yet told me what consultation has occurred.

The Department replied:

> *"In regard to CIA's. I think it is best to not even mention CIA's, unless you can confirm PTL intend on obtaining one (you will need to confirm this). My recommendation is to confirm what engagement/consultation has occurred to date as per my previous advice. It is really important that PTL engage with iwi prior to submitting their application (and I am sure they have been) as iwi will expect this due to the significance of Mt Ruapehu to them and will be very likely to make multiple submissions during notification. I can only recommend you find out what engagement has occurred and note this in the application."*

In the opinion of Patutokotoko it is not and has never been the role of the Department kaimahi to arbitrarily decide if a CIA is required for application of such significance to tangata whenua. We also note in this same email thread the DOC author appears to note even have a basic understanding of the contents of the TNPMP, "Can you please confirm what context the He Kaupapa Rangatira relates to – is this the Ngāti Tuwharetoa [sic] Deed of Settlement?".

Provision of other Historical Assessment documents

The introduction to the PTL application states:

> *"Also included in the appendices is an Assessment of Landscape and Visual Effects, an Ecological Assessment and an Economic Assessment. These assessments were undertaken in 2014 for the previous RAL licence application and are provided due to time constraints getting updated assessments."*[15]

This need by the Crown for PTL to acquire a concession was confirmed in a pānui from Chapman Tripp to MBIE as early as 13 June, 2023, "PTL requires the Department of Conservation (DoC) Tūroa licence to occupy the land and conduct a ski field dated 21 September 2017 (Tūroa Concession) be assigned from RAL to PTL on or before completion, on terms satisfactory to PTL." [16] While re-assignment of the RAL licence never occurred a valid concession and has always been a condition of sale of Tūroa ski field to PTL for $1[17].

If PTL are well aware of the need for a concession application to be made and had at least six months to prepare, does the Department agree with the above PTL statement that it is acceptable to assess this application based on information written a decade ago in 2014?

The reports supplied are:

1. 2014 Assessment of Landscape and Visual Effects - Turoa Ski Area – Indicative Development Plan [2011] – Assessment of Landscape and Visual Effects
2. 2014 Ecological Assessment - Ecological Assessment of the Turoa [sic] Ski Area

[14] PTL/Cheal. (30 November, 2023). Email RE: [#P230603] PTL concession.

[15] PTL. (2023). PTL – Tūroa Ski Area application for licence and lease. 7.

[16] Chapman Tripp (13 June, 2023). Letter to Robert Pigou – Ruapehu Alpine Lifts Limited (Administrators Appointed)

[17] Chapman Tripp (13 June, 2023). Letter to Robert Pigou – Ruapehu Alpine Lifts Limited (Administrators Appointed)

3. 2014 Economic Assessment – Lifting the Region – The economic benefits of the Ruapehu ski-fields (ironically penned by PWC the current Court appointed liquidators of RAL).

Surely a newly formed company like PTL (registered 13 March, 2023) who have never run a ski field operation before would have commissioned an economic assessment ahead of considering their own bottom lines in making a bid to MBIE seeking not only ownership of the assets but future investment by the Crown?

Clearly there have been vast changes in all of these areas over the last decade. From a whānau perspective, what may have appeared to have been tolerated to the Crown back in the day has now turned into tangible expectations from hapū at place following the subsequent settlement of a number of Kāhui Maunga Iwi. All reports presented for consultation and consideration by any applicant should be current.

The release of the Kāhui Maunga Report in 2014 has also contributed to a growing expectation that at a bare minimum acknowledgement of the principles of te Tiriti and He Kaupapa Rangatira as applied to the ongoing management of the Tongariro National park is quite simply not good enough.

Patutokotoko anticipate a post Kāhui Maunga settlement space where, owing to the evidenced taking of our lands, the discrepancies in management of the tuku zone (DOC defined Pristine Area) and the outstanding issue of the Rangipo North 8 block - which the vast majority of Tūroa ski field sits on – the expectations of Patutokotoko are that the agreement the Crown finalised in 2023 for Tarakaki Maunga is a natural start point for the settlement of the Kāhui Maunga claim by our PSGEs.

Indicative Development Plan

Despite the claim by PTL that, "Due to time constraints, the existing landscape assessment for the 2011 IDP proposals is appended", multiple instances of the copy and pasting of the Draft RAL Tūroa IDP May 2019 has occurred.

Section 2.1 of the proposed IDP states, "In most cases developments proposed in this Indicative Development Plan will replace an existing facility or provide for the removal of an existing facility". This approach is clearly in-line with the needs of both DOC and tangata whenua. However, from the persistent usage of words such as "additional", "extended" and "increased" it is unclear how this statement is being pro-actively applied. Without the availability of additional information or plans, examples of major "additional", "extended" and "increased" developments, rather than like-for-like replacement.

Additional information is clearly required to be supplied to DOC and Iwi pertaining to indicated up-grade/replacements/expansion of infrastructure including the Movenpick Lift. Section 4.6 Infrastructure Consolidation[18] PTL states there will be a 40% reduction in the towers required on the existing fixed-grip chairlifts. Sec 9(2)(a) *Policy Assessment*[19] states:

> *"Infrastructure is kept to a minimum and future plans are modest due to the Ski Area's location in a National Park, due to the cultural values of the site and the dual World Heritage status. Accordingly, the proposal is considered consistent with key management philosophy 10 above."*

It is unclear how they have come to this conclusion when the current base station at Tūroa is compared with the Sky Whaka building (refer image 4).

The same can be said of the proposed towers for a Gondola at Tūroa. The 2018 *Whakapapa Gondola Works Approval and Resource Consent Application* states the Gondola's first tower at 9.7-metres is 94% higher than its Rangatira neighbour at approximately 5-metres (refer figure 5). The tallest tower in the Whakapapa Gondola construction is number 11. Standing at a proposed 21.5metres it is 44% higher than its nearest Waterfall equivalent at 14.9-metres.

[18] PTL. (2023). PTL – Tūroa Ski Area application for licence and lease. Appendix 9, 20.

[19] PTL (2023),

Image 4 Left – View of the Movenpick and Parklane fixed-grip chair drive stations currently at the base of Tūroa. Right – View of the Whakapapa Gondola storage and drive station at the base of Whakapapa (under construction)

As mentioned above owing to the lack of factual information or the provision of multiple assessment reports and actual clear and transparent plans for the ski field it is impossible for Patutokotoko to provide any support PTL's proposed IDP.

Image 5 First chair towers at the base of Whakapapa, Rangatira on the left and Gondola on the right

Other concessions

Appendix 2: Sub licences

Patutokotoko were totally unaware of this variation made in 2020 and can only assume it was non-notified. In PTL seeking a copy and paste, like for like concession this in effect creates a monopoly over all commercial opportunities on the concession area and negates any future opportunities for our hapū or Iwi post settlement of the Kāhui Maunga claim.

Section 7.3 states, "the Concessionaire shall notify the Grantor each time a new sub-licence agreement is formalized [sic]" literally creates a scenario where in the absence of any clearly defined relationship agreements with Iwi, PTL can bring in any contractor they wish to run, for a profit, any part of ski field operations the wish. We also note that under the heading *Sub-licensee Best Practise* no mention is made of need to also recognise Uenuku | Te Korowai o Wainuiārua or other Kāhui Maunga Iwi, like Ngā Tangata Tiaki.

Application for Aircraft Activates

While we support the usage of drones for the purposes of safety management and maintenance over the length of any given license length, we do not support this application if it also allows the blanket usage of drones for the purposes of developing any communications colleterial.

Concession Filming

Images and film for marketing and external usage and the process for is clearly for by DOC regulations, rather than one blanket concession covering the length off any licence, it is the view of Patutokotoko that like our Regional Tourism Organisation, an one-off permissions should be sought.

Concession number: TT-236-EAS

We note RAL currently also has an easement concession TT-236-EAS but have been unable to locate any information about PTL's plans for this. Integral to snow making, we are of the opinion this concession pertaining to the taking of our wai should also be publicly notified. Throughout PTL's application they refer to increasing their snow-making capacity as a way of mitigating a number of issues including global warming. RAL's 2019 *Draft Tūroa Indicative Development Plan* states, "the existing water take from the Mangawhero Catchment and the existing Reservoirs do not provide sufficient capacity for any expansion of the snowmaking system"[20] and proposes the construction of a new reservoir. It is unclear to Patutokotoko exactly how PTL plans to increase snowmaking with the current systems.

Length of the proposed License

If formal relationship agreements have been signed with Uenuku | Te Korowai o Wainuiārua and Ngāti Rangi, Patutokotoko then views ten-years to be the maximum DOC should grant and agrees with a review after three-years. An additional full review should also be undertaken following the settlement of the Kāhui Maunga claim regardless of when this occurs.

We note that PTL's expectation of preferential rights to renewal for an additional 20 years and suggest this statement will also need to be reviewed following the issuing of the Ngāi Tai Ki Tāmaki Tribal Trust v DOC/Fullers Group Limited/Motutapu Island Restoration Trust Supreme Court 2018 decision[21].

[20] Ruapehu Alpine Lifts. (2019). Draft Tūroa Indicative Development Plan. 18.

[21] Supreme Court of New Zealand. (2018). Judgement of the Court, Ngāi Tai Ki Tāmaki Tribal Trust v DOC/Fullers Group Limited/Motutapu Island Restoration Trust. SC 11/2018 [2018] NZSC 122.

The concession effectively creates a monopoly over all commercial opportunities. The application seeks a like for like concession that effectively creates a monopoly over all commercial opportunities on the concession area. This includes the allowance of There is no opportunities or future opportunities for our hapū or for iwi within the concession area.

We also note the use of our Tūpuna name. This concession actively continues to allows for the continued commercial use of our name without proper acknowledgement or recompense .

Furthermore we believe that the activity of flying and filming should not be allowed for the entire term of the concession. Instead we believe a shorter term or a series of one off applications should apply. We believe that the inclusion of filming and flying on a 10 year basis is too long and a shorter concession should apply.

Conclusion

As shared with DOC, Te Arawhiti and MBIE in 2023, *Patutokotoko Position Paper Ruapehu Alpine Lifts* (refer Appendix 1) Ngā Iwi o te Kāhui Maunga, including the whānau of Patutokotoko, are currently entered into Te Kāhui Maunga negotiations with the Crown.

In considering the highly disputed nature of the tuku area boundaries it is the position of Patutokotoko that any discussions pertaining to the "gift" area should be done so unencumbered. Current consideration being given by the Crown pertaining to the commercial activities associated with Whakapapa and Tūroa ski fields will likely prejudice our negotiations in a way that could impact our ability to fully assert our tino rangatiratanga and kaitiakitanga over the Tongariro National Park, a provision that is provided for Patutokotoko hapu across multiple Deeds of Settlement and Agreements in Principle.

Pertaining to the DOC defined Pristine Area the authors of the National Park Inquiry Report state that it is:

- Entirely inappropriate for the Department of Conservation to continue to decide, unilaterally what the extent of the restricted area should be
- That a Treaty-compliant process for ongoing decision making about this issue should properly be discussed between claimants and the Crown in the future. "Only then will tapu areas on the maunga be guaranteed of appropriate protection.[22]

The vast majority of the Tūroa ski field also sits on the land block of Rangipo North 8 (refer image 6). In closing submissions to the Waitangi Tribunal Te Kāhui Maunga report authors note:

> *"The Crown acknowledged that it Failed to purchase, consult, or compensate the owners of Rangipō North 8 when it proclaimed the establishment of the National Park. We acknowledge the Crown's concession on this matter. This has resulted in the effective confiscation of a significant parcel of land from the tribes concerned. Located on this land are wāhi tapu of Whanganui Māori, including Paretetaitonga and Te Waiamoe, two of the most sacred sites."*[23]

The hapū of Patutokotoko are unified with Ngā Iwi o te Kāhui Maunga in our belief that any proposed solution/s for the ski fields of Tūroa and Whakapapa must, primarily:

- Uphold all our settlement agreements
- Not prejudice future settlement negotiations related to the Tongariro National Park
- Not prejudice the outcome of the terms and conditions of any concession license/s to be issued.

[22] Ministry of Justice. (2013). Te Kāhui Maunga: the National Park District Inquiry Report. Lower Hutt, Waitangi Tribunal. III. 864.

[23] Ministry of Justice. (2013). Te Kāhui Maunga: the National Park District Inquiry Report. Lower Hutt, Waitangi Tribunal. II. 531.

This as evidenced above, an abject lack of clarity, factual information and conflicting statements from the applicant combined with, a lack of a CIA and dated supplementary reports makes it almost impossible for Patutokotoko to robustly assess this PTL application even if we actually had been given adequate consideration, time and resource that should be afforded to all iwi and hapū.

If PTL had only started their application earlier and committed to a robust pre-consultation programme over the last eight months, rather than four kanohi ki te kanohi hui and a few emails containing information that has clearly now changed, we suggest some of these issues would have been resolved.

Do Patutokotoko support the issuing of this license and related concession? Kāo, and struggle to see how the Crown can consider issuing this licence without requiring the bare minimum in factual information and related reports.

This application notes the History of Tūroa ski field – without once mentioning the actual history of Te Pēhi Turoa, Te Pēhi Pakoro Tūroa or Tōpia Turoa and, we are still working with MBIE and Te Arawhiti on the transfer of the intellectual property right of our ingoa registered by RAL back to descendants of Tūroa.

It is suggested that in these circumstances, and noting the Treaty of Waitangi clause in the Conservation Act and provision of mechanisms He Kaupapa Rangatira in the TNPMP the Department of Conservation should consult with mana whenua in a way that acknowledges that the underlying whenua has never been purchased nor compensated for – and act in a manner akin to a trustee/beneficiary relationship.

Moving forward to a solution

Patutokotoko, like all Ngā Iwi o Kāhui Maunga, appreciate the important role the ongoing, intergenerational operation of the ski fields bring to our rohe.

With the formal withdrawal of Whakapapa Holdings Limited publicly announced this week and the clear issues PTL have with this application we, the collective representatives of Patutokotoko, would like to take this opportunity to formally offer the Crown $1 for the purchase of Whakapapa and Tūroa ski fields.

A caretaker collective of Iwi, hapū and whānau bought together to ensure that:

- Uphold all our settlement agreements
- Not prejudice future settlement negotiations related to the Tongariro National Park.

Finally before any decisions are made by the Minister on this application we wish to have an audience with the decision maker and the applicant to see if we can resolve our issues.

We wish to speak to this submission.

Ngā mihi nui

Te Kurataiaha Waikau-Tūroa
Te Moananui Rameka
Hayden Tūroa
Nicholas Tūroa

Map 9 Turoa Ski Area (with Rangipo North 8 shown)

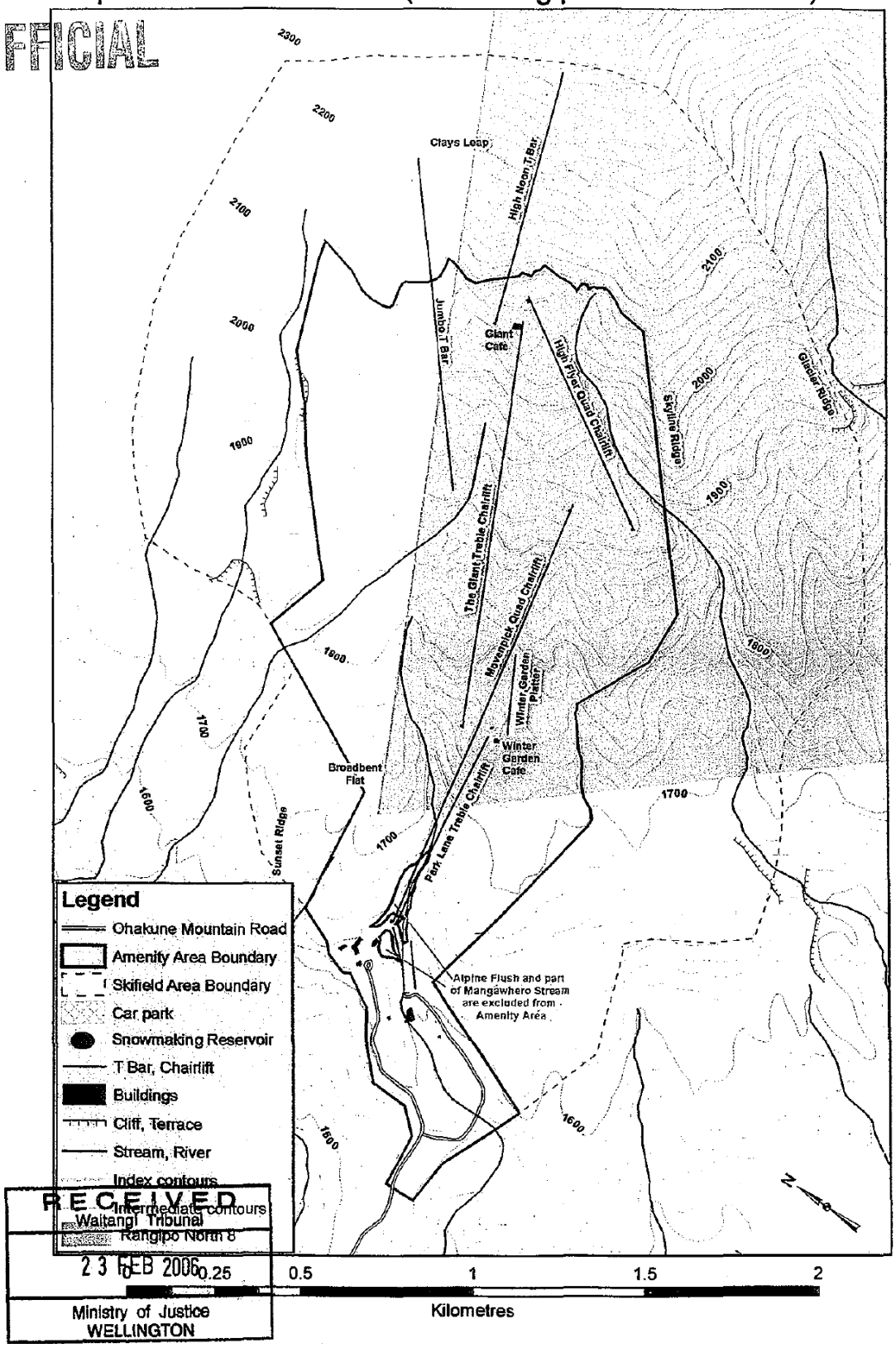


Image 6

Appendix 1

30 October 2023

PATUTOKOTOKO POSITION PAPER RUAPEHU ALPINE LIFTS

1. GENERAL COMMENTS

The purpose of this position paper is to assist in the ongoing discussions between the Crown, the hapū of Patutokotoko and Ngā Iwi o te Kāhui Maunga regarding the finalisation of an agreeable solution for Ruapehu Alpine Lifts.

The hapū of Patutokotoko are unified with Ngā Iwi o te Kāhui Maunga in our belief that any proposed solution/s must, primarily:

- Uphold all our settlement agreements
- Not prejudice future settlement negotiations related to the Tongariro National Park
- Not prejudice the outcome of the terms and conditions of any concession license/s to be issued.

As previously communicated with the Crown, the position of Patutokotoko, as hapū at place, has always been that adequate consideration, time, resource and consultation should be afforded to all iwi and hapū ahead of the finalisation of any proposed transition plan/s.

Patutokotoko has repeatedly raised our concerns throughout this process and continued to experience a significant lack of information, time and engagement from the Crown. Despite being safeguarded through a number of te Tiriti o Waitangi settlement and numerous governmental acts, policies, management plans and laws, we as tangata whenua have been continually compelled to advocate for the protection of our rights and interests.

It is our position that owing to the ski fields of Whakapapa and Tūroa being situated entirely within the original tuku or "gift" area – rather than the arbitrarily defined Department of Conservation "Pristine Area" – Patutokotoko requests that no further decisions are made or endorsed, whether in principle or otherwise, until we have been granted the time, space and resource required to continue exploring the opportunity a Ngā Iwi o te Kāhui Maunga transition plan – a pan-iwi led solution to the ongoing operations of the ski fields with the Crown and associated agencies.

2. WHO ARE PATUTOKOTOKO?

- Commonly now known as Patutokotoko, Ngāti Hekeawai is a Central North Island/Whanganui iwi
- For the purposes of Treaty Settlement, Patutokotoko is now categorised as a pan-iwi tribe, a collective of hapū descending from tūpuna Tamakana, Tamahaki, Uenuku, Tukaiora and Hekeawai and, more recently recognised through ahurewa and paramount chief Te Pēhi Tūroa (I) (d. 1845)
- Patutokotoko is named hapū at place across four settlement Large Natural Groupings: Te Korowai o Wainuiārua[1], Ngāti Hāua[2], Ngāti Rangi[3], and Whanganui Lands Settlement[4], along with Te Awa Tupua[5] and, through these, the upcoming Tongariro National Park (Te Kāhui Maunga) and Whanganui National Park settlements. We also have over lapping interests through our lands in the settlements of both Tūwharetoa and Mōkai Pātea.
- Prior to the 1860s, Patutokotoko often advocated for peace acting as a vehicle for cooperation between Whanganui and Central North Island iwi, including during military action against both neighbouring iwi and the Crown. However by 1865, our tribe was labelled by the Crown as hauhau rebels and were forced to defend our lands on a number of occasions against both the Crown and kūpapa.

3. TONGARIRO NATIONAL PARK SETTLEMENT

The rights of iwi and hapū at place, including those of Patutokotoko, have been formally recognised by the Crown across a number of iwi settlement acknowledgments pertaining to the Tongariro National Park. Some of these include that:

- The Crown acknowledges that despite being aware of the significance of Ruapehu maunga to the iwi of Te Korowai o Wainuiārua, it did not consult them in relation to reserving the mountain peak for the purposes of creating a national park before or after opening discussions with another iwi[6]
- The Crown acknowledges that it did not carry out the terms of the Waimarino block purchase deed and arrangements made during negotiations for setting aside reserves for the hapū of Te Korowai o Wainuiarua and that this was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles. The Crown further acknowledges that: (b) large parts of the western slopes of Ruapehu maunga up to its sacred peak which the Crown acquired without the consultation or consent of the iwi of Te Korowai o Wainuiārua despite being aware of its significance to them[7]
- The Crown also acknowledges that from 1907 it failed to include the iwi of Te Korowai o Wainuiārua in the ongoing management arrangements of the Tongariro National Park, and failed to respect their rangatiratanga and kaitiakitanga over the maunga, and this was a breach of te Tiriti o Waitangi/the Treaty of Waitangi and its principles[8]
- The Crown also deeply regrets how it created a national park around Ruapehu, Ngāuruhoe and Tongariro without considering or consulting Uenuku, Tamakana and Tamahaki. You have never had a role in the management of these sacred taonga, and for

these acts and omissions, and the severe prejudice you have suffered as a consequence, the Crown is deeply sorry.[9]

4. THE TUKU

What was "gifted"?

In January 1887 the Native Minister agreed to pass legislation for the full protection of ngā manga tapu. Varying in area, Crown documents also make reference to the entire mountains forming the "noble gift". Publications from the time refer to large areas of our rohe to be protected, the authors of the Te Kāhui Maunga Inquiry Report have identified:

- William Grace's report of 3 March 1886 refers to circles of two and three [Ruapehu - mile radius around the peaks of Ruapehu, Ngāuruhoe and Tongariro
- Newspaper reports of February 1887 refer to Te Heuheu and the chiefs of Ngāti Tūwharetoa gifting a two-mile radius around Tongariro and Ngāuruhoe, and similar for Ruapehu
- The 1887 Tongariro National Park Bill refers to a radius of four-miles on Ruapehu, and three-miles on Tongariro and Ngāuruhoe
- The deeds of conveyance prepared in June 1887 were for the whole mountain blocks – Tongariro No 1 and 2, Ruapehu 1,2 and 3
- The 1894, No 55 Tongariro National Park Act refers, in the schedule, "a circle around Trig. H on Ruapehu having a radius of 4 miles from that point" and three-miles on Tongariro and Ngāuruhoe. *Refer Appendix 1*

Regardless of size, all of the above radii are larger than the Tongariro National Park Management Plan 2006-16 (TNPMP) defined "Pristine Area" of a [roughly circular area situated at a 1.24-mile (two-kilometre) radius down from Trig. point H on Ruapehu. *Refer Appendix 1*

Crown maps record the sites of Ruapehu 1A and 2A, Ngāuruhoe 1B and 2B and Tongariro 1A and 2B as being "gifted" by Te Heuheu while the land blocks 1B, 2B, 1C and 2C are noted as being "gifted" from local chiefs of rather than Te Heuheu alone. All these named chiefs have origins to Patutokotoko [10].

Patutokotoko acknowledge that while there are many issues yet to be resolved through the Te Kāhui Maunga settlement negotiations pertaining to the taking and alienation from our lands, Patutokotoko fully support the kōrero of our whanaunga and agree that:

- The evidence is overwhelming that Te Heuheu was acting to protect our mountains and waterways and that the Crown has accepted this was his intention[11].

When considering the size of the tuku, "pristine" or "gift" area, it is the view of Patutokotoko that a minimum start point for any such negotiation should be that of the original legislation, the circular area situated at a radius of no less than four-miles from Trig. point H on the summit of Ruapehu.

The "Pristine Area"

The TNPMP refers to the "Pristine area" on Ruapehu as being above 2,300-metres with the exception of the Tūroa ski field area where this boundary extends to 2,325-metres. Equating to a radius of two-kilometers (1.24-miles) is an wholly arbitrary distance baring no factual resemblance to any of the actual "gift" distances discussed above.

This discrepancy is explained by DOC's Paul Green when giving evidence at the National Park Hearing 8. Under cross-examination he was asked why the TNPMP does not have an exclusion zone that equates to the original "gift" area? His reply was that, "there's been a number of facilities that have been in the gift area since the early 1960s through to today and if that was to be applied in that sense it would certainly [be an issue for considering whether there is a ski field at Whakapapa so we're dealing with a little bit of a historical situation, I suspect, in respect of the relationship of the ski field to the "gift" area that's been in place since the 1950s."[12]

"Pristine Area" Special Provisions

Regardless of size, the TNPMP acknowledges the primary reason for best practice pro-active management of the DOC created "Pristine Area" is to recognise that, "for tangata whenua the mountains are ancestors: they have come from and will return to them. The mountains are tapu and as such are sacred places" and, that one of the reasons this space is to be protected is because of the historical and cultural heritage, "as the 'Gift' areas which constituted the beginning of the park" [13]. The TNPMP lists DOC's key objectives pertaining to the "Pristine Area" as to:

- Protect Tongariro National Park's pristine areas in perpetuity in their unmodified existing states
- Seek restoration of pristine areas to their original states where they have been affected by human-induced activities
- Avoid the adverse effects of development and use which undermine the pristine zone experience sought by park visitors
- Avoid the adverse effects of intensive recreation use by park visitors
- Protect historical and cultural heritage within pristine areas.[14]

Te Kāhui Maunga Enquiry Report

The authors of the National Park Inquiry Report state that it is:

- Entirely inappropriate for the Department of Conservation to continue to decide, unilaterally what the extent of the restricted area should be
- That a Treaty-compliant process for ongoing decision making about this issue should properly be discussed between claimants and the Crown in the future. "Only then will tapu areas on the maunga be guaranteed of appropriate protection.[15]

UNISCO Duel World Heritage Status

In considering the Department of Conservation's application for UNISCO Cultural Heritage Status they state:

- Recreation and tourism is limited by a requirement for any infrastructure to be sited outside the World Heritage Area with the exception of existing tracks and huts and other facilities required for essential park management. Two small wilderness areas ensure that some parts of the World Heritage Area are free from any facilities[16].

In awarding their citation the UNISCO board stated that:

- The Department of Conservation was committed to a consultation process that will support an exemplary code of ethical conduct and field conservation practice that emphasise social responsibility and cultural sensitivity[17].

Patutokotoko dispute the factual nature of both these statements as, the Department of Conservation's Pristine Area boundaries are a fabrication wholly designed to:

- Avoid the "historical situation" [18] created through the construction and ongoing management of the Ruapehu ski fields
- Ensure all ski field operations could continue business-as-usual rather than requiring the implementation of best practice cultural and environmental models
- Negate the need for all ski field operations to uphold the "Pristine Area" special provisions as contained in the TNPMP.

5. TONGARIRO NATIONAL PARK NEGOTIATIONS

Ngā Iwi o te Kāhui Maunga, including the hapū of Patutokotoko, are currently entered into Te Kāhui Maunga negotiations with the Crown. In considering the highly disputed nature of the tuku area boundaries it is the position of Patutokotoko that any discussions pertaining to the "gift" area should be done so unencumbered. Current consideration being given by the Crown pertaining to the commercial activities associated with Whakapapa and Tūroa ski fields will likely prejudice our negotiations in a way that could impact our ability to fully assert our tino rangatiratanga and kaitiakitanga over the Tongariro National Park, a provision that is provided for Patutokotoko hapū across multiple Deeds of Settlement and Agreements in Principle.

6. CONCLUSION

The ongoing inability of the Crown and associated agencies to give meaningful effect to the principles of te Tiriti o Waitangi while honouring multiple historic and future settlements in relation to Tongariro National Park, the rohe of Patutokotoko and how this pertains to the Ruapehu Alpine Lifts discussions could possibly be explained by an abject lack of understanding of what is a highly complex post-settlement space involving multiple iwi.

In 2006, Te Korowai o Wainuiārua (Uenuku), including the hapu of Patutokotoko were recognised as tangata whenua of the Tongariro National Park through a footnote in the TNPMP. "Ngāti Uenuku, from the southern side of Mount Ruapehu, have asked that their status as tangata whenua in that area be recognised in the plan. They have submitted that the Ngāti Uenuku tribal domain is comprised of Paretetaitonga peak and the south-west and south-east flanks of Mount Ruapehu from that peak. The Tongariro National Park Treaty of Waitangi claims process may clarify mana whenua claims."[19]

On June 6, 2023, MBIE sent an email to DOC suggests Crown departments are still confused as to the settlement rights of multiple iwi across the Park. "Just wondering if you have any specific wording we can use regarding why Ngāti Tūwharetoa, Ngāti Rangi, Ngāti Hāua and Ngāti Uenuku are the consulted iwi regarding the concessions? I had a quick skim through the TNPMP but I could only see Ngāti Tūwharetoa and Ngāti Rangi mentioned as kaitiaki"[20]. Just two months later, on 29 July Minister Little signed Te Tihi o te Rae, our Te Korowai o Wainuiārua (Uenuku) Deed of Settlement with iwi, hapū and whānau at Raetihi Marae.

It is our position that, as evidenced above, Whakapapa and Tūroa ski fields are clearly situated in our rohe and within the original "gift" area rather than, the current arbitrarily determined DOC defined "Pristine Area" and, as named hapū across multiple settlements Patutokotoko have the right to speak and raise this major settlement issue.

As recommended by the authors of the Te Kāhui Maunga: the National Park District Inquiry Report, "a Treaty-compliant process for ongoing decision making about this issue should properly be discussed between all claimants and the Crown in the future. Only then will tapu areas on the maunga be guaranteed of appropriate protection"[21].

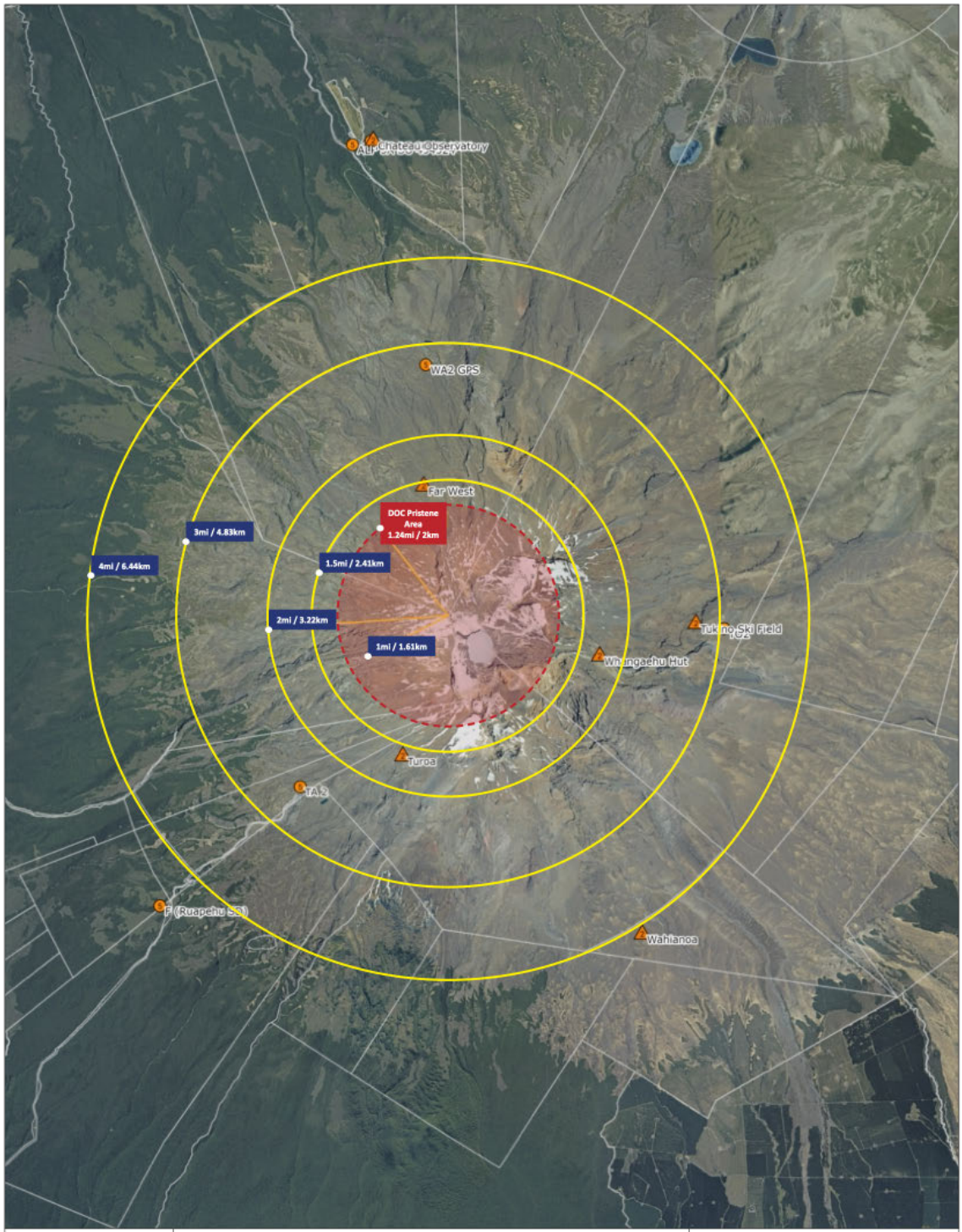
As the issue of the "gift area" currently remains unresolved and is major issue required to be addressed through the current settlement negotiations, as hapū at place, it is highly unlikely Patutokotoko would currently be supportive of any concession application/s that would not:

- Uphold all our Settlement agreements
- Prejudice future settlement negotiations related to the Tongariro National Park.

Because of this position, we reiterate that no further decisions should be made or endorsed by the Crown and associated agencies, whether in principle or otherwise, until we have been

granted the time, space and resource required to continue exploring the opportunity a Ngā Iwi o te Kāhui Maunga transition plan – a pan-iwi led solution to the ongoing operations of the ski fields until the conclusion of the Te Kāhui Maunga negotiations.

7. APPENDIX 1


Chateau Observatory
WA2 GPS
Far West
DOC Pristene Area 1.24mi / 2km
3mi / 4.83km
4mi / 6.44km
1.5mi / 2.41km
2mi / 3.22km
1mi / 1.61km
Tukino Ski Field
Whakapapa Hut
Turoa
TA2
F (Ruapehu SS)
Wahianoa
Map Prepared
DISCLAIMER: This map/plan is illustrative only and all information should be independently verified on site before taking any action. Whilst due care has been taken, Grip gives no warranty as to the accuracy and plan completeness of any information on this map/plan and accepts no liability for any error, omission or use of the information.
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1:60000 @ A3
October 30, 2023

[1] New Zealand Government. (2023). Te Tihi o te Rae - Deed of Settlement of Historical Claims. Ministry of Justice. Wellington, Ministry of Justice. 188.
[2] Ministry of Justice. (2022). Te Whiringa Muka - Agreement in Principle to settle Historical Claims. Ministry of Justice. Wellington, Ministry of Justice. 97.
[3] Ministry of Justice. (2018). Rukutia Te Mana - Deed of Settlement of Historical Claims. Ministry of Justice. Wellington, Ministry of Justice. 144.
[4] Ministry of Justice. (2019). Te Tomokanga ki te Matapihi - Agreement in Principle to settle Historical Claims. Ministry of Justice. Wellington, Ministry of Justice. 74.
[5] New Zealand Government. (2017). Te Awa Tupua (Whanganui River Claims Settlement). Wellington, New Zealand Government. 70.
[6] New Zealand Government. (2023). Te Tihi o te Rae - Deed of Settlement of Historical Claims. Ministry of Justice. Wellington, Ministry of Justice. 116.
[7] New Zealand Government. (2023). Te Tihi o te Rae - Deed of Settlement of Historical Claims. Ministry of Justice. Wellington, Ministry of Justice. 118.
[8] New Zealand Government. (2023). Te Tihi o te Rae - Deed of Settlement of Historical Claims. Ministry of Justice. Wellington, Ministry of Justice. 118.
[9] New Zealand Government. (2023). Te Tihi o te Rae - Deed of Settlement of Historical Claims. Ministry of Justice. Wellington, Ministry of Justice. 122.
[10] Ministry of Justice. (2013). Te Kāhui Maunga: the National Park District Inquiry Report. Lower Hutt, Waitangi Tribunal. III. 494.
[11] Waitangi Tribunal. (2006). Tongariro National Park Inquiry, Opening Submissions on behalf of the Crown. 8.
[12] Waitangi Tribunal. (2006). WAI 1130 – National Park Hearing 8 – WAI1130 #4c.1.12. 461.
[13] Department of Conservation. (2006). Tongariro National Park Management Plan. 120.
[14] Department of Conservation. (2006). Tongariro National Park Management Plan. 121.
[15] Ministry of Justice. (2013). Te Kāhui Maunga: the National Park District Inquiry Report. Lower Hutt, Waitangi Tribunal. III. 864.
[16] Evidence to the Waitangi Tribunal re the Tongariro National Park Inquiry of Doris Johnson, Acting General Manager (Policy), on behalf of the Department of Conservation. (2006). WAI 1130 H002. 11-12.
[17] UNISCO World Heritage Centre. (1993). World Heritage List Tongariro. No.421rev.
[18] Waitangi Tribunal. (2006). WAI 1130 – National Park Hearing 8 – WAI1130 #4c.1.12. 461.
[19] Department of Conservation. (2006). Tongariro National Park Management Plan. 11.
[20] Hill, E. (2023). Wording on consulted iwi. S. Wrenn, New Zealand Government.
[21] Ministry of Justice. (2013). Te Kāhui Maunga: the National Park District Inquiry Report. Lower Hutt, Waitangi Tribunal. III. 864.

Te Arawhiti
THE OFFICE FOR MĀORI CROWN RELATIONS

Hui Notes

Sec 9(2) (a)

[redacted]

Sec 9(2)(a)

[redacted]

Sec 9(2)(a)

[redacted]

Appendix 3

12 May 2023

Rt Hon Chris Hipkins
Prime Minister
Parliament Buildings
Private Bag 18041
WELLINGTON 6160

Dear Prime Minister

Ruapehu Ski Fields – Ownership Change

Sec 9(2)(a)

Sec 9(2)(a)

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Sec 9(2)(a)

[redacted]

Sec 9(2)(a)

[redacted]

CC: Hon Kiri Allan – Minister for Regional Development
Hon Willow-Jean Prime – Minister of Conservation
Hon Barbara Edmonds – Minister of Economic Development
Hon Willie Jackson - Minister for Māori Development
Hon Nanaia Mahuta – Associate Minister for Māori Development

A. Permission Application Number and Name of Applicant SUB 464

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Daniel Williams
Organisation	
Date	09/02/24

D. Statement of Support, Neutrality or Opposition

☒ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☐ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 465

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	John David Sandford
Organisation	Self
Date	5 February 2024

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☒ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☐ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☒ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

A. This concession is being sought before settlement of the unresolved Tongariro National Park (TNP), treaty claim that was lodged in 2018 with a commitment from the Government officials at the time that "it would be dealt with in 12 months" Now, almost six years later its still sits on the table, unresolved.
B. Formal negotiations and agreements are not in place for any tribal groups in relation to Mount Ruapehu in general nor for Turoa specifically.
C. The concession applied for is only for 10 years.
D. There is no reasonable surety regarding the capital adequacy of Pure Turoa.
E. There is not enough evidence provided that Pure Turoa can be financially viable.
F. The governance structure for Pure Turoa appears to be acceptably weak.

My reasons for my objection or submission are:

A. Allowing this application to go ahead before settlement of the TNP claim is disrespectful to claimants and also risks challenges to operation of the ski area on Ruapehu and the possibility of litigation which may destroy the financial viability of the Pure Turoa. On 12 November 2013, the Waitangi Tribunal released its report on Tongariro National Park Claims, https://www.waitangitribunal.govt.nz/news/tongariro-national-park-claims-2/ the concluding paragraph says "The Tribunal's general conclusion was that the Crown had committed numerous serious Treaty breaches. These had considerable economic, social, cultural, environmental, and spiritual repercussions for ngā iwi o te kāhui maunga, for which it recommended substantial and culturally appropriate compensation". There are serious issues to be resolved relating to Tongariro National Park treaty claims. RALs financial failure and the need for new concessions to be negotiated offer the opportunity for new concessions to be considered in the light of finalised TNP treaty claims, providing sound and secure foundations for concessions.
B. The application shows that relationship agreements with iwi are still being negotiated. This is not acceptable.
C. A ten year concession will see minimal development work undertaken as described in the Pure Turoa application. It would be totally imprudent for Pure Turoa to invest large amounts of capital when the payback period is so short. Therefore, the plans for development indicated in the application will simply not occur until/unless the 10 year point is reached and a further 20-year concession is granted.
D. Although redacted for some reason in the application material, according to companies office records, the shareholders of Pure Turoa Ltd are Cameron Robertson and Greg Hickman. While it's acknowledged that the Crown will have a 25% stake in the business, there is no evidence anywhere that Messrs Robertson and Hickman have the capital available to buffer the inevitable vagaries that can plague ski field operation on Mount Ruapehu.
E. Attachment #7 in the application is completely redacted. Furthermore, it is only for three years. A business such as that to be operated at Turoa must have forecasts for at least five years and projections for the 10-year life of the concession. It must also show sensitivity analysis relating to major risks such as pandemic effects, volcanic events, poor snow cover, too much bad weather and equipment failure.
F. Although redacted in the application, the company's office register shows that Pure Turoa has only two directors, Cam Robertson and Greg Hickman. It's reasonable to expect that the Crown will appoint a director of its own in return for its 25% stake, nonetheless this still leaves the company exposed to insufficient independent governance strength, knowledge, and experience to operate this risky and complex business in a fragile and sensitive environment. We note that RAL's failure lies squarely at the feet of its board of directors who it would seem, followed an ill-considered, debt-laden growth strategy. Pure Turoa's application indicates a redacted group that make up its Advisory Board. Unfortunately, Advisory Board members are not bound by the same strictures that apply to a formal director. In fact, a central tenet for Advisory Boards is that its members do nothing that may put them in the position of becoming a "deemed director".

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

A. Pause this application until the TNP claims are settled.
B. Mutually agreed relationship and management agreements must be in place a. with all tribal groups with an interest in Mount Ruapehu and b. with all tribal groups with an interest in the Turoa portion of Mount Ruapehu, before the concession can be granted.
C. Not agree to issue a concession based on this application.
D. Clear evidence, validated by an independent financial expert not conflicted in any way with the parties involved, that Pure Turoa has the capital (not debt) invested in it that will be required to sensibly operate Turoa ski field with buffers for significant risks such as pandemic effects, volcanic events, poor snow cover, too much bad weather and equipment failure built in. And, that there are safeguards in place to ensure that the required capital is not stripped out of the company. This was the cause of the failure of the Andrew Grimwade tenure at Tūroa. "Surplus" cash was siphoned out and when a risk event occurred (eruption), the company couldn't withstand the resulting drop in patronage.
E. Clear evidence, validated by an independent financial expert not conflicted in any way with the parties involved, that Pure Turoa's analysis of financial performance (with forecasts for at least five years not three), is sound and factors in the possibility of risks to financial performance such as pandemic effects, volcanic events, poor snow cover, too much bad weather and equipment failure built in.
F. Ensure that the Pure Turoa Board (not its Advisory Board), comprises at least three independent directors selected through the IoDNZ selection process.

Keep the existing RAL concession in place and operate the commercial Skifield activities at both Whakapapa and Turoa. This would provide a safe working relationship while the TNP treaty claims are being negotiated between the Government and various iwi interests which will then allow for transparent concession applications based on the new working environment for concessions in Tongariro National Park including on Mount Ruapehu.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment

How do I submit my objection or submission?

Complete this form and email to mtruapehusubmissions@doc.govt.nz. You may also mail your objection and submission to: Director-General, c/o Permissions Hamilton, Department of Conservation, Private Bag 3072, Hamilton 3240.

OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 466

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Andrew MacLennan
Organisation	Private
Date	9/2/24

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☒ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

1. The duration of the concession is only 10 years.
2. The Tongariro National Park (TNP) treaty claim(s) have not been negotiated or settled.
3. Not enough information to know if Pure Tūroa Limited (PTL) will be financially sound.
4. The decreased access to the mountain if the concession is awarded.
5. The concession excludes wider alpine snow sports assets on Mt Ruapehu, specifically Whakapapa.
6. Compressed negotiation and consultation period.
7. Redaction of important information, including parties involved and consulted.

My reasons for my objection or submission are:

1. There currently remains an existing concession on the site of 60 years.

The short length of the concession sought indicates a clear lack of a long-term commitment to the operation, to the wider area and opens the door for asset stripping and an imbalance between commercial priorities and public interest. Environmentally, the longer the commitment to a place, the more invested a party is in the sustainability of a place. The PTL concession falls short on this front.

2. Tongariro National Park (TNP) treaty claim(s) may lead to immediate litigation costs.

The well publicised interests of other parties (including those under a Treaty claim) in the existing concession and RAL assets mean that should this PTL concession be awarded at this time, there is high risk of conflict and subsequent litigation which will bleed resources which could otherwise be used to enable and ensure equitable access to the assets and the ski field.

3. It is difficult to tell if the business will be financially viable.

Appendix 7 cash flow model makes it difficult to tell if the business makes commercial sense.

Information provided excludes information on what DoC and MBIE will need to pay to remove infrastructure from the mountain if the business fails.

4. Increased costs and decreased mountain capacity will make Tūroa less accessible to New Zealanders.

The reduction in capacity with the removal of the Nga Wai Heke chair, Giant Chair, and the Wintergarden Platter and less operational days, longer inactive vs active time on the mountain and lowered accessibility to the Maunga during the operating season. The lower capacity of 4500 would see increased demand, leading to price increases which will take the cost of utilising this natural resource beyond the reach of most New Zealanders.

5. Competing business interests with Whakapapa and lack of complementary business operation.

A lack of synergy between the other snow sports assets on Mt Ruapehu lowers the chance of mitigating partial operational closure across the Maunga – further reducing access for those who have travelled some distance to stay and experience the thrill and majesty of Mt Ruapehu.

6. Past concessions negotiations took around four years.

The short period of time between the consultation period and opening of the 2024 season means that there cannot be full consideration of important aspects.

7. Key information has not been provided.

The extensive redaction of names (e.g. Directors of PTL), this information is a matter of public record and should not be redacted.

Iwi engagement has been completely redacted.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

Any concession needs to be for a longer period of time (minimum 30 years).
Any concession needs to show partnership and/or endorsement from mana whenua. Cease ignoring iwi and retract from seeking new concessions, as they have said they will not approve new concessions until Treaty claims are settled on the Maunga.
Keeping the existing RAL concession in place provides a safe working relationship while the TNP treaty claims are being negotiated between the Government and various iwi interests over coming years.
Any concession should be for the whole mountain, being Whakapapa and Tūroa.
Any concession needs to show active consideration of ongoing accessibility (including socio-economic) to the Operation within this National Park. Especially as a non-profit operator is seen as being more compatible with public access to a National Park environment.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment

How do I submit my objection or submission?

Complete this form and email to mtruapehusubmissions@doc.govt.nz. You may also mail your objection and submission to: Director-General, c/o Permissions Hamilton, Department of Conservation, Private Bag 3072, Hamilton 3240.

OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 467

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	JOSEPH HUBAND
Organisation	N/A
Date	9th February 2024

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☒ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

1. The duration of the concession is only 10 years.
2. The Tongariro National Park (TNP) treaty claim(s) have not been negotiated or settled.
3. Not enough information to know if Pure Tūroa Limited (PTL) will be financially sound.
4. The decreased access to the mountain if the concession is awarded.
5. The concession excludes wider alpine snow sports assets on Mt Ruapehu, specifically Whakapapa.
6. Compressed negotiation and consultation period.
7. Redaction of important information, including parties involved and consulted.

My reasons for my objection or submission are:

1. There currently remains an existing concession on the site of 60 years.

The short length of the concession sought indicates a clear lack of a long-term commitment to the operation, to the wider area and opens the door for asset stripping and an imbalance between commercial priorities and public interest. Environmentally, the longer the commitment to a place, the more invested a party is in the sustainability of a place. The PTL concession falls short on this front.

2. Tongariro National Park (TNP) treaty claim(s) may lead to immediate litigation costs.

The well publicised interests of other parties (including those under a Treaty claim) in the existing concession and RAL assets mean that should this PTL concession be awarded at this time, there is high risk of conflict and subsequent litigation which will bleed resources which could otherwise be used to enable and ensure equitable access to the assets and the ski field.

3. It is difficult to tell if the business will be financially viable.

Appendix 7 cash flow model makes it difficult to tell if the business makes commercial sense.

Information provided excludes information on what DoC and MBIE will need to pay to remove infrastructure from the mountain if the business fails.

4. Increased costs and decreased mountain capacity will make Tūroa less accessible to New Zealanders.

The reduction in capacity with the removal of the Nga Wai Heke chair, Giant Chair, and the Wintergarden Platter and less operational days, longer inactive vs active time on the mountain and lowered accessibility to the Maunga during the operating season. The lower capacity of 4500 would see increased demand, leading to price increases which will take the cost of utilising this natural resource beyond the reach of most New Zealanders.

5. Competing business interests with Whakapapa and lack of complementary business operation.

A lack of synergy between the other snow sports assets on Mt Ruapehu lowers the chance of mitigating partial operational closure across the Maunga – further reducing access for those who have travelled some distance to stay and experience the thrill and majesty of Mt Ruapehu.

6. Past concessions negotiations took around four years.

The short period of time between the consultation period and opening of the 2024 season means that there cannot be full consideration of important aspects.

7. Key information has not been provided.

The extensive redaction of names (e.g. Directors of PTL), this information is a matter of public record and should not be redacted.

Iwi engagement has been completely redacted.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

Any concession needs to be for a longer period of time (minimum 30 years).
Any concession needs to show partnership and/or endorsement from mana whenua. Cease ignoring iwi and retract from seeking new concessions, as they have said they will not approve new concessions until Treaty claims are settled on the Maunga.
Keeping the existing RAL concession in place provides a safe working relationship while the TNP treaty claims are being negotiated between the Government and various iwi interests over coming years.
Any concession should be for the whole mountain, being Whakapapa and Tūroa.
Any concession needs to show active consideration of ongoing accessibility (including socio-economic) to the Operation within this National Park. Especially as a non-profit operator is seen as being more compatible with public access to a National Park environment.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

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Ngāti Hāua Iwi Trust

SUB 468

9 February 2024

Department of Conservation
C/ Damian Coutts and Karen Rainbow

By email only:

Tēnā koutou

Interim Submission on Pure Tūroa Concession Application 109883-SKI

1. This Interim Submission is filed by the Ngāti Hāua Iwi Trust (**NHIT**) in relation to the Concession Application by Pure Tūroa (**Applicant**) dated 8 December 2023.

2. NHIT was established in 2001, to advance and advocate for the interests of Ngāti Hāua iwi, hapū and whānau within our customary rohe. Since its inception, NHIT has represented Ngāti Hāua whānau, hapū and iwi in Waitangi Tribunal processes, Treaty settlement negotiations, Local Council matters including as an iwi authority for Resource Management Act 1991 purposes, conservation matters and with respect to Ngāti Hāua interests in the Whanganui River. Ngāti Hāua have 26 affiliated hapū within our rohe, which includes Ruapehu (**see map attached**):[1]

Ngāti Hāua	Ngāti Whati	Ngāti Tama-o-Ngāti Hāua	Ngai Turi
Ngāti Hauaroa	Ngāti Onga	Ngāti Ruru	Ngāti Hinetakuao
Ngāti Reremai	Ngāti Te Awhitu	Ngāti Hira	Ngāti Pareuira*
Ngāti Tū	Ngāti Wera	Ngāti Rangitauwhata	Ngāti Pikikotuku
Ngāti Hekeāwai	Ngāti Hinewai*	Ngāti Te Huaki	Ngāti Tamakaitoa*
Ngāti Keu*	Ngāti Poutama*	Ngāti Whakairi	Ngāti Pareteho*
Ngāti Kura*	Ngāti Rangitengaue		

3. In 2016, NHIT received a formal mandate to negotiate and settle our Treaty claims/grievances with the Crown. These negotiations are ongoing with an Agreement in Principle signed with the Crown in October 2022.

[1] We acknowledge hapū that have shared interests with other iwi as marked with an asterisk.

Interim Submission

4. NHIT have only recently met with both the Applicant and the Department of Conservation (**DOC**) regarding the Concession Application. Those discussions are in their initial stages and remain ongoing in an attempt to address the concerns that NHIT have with the DOC process and discuss issues relating to the Concession Application.

5. Recent engagement with the Applicant has been positive and constructive. However, they are still in progress and unresolved, and it is therefore vital that NHIT provide an interim overview of the concerns and issues we have, and formally confirm the good faith undertaking provided by DOC that an updated position/submission on the Concession Application may be provided by NHIT after the close of the general public submission period of 9 February 2024.[2] We agree this is entirely appropriate and in keeping with our obligations and connections to Te Kāhui Maunga.

6. As it stands, NHIT have not been consulted with as part of the development of the Concession Application and only met with the Applicant after the Concession Application was publicly notified. The reason for that remains unclear to NHIT. That said, there are concerns with the way DOC and the Applicant have failed to engage with us prior to the Concession Application being lodged.

7. This gives rise to clear issues, particularly in light of the overarching statutory obligations owed by DOC within this process, under both the Conservation Act 1987 and the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, among others. In particular:

   (a) Our tikanga and kawa, and the rights and responsibilities inherent within, have been omitted from this process. These are serious and substantive failings.

   (b) Ngāti Hāua were not part of the process relating to the preparation of the Concession Application. Subsequently, the Concession Application is deficient in terms of Ngāti Hāua interests and input (as protected by Te Tiriti o Waitangi and its principles) and the relationship and engagement established by Tupua te Kawa.[3]

   (c) There are concerns with the advice and possible guidance provided to the Applicant on who they should be engaging with as part of the development of the Concession Application.

   (d) From Ngāti Hāua's perspective, the DOC process and assessment of the Concession Application that informed and confirmed whether it could go to public notification has given rise to further concerns and deficiencies. On this, we have concerns that DOC have not complied with their

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2 Email from the Department of Conservation dated 7 February 2024 confirming extension and provision of flexibility to update and/or provide further submissions or a confirmed position.

3 See Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, ss 13 and 15.

obligations under sections 17S, 17SA, 17SB, 17SC, 17U or the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017.

8. There are therefore serious matters that require further discussion and resolution. That is best done kanohi ki te kanohi with the Applicant and DOC, and this is ongoing (with further hui scheduled).[4] Therefore, we reiterate that this is an interim submission only and in line with paragraph 5 above, we reserve the right to update this submission and the position outlined above in due course, including reserving our rights in relation to all courses of action.

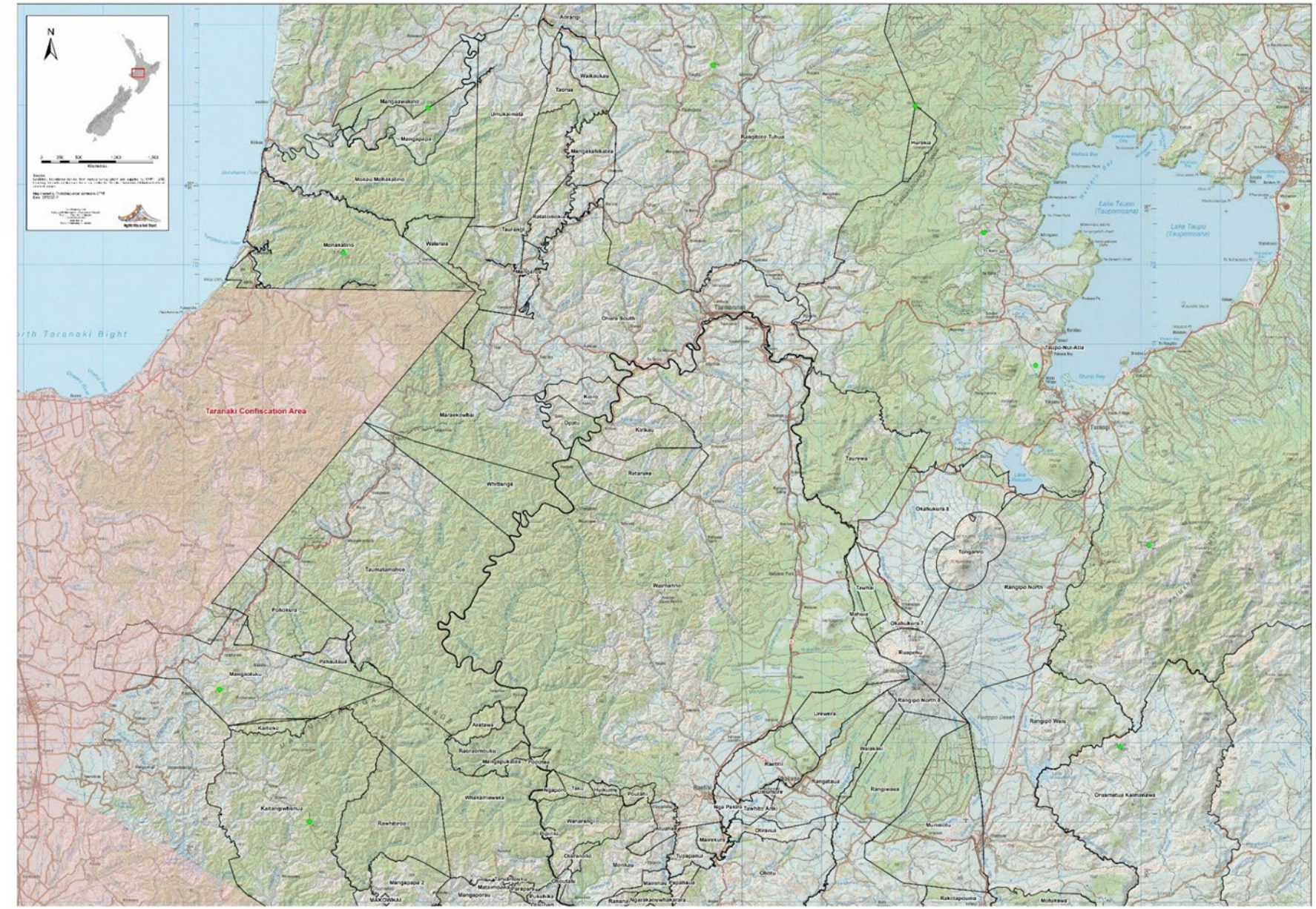
Dated: 9 February 2024

Sec 9(2)(a)

Graham Bell / Maxine Ketu
Chairperson / Pou Ārahi
Email: Sec 9(2)(a)

[4] Previously scheduled hui with DOC have been understandably rescheduled due to illness of DOC personnel.

ROHE MAP (indicative only)



I MUA I TE PAE O TE PAPA ATAWHAI
KI TE ROHE O TE KĀHUI MAUNGA

BEFORE THE DEPARTMENT OF CONSERVATION
TONGARIRO NATIONAL PARK

UNDER	The Conservation Act 1987
IN THE MATTER	An Application for a Concession, lease and license by Pure Tūroa Limited to operate a ski field and associated activities and works on Mount Ruapehu within the Tongariro National Park

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SUPPLEMENTARY SUBMISSIONS BY THE NGĀTI HĀUA IWI TRUST

REGARDING THE CONCESSION APPLICATION (109883-SKI) BY PURE TŪROA LIMITED

Dated 25 February 2024

Chair and Vice-Chair of the Ngāti Hāua Iwi Trust
Graham Bell / Lois Tutemahurangi
Sec 9(2)(a)

Environmental Manager for the Ngāti Hāua Iwi Trust
Kuru Ketu
Sec 9(2)(a)

Ngāti Hāua Iwi Trust

“*Puhaina Tongariro! E rere nei Awanui,*

Ko Te Wainuinu tēnā, na Ruatupua i mua e”

Tongariro erupts! The great river flows,

Tis the thirst quenching waters, belonging to Ruatupua of ancient times.

Introduction and Executive Summary

1. These supplementary submissions are filed by the Ngāti Hāua Iwi Trust (**Trust**) in relation to the Application for a concession, lease and license (109883-SKI) (**Application**) by Pure Tūroa Limited (**Applicant**). This submission is filed in addition to the interim submissions filed on 9 February 2024 and expand on the issues/concerns the Trust has with the process conducted regarding the Application.

2. Having now met with the Department of Conservation (**DoC**), the Trust's current position is that there are serious procedural improprieties and consequent deficiencies with the Application that mean the Application fails to properly consider, apply and comply with the Conservation Act 1987 (**Conservation Act**) and the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017 (**Te Awa Tupua Act**).

3. Therefore, the Trust considers that these failures provide sufficient grounds to decline the Application, for want of compliance. We further say that any grant of the Application would be inconsistent with the above-mentioned legislative frameworks.

4. We suggest the Application be returned/declined and proper process conducted by DoC and the Applicant to ensure proper consideration and compliance with the above but more importantly our kawa and tikanga.

Ko Wai Mātou / Ngāti Hāua

Ko Ruapehu te maunga
Ko Whanganui te awa
E rere kau mai te awanui
Mai te Kāhui Maunga ki Tangaroa
Ko te Awa ko au, ko au te Awa

5. Ngā hapū o Ngāti Hāua all share common whakapapa descent from ngā Tūpuna – Paerangi, Ruatupua and Hāua. Ngāti Hāua have 26 affiliated hapū within our area of interest (**see indicative map attached**):[1]

Ngāti Hāua	Ngāti Whati	Ngāti Tama-o-Ngāti Hāua	Ngai Turi
Ngāti Hauaroa	Ngāti Onga	Ngāti Ruru	Ngāti Hinetakuao
Ngāti Reremai	Ngāti Te Awhitu	Ngāti Hira	Ngāti Pareuira*
Ngāti Tū	Ngāti Wera	Ngāti Rangitauwhata	Ngāti Pikikotuku
Ngāti Hekeāwai*	Ngāti Hinewai*	Ngāti Te Huaki	Ngāti Tamakaitoa*
Ngāti Keu*	Ngāti Poutama*	Ngāti Whakairi	Ngāti Pareteho*
Ngāti Kura*	Ngāti Rangitengaue		

[1] We acknowledge hapū that have shared interests with other iwi as marked with an asterisk.

6. It is important to note that our whakapapa from Paerangi and Ruatupua is the rootstock for Ngāti Hāua connections within our rohe, particularly regarding Te Kāhui Maunga. Since their time (pre migration), the cascading whakapapa down to our people today, has maintained that whakapapa connection and kept alive our ahi kā. This is strengthened by the indivisible and inalienable relationship that we have with the Whanganui River, whose head waters begin on Te Kāhui Maunga.

The Trust

7. The Trust was established in 2001, to advance and advocate for the interests of Ngāti Hāua whānau, hapū and iwi within our customary rohe. Since its inception, the Trust has represented Ngāti Hāua in Waitangi Tribunal processes, Treaty settlement negotiations, Local Council matters including as an iwi authority for Resource Management Act 1991 (**RMA**) purposes, and with respect to Ngāti Hāua interests in Te Kāhui Maunga and the Whanganui River. This includes engaging in Conservation Act processes, where our rights, interests and responsibilities are engaged.[2] When they are, we are guided by our Pou Tikanga:

   (a) **Ngāti Hāuatanga:** To ensure the survival of the Ngāti Hāua iwi identity.

   (b) **Riri Kore**: To ensure the continuity of Ngāti Hāua kawa and tikanga.

   (c) **Rongo Niu**: To hold the Crown to account.

   (d) **Rangitengaue**: Ngāti Hāua self-determination. Ngāti Hāua solutions for Ngāti Hāua people.

   (e) **Kokako**: Uphold our inherent right of kaitiakitanga.

   (f) **Tapaka**: Te Ara Whanaunga - Maintain the integrity of our relationship with others.

   (g) **Tamahina**: Make decisions based on ancestral precedent (kawa and tikanga) and values (Kaupapa).

Context and Background

Te Kāhui Maunga

8. Setting the right context requires the panel to understand that Ngāti Hāua view the entire Maunga as a whole and not as divided land parcels or areas of interest on which individual interests, like that of a concession holder, are refined to. This is an important conceptual and practical approach to the Maunga because of its status as our tupua and/or tupuna Maunga and not just as a volcano within a national park.

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[2] In 2016, NHIT received a formal mandate to negotiate and settle our treaty claims/grievances with the Crown. These negotiations are ongoing with an Agreement in Principle "*Te Whiringa Muka"* signed on 22 October 2022.

National Park status

9. Te Kāhui Maunga falls within the Tongariro National Park boundaries and is a national park under the National Parks Act 1980. It is New Zealand's oldest national park, recognised for its important cultural and spiritual associations as well as its outstanding volcanic features and priceless natural, historic and cultural heritage which is to be protected for future generations.[3]

World Heritage UNESCO status

10. The Tongariro National Park is also a United Nations Educational, Scientific and Cultural Organization World Heritage site (**UNESCO**), with dual world heritage status. First inscribed in 1990 for its natural values, it later (in 1993) also met the revised cultural values criteria for its cultural significance for Māori associated with the area and the spiritual links between this community and its environment.

11. Like the National Parks Act 1980 and the Conservation Act, UNESCO status provides a layer of protection for Te Kāhui Maunga at an international level.[4]

Existence and Knowledge of Ngāti Hāua Interests

12. The central context to these submissions is the whakapapa connection that Ngāti Hāua has to Te Kāhui Maunga which includes Mount Ruapehu. The existence of that whakapapa, and knowledge of the same is common and public information and includes various acknowledgements by third parties, including DoC, of our interests.

13. That said, and for completeness we have **attached** the 2013 Waitangi Tribunal Te Kāhui Maunga National Park District Inquiry Report Wai 1130 which sets out in expansive detail, evidence and findings regarding our interests and whakapapa connections to the Maunga. Importantly, Ngāti Hāua was extensively engaged in those proceedings, with various kaumatua, tohunga and members of our iwi participating and giving evidence. Of particular note, is the consistent evidence that Te Kāhui Maunga is central to our iwi identity.[5]

14. We also provide the above report on the basis that this hearing process was notified to us late on Tuesday 20 February 2024, limiting our ability to properly prepare a more detailed brief of evidence. Nevertheless, the kōrero provided in that process, of which is outlined in the Tribunal Report, is still tika. We would only add that, there is now a formal acknowledgment by the Crown of our relationship and interests in Te Kāhui Maunga as outlined in our Agreement in Principle *"Te Whiringa Muka"* dated 22 October 2022.

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3 National Parks Act 1980, s 4; and also see information retrieved from < https://www.doc.govt.nz/about-us/our-role/managing-conservation/categories-of-conservation-land/>

4 See the World Heritage Convention 1972.

5 Waitangi Tribunal, Te Kahui Maunga the National Park District Inquiry Report (Wai 1130) 2013.

Engagement with DoC on Whakapapa and Tūroa Ski Fields

15. The Trust have concerns with the way engagement continues to be problematic with respect to Te Kāhui Maunga. We refer to the original operations on the Maunga in the earlier 1950's, and the additional operations for related purposes in the 1970's through to today.[6] In each of the processes that lead to those operations occurring or the grant of related approvals/concessions, Ngāti Hāua were excluded and/or never consulted. This remains a significant grievance for our people and in our view has resulted in many of the issues with the operations on the Maunga and the relationship with DoC that we have experienced.

16. In 2022, the Trust was involved at a high level in direct discussion with DoC, other Crown agencies and the existing ski field operators about the future of ski field operations on Mount Ruapehu. Not only was that engagement demanding on our time and resources, but it also flowed over into wider discussions regarding the settlement negotiations for Te Kāhui Maunga. Rather than getting into the nature and content of this engagement (noting it evolved haphazardly and rapidly over the course of 2023) we make the point that we remained part of discussions with various Crown agencies regarding the Maunga (whether intentionally excluded or not).

17. When we were informed by letter dated 22 November 2023 from DoC (**attached**) that the Applicants intended to apply for a concession to operate a ski field, we informed DoC of our intention to be involved and responded to their letter on 18 December 2023 (**attached**) outlining many of the concerns we now raise in this forum.

18. One of the matters that we consider relevant is that contained within the DoC letter of 22 November 2023 is a request for what engagement might or should look like in this process and that there was an intention to look into that in good faith and consistently with section 4 of the Conservation Act. Not only did the Trust outline their expectations from both DoC and any potential operator on the Maunga at a hui with DoC on 23 November 2023, but we also set out in our December 2023 response a recommended course of action that would best align with the requirements of section 4 and those in the Te Awa Tupua Act.

19. Against that backdrop, we were surprised to see the Application publicly notified, more so given the significant deficiencies in information concerning our position. That surprise turned to frustration when we requested and subsequently reviewed the recommendation to publicly notify the application prepared by DoC (**attached**).

20. Over the course of mid-January 2024 through to early February 2024, the Trust undertook internal processes to reach a position on next steps. This resulted in the Trust filing our interim submission on 9 February 2024. On 20 February 2024, we were then made aware that a hearing had been set down for 22-23 and 26-27 February 2024. Not only was this notice late, but it reinforced the complete disregard for our interests on the Maunga and the concerns we had expressed to date.

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[6] We note that there have been different operators on the Maunga and that RAL took on the concession and operations in 2000.

Engagement with the Applicant

21. The Trust met with the Applicants on 21 December 2023. Given that meeting was confidential and without prejudice, we would direct the Panel to seek information from DoC and the Applicant as to why we had not been engaged earlier in this process.

22. We will say that, it is difficult to comprehend any lack of knowledge of our interests on the Maunga given much of the activity we have participated in related to the same (as outlined earlier).

The process to publicly notify the Application and its failings

23. The flawed approach to determining that the Application should be publicly notified is relevant context to why we say there are grounds for declining the Application at this stage on the basis of inconsistency with the relevant statutory obligations.[7]

24. We refer to the Recommendation to Publicly Notify the Concession Application: *Pure Tūroa Limited 109883-SKI* Report prepared by DoC (**PN Report**), in which DoC have set out the relevant statutory provisions for determining whether public notification can proceed. The PN Report states that DoC had assessed the Application as including all required information under section 17S Conservation Act and was ready for public notification. It went on to state that no issues arise about whether the application lacks required information (s 17SA); or is obviously inconsistent with the Conservation Act (s 17SB).

25. The PN Report provides a recommendation to publicly notify the Application that is contrary to the Conservation Act, specifically for the evaluative exercise for public notification purposes, for the following reasons:

    (a) The Application MUST include a description of the potential effects of the proposed activity and any actions proposed to avoid, remedy or mitigate adverse effects.[8] DoC are fully aware of Ngāti Hāua's interests , and have previously been involved in engagement with Ngāti Hāua regarding the Maunga. They are also aware of the interests Ngāti Hāua have regarding Te Awa Tupua, and as a member of Te Kōpuka,[9] are aware of the Te Awa Tupua Act and the directed relational approach required through that. An application must engage with and consider potential effects on Te Awa Tupua and Ngāti Hāua. As is plain from the Application there is no mention of Ngāti Hāua and/or an assessment of effects, despite the context noted here. This would amount to a deficiency in the Application, contravening section 17S(c)(i)-(ii) Conservation Act.

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7 We note that is rightfully a judicial review question or one that can be complained about to the Ombudsman, both of which the Trust is considering pursuing.

8 Conservation Act 1987, s 17S(c)(i)-(ii).

9 Te Kōpuka is a strategy group for Te Awa Tupua under the Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, ss 29-34.

(b) When applying for a lease or a license granting an interest in land, there must be sufficient information to satisfy DoC that, in terms of section 17U Conservation Act, it is both lawful and appropriate to do so. The relevant parts of section 17U provides that:

(i) Regard must be given to potential effects as outlined above. This may also include whether an environmental impact assessment is completed and that its contents appropriately address all aspects of the environment engaged by the Application including the cultural environment;

(ii) The Application must be consistent with the Conservation Act or the purposes for which the land concerned is held (being a national park); and

(iii) The Application is appropriate in the circumstances for the particular application having regard to section 17U as a whole.

It is unhelpful that the PN Report does not address how the matters in section 17S Conservation Act had been met in terms of sufficiency of information. Although the public notification evaluation is not a full assessment of the Application, it does set out clearly the mininum requirements which need to be metin terms of the required information. When coupled with DoC's knowledge of the interests and position of Ngāti Hāua, it is unclear how DoC did not return the application under section 17SA Conservation Act. The lack of information to even raise matters related to Ngāti Hāua is clearly not compliant in terms of section 4 Conservation Act and the Te Awa Tupua Act.

26. As outlined above, DoC had a clear discretion to return the Application for the following reasons:

(a) the Application lacked information about Ngāti Hāua interests and positions;

(b) given the lack of information, there is an inability to properly consider the potential effects of the Application including any proposed measures to avoid, remedy or mitigate those effects; and

(c) the lack of information meant DoC did not have the ability to properly discharge its section 4 Conservation Act and Te Awa Tupua Act obligations.

27. Notably, the Trust highlighted these issues directly to DoC prior to the public notice being issued.

The question to address

28. With that context in mind, the question that any decision maker will need to consider is –whether the context outlined above and the deficiency in information (and the numerous indications of the same) are such that any decision to grant the Application in these circumstances would be inconsistent with the Conservation Act, particularly section 4, and the Te Awa Tupua Act.

29. We start by saying that the onus to address that deficiency or provide that information does not fall to us to remedy. Hearing processes or even that of submission processes are no means for remedying such deficiencies.

30. We also note that, in light of the above, we are not in a position to take a position on the substance of the Application and the related proposed activities. Although similar concerns to others are held regarding environmental issues, term and review conditions, we are unable to address those in lieu of proper process, engagement and the necessary information, and will not engage in doing so where the statutory framework has clear grounds to decline in such a situation. Opposition or support for the project is only one way to assess the Application. Even where matters are raised in submissions and those are either responded to said to be addressed, the decision-maker must still be satisfied that the exercise of their discretion is sound in the circumstances, particularly taking into account the nature of DoC and conservation land that is a national park.

31. We accordingly set out our position regarding:

    (a) the importance of section 4 of the Conservation Act and Te Awa Tupua Act, including how they sit across this entire process and the decision-making powers yet to be exercised; and

    (b) how, when applied against the context and lack of information in the Application, provide grounds and rationale to decline the Application.

Te Awa Tupua Act

32. We understand that the applicability of Te Awa Tupua is an uncontentious point and that all parties accept the Te Awa Tupua Act is engaged in this process.[10]

33. Enacted in 2017, the Te Awa Tupua Act establishes a new legal framework that provides for the agreements in the Deed of Settlement Ruruku Whakatupua signed in August 2014.

34. Te Awa Tupua Act sets out a number of go towards addressing breaches of Te Tiriti o Waitangi by the Crown. Importantly, it establishes a new framework that includes a set of innate values called Tupua te Kawa that guide all decision making in respect of the Whanganui River. These are legal requirements are triggered by the Act. This aspect is also interconnected with and central to compliance with section 4 of the Conservation Act.

35. Because Te Awa Tupua is engaged by this Application, it was always expected that it would be given distinct recognition and provision so that breaches of Te Tiriti did not occur again. That is key, because in this process DoC (as a Crown Department) have responsibilities under the Treaty.

36. When it comes to DoC exercising its Conservation Act powers/duties/functions, they are directed by section 10 of the Legislation Act 2019 in the following terms:

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[10] Also see letter from Ngā Tangata Tiaki o Whanganui Trust to DoC dated 22 February 2024.

> **10 How to ascertain meaning of legislation**
>
> (1) The meaning of legislation must be ascertained from its text and in the light of its purpose and its context.
>
> (2) Subsection (1) applies whether or not the legislation's purpose is stated in the legislation.
>
> (3) The text of legislation includes the indications provided in the legislation.
>
> (4) Examples of those indications are preambles, a table of contents, headings, diagrams, graphics, examples and explanatory material, and the organisation and format of the legislation.

37. This also applies to the exercise of understanding how the provisions of the Te Awa Tupua Act might apply. The importance of understanding the Te Awa Tupua Act is essential and unavoidable. The nature of the Te Awa Tupua Act is also central to our discussion on the applicable provisions below.

How the Te Awa Tupua Act is engaged

38. Section 15(1)(a)(i) and (ii) Te Awa Tupua Act are thresholds for establishing whether Te Awa Tupua applies. Those sections state that:[11]

> (1) This section applies to persons exercising or performing a function, power, or duty under an Act referred to in Schedule 2—
>
> (a) if the exercise or performance of that function, power, or duty relates to—
>
> (i) the Whanganui River; or
>
> (ii) an activity within the Whanganui River catchment that affects the Whanganui River; and
>
> (b) if, and to the extent that, the Te Awa Tupua status or Tupua te Kawa relates to that function, duty, or power.

39. Firstly, the Application proposes activities that relate to the Whanganui River Catchment, including the Mangaturuturu River.[12] We understand this to be accepted for the purposes of section 15(1)(a)(ii). We would only add that the catchment area in our view is all encompassing of surface and ground water..[13]

40. Second, an appreciation of the meaning of the Whanganui River is critical to understanding whether or how an activity proposed in any application "relates" to the Whanganui River for the purposes of section 15(1)(a)(i) Te Awa Tupua Act.

41. Whanganui River takes on the meaning prescribed to it under sections 7 (interpretation), 12 (Te Awa Tupua recognition), 13 (Tupua te Kawa) and 71 (relationship between Whanganui Iwi and Te Awa Tupua). For Ngāti Hāua, those sections together provide that:

    (a) The Whanganui River is an interconnected whole comprising all the body of water known as the Whanganui River that flows continuously or intermittently from its headwaters to the mouth of the Whanganui River on the Tasman Sea and is located within the Whanganui River catchment; and all tributaries, streams, and other natural watercourses (such as ground water) that flow continuously or

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11 Schedule 2 lists the Conservation Act 1987 and the National Parks Act 1980 as applicable legislation for the purposes of s 15 Te Awa Tupua (Whanganui River Claims Settlement) Act 2017.

12 See SO 469123 **attached**); also see Proposal Outline and Environmental Impacts Assessment, Appendix 1, pp 1 and 2.

13 Contrary to ss 7, 12, 13 and 71.

intermittently into the body of water described above and are located within the Whanganui River catchment; and all lakes and wetlands connected continuously or intermittently with the bodies of water referred to above; and all tributaries, streams, and other natural watercourses flowing into those lakes and wetlands; and the beds of the bodies of water described above.[14]

(b) The Whanganui River is one and the same with the people of Ngāti Hāua.[15]

(c) The Whanganui River is an indivisible and living whole incorporating its metaphysical and physical elements as understood by the mātauranga of Ngāti Hāua.[16]

42. Therefore, any proposal to occupy/use an area within the rohe of Ngāti Hāua which extends to the Whanganui River both physically or spiritually, draws in the protections and obligations of the Te Awa Tupua Act. In addition, where there is a physical connection between the water of Te Awa Tupua and the proposed operations or whether those proposed operations touch on the metaphysical elements of the awa. Again, this is the case for the Application.

43. The Whanganui River head waters commence in the Tongariro National Park, as well as many other headwaters for tributaries and natural water courses that flow into the main Whanganui River water body. The values associated with those waters are established through whakapapa with Ngāti Hāua (and other whanaunga iwi) and manifest physically and/or metaphysically. They can therefore be affected physically and/or metaphysically by an activity regardless of proximity, nature and extent. These matters must be recognised and provided for through Te Awa Tupua status and Tupua te Kawa as the Act provides.[17]

How the Te Awa Tupua Act can be determinative for declining the Application

44. Working through how and whether the Te Awa Tupua Act has been complied with is an important exercise that is a critical element of this process. As DoC is aware, Tupua te Kawa in particular directs a relational and good faith working relationship between those iwi/hapū at place and other parties like DoC and the Applicant.

45. This has not been done, and it is therefore open to any decision maker to decline the Application, with the sole determinative being inadequate provision for and engagement with Te Awa Tupua per section 15(5)(b) Te Awa

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14 See Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, s7; and regarding groundwater inclusion under natural watercourses see the Soil Conservation and River Control Act 1941, s 2(1); also see the Land Drainage Act 1908, s 2 which carries a similar definition of watercourse; also see Section 59 of the Wellington Regional Water Board Act 1972 defines underground water as meaning natural water which is below the surface of the ground, the bed of the sea, or the bed of any lake or river or stream, whether the water is flowing or not and, if it is flowing, whether it is in a defined channel or not; and United Nations Watercourse Convention 1997 and United Nations Watercourse Convention 1997 Online User Guide, retrieve from < https://www.unwatercoursesconvention.org/the-convention/part-i-scope/article-2-use-of-terms/2-1-1-watercourse/>; and LAWA information retrieved from <https://www.lawa.org.nz/learn/factsheets/groundwater/groundwater-basics/>.

15 Refer to ss 13(c) and 71 Te Awa Tupua (Whanganui River Claims Settlement) Act 2017.

16 The definition of Whanganui River highlights the need for the latter water bodies referenced in section 7 to be flowing into the former water bodies referenced in the definition. In line with indivisibility and a Ngāti Hāua/Te Awa Tupua interpretation, reference to "flowing" takes on both the physical flowing of water and the metaphysical flowing of mauri, wairua and mana.

17 Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, s15(2)(a) and (b).

Tupua Act. That would also align with the reporting requirement of this panel under section 15(6) Te Awa Tupua Act.

46. As an aside, we would add that, had a better appreciation for the Te Awa Tupua Act occurred prior to the public notification evaluation process, the Applicants may have been afforded the opportunity to address this defect early on. DoC were fully informed at that time that this was the case.

Section 4 Conservation Act

47. Section 4 Conservation Act is one of (if not the) primary directives in the Conservation Act relating to the exercise of powers and duties under the Act. Notably, giving effect to Treaty principles must be done at every turn of the concession process.[18] That onus, in our view, sits squarely with DoC but also flows over into the responsibility of the Applicant.

48. The Supreme Court case of *Ngāi Tai ki Tāmaki Trust v Minister of Conservation* helpfully sets out the status and applicability of section 4.[19] Like that case, the Application falls within the scope of the customary rights and responsibilities that Ngati Hāua are entitled to exercise in accordance with tikanga as part of our rangatiratanga resulting from our whakapapa to Te Kāhui Maunga. These rights and responsibilities exist and are protected/given legal force through Treaty principles, the common law recognition of the relevance of tikanga and distinctly, the Te Awa Tupua Act.[20]

49. We rely on the following principles as a starting point for section 4:

(a) **Partnership:** The principle of partnership gives rise to the duty to act honourably and in utmost good faith. Referring to the settlement context, the Tribunal has highlighted that this duty requires the Crown to 'be fully informed before making material decisions affecting Māori'. Only decisions that are fully informed can be sound, fair, protective of Māori interests, and thus worthy of the Treaty partnership. To be fully informed, the Crown must have a sound understanding of 'the historical, political, and tikanga dimensions of mandate and overlapping [groups] and their interests'. As described in the *Ngāti Tūwharetoa ki Kawerau Crossclaims Report*, the activity of settling requires a 'sophisticated understanding' of the Māori world in general, and of the groups affected in particular. The Tribunal has acknowledged that this obligation, thus articulated, sets a very high standard for the Crown, but has emphasised it is 'appropriate, given what is at stake should those standards not be met.[21]

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18 In *Ngāi Tai ki Tāmaki Trust v Minister of Conservation* [2018] NZSC 122, at [48], The requirement to "give effect to" the principles is also a strong directive, creating a firm obligation on the part of those subject to it, as this Court noted in a different context in *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd*.

19 *Ngāi Tai ki Tāmaki Trust v Minister of Conservation* [2018] NZSC 122, at [47]-[55].

20 See *Trans-Tasman Resources Limited v The Taranaki-Whanganui Conservation Board* [2021] NZSC 127, at [297]; and *Ngāti Whātua Orākei v Attorney General* [2022] NZHC 843, at [326]-[358].

21 Waitangi Tribunal *Hauraki Settlement Overlapping Inquiry Report* (Wai 2840, 2020), at pp 11-12.

(b) **Active Protection**: The Waitangi Tribunal has stated that the Treaty of Waitangi obliges the Crown not only to recognise the Māori interests specified in the Treaty but actively to protect them. The possessory guarantees of the second article must be read in conjunction with the preamble (where the Crown is "anxious to protect" the tribes against envisaged exigencies of emigration) and the third article where a "royal protection" is conferred. It follows that the omission to provide that protection is as much a breach of the treaty as a positive act that removes those rights".[22] The Waitangi Tribunal *Ngāwhā Geothermal Resources Report* expands on this as follows:[23]

> The duty of active protection applies to all interests guaranteed to Māori under article 2 of the Treaty. While not confined to natural and cultural resources, these interests are of primary importance. There are several important elements including the need to ensure:
>
> > that Māori are not unnecessarily inhibited by legislative or administrative constraint from using their resources according to their cultural preferences;
> >
> > that Māori are protected from the actions of others which impinge upon their rangatiratanga by adversely affecting the continued use or enjoyment of their resources whether in spiritual or physical terms;
> >
> > that the degree of protection to be given to Māori resources will depend upon the nature and value of the resources. In the case of a very highly valued rare and irreplaceable taonga of great spiritual and physical importance to Māori, the Crown is under an obligation to ensure its protection (save in very exceptional circumstances) for so long as Māori wish it to be protected ... The value to be attached to such a taonga is a matter for Māori to determine; and
> >
> > that the Crown cannot avoid its Treaty duty of active protection by delegation to local authorities or other bodies (whether under legislative provisions or otherwise) of responsibility for the control of natural resources in terms which do not require such authorities or bodies to afford the same degree of protection as is required by the Treaty to be afforded by the Crown. If the Crown chooses to so delegate it must do so in terms which ensure that its Treaty duty of protection is fulfilled. 'consultation', in the Treaty context, requires the Crown to engage in discussion with relevant groups before forming firm views of its own.

50. How protection occurs will be highly nuanced and driven by the context in which it is engaged. Only through meaningful partnership with Ngāti Hāua can the positive outcomes that benefit all involved be achieved as part of any Conservation Act process.[24] Treaty principles are non-linear and recognise more than just active protection as a concept, drawing on the contextual factors that give life to active protection in Treaty and tikanga terms. When applied in this process, active protection is critical. This is more so where the taonga in question is vulnerable or experiencing degradation.[25] Adverse effects in this context must be avoided at all costs and not just targeted at avoiding material harm.[26]

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22 Waitangi Tribunal *Manukau Report* (Wai 8, 1985), at p 70.

23 Waitangi Tribunal *Ngāwhā Geothermal Resources Report* (Wai 304, 1993), at p 100.

24 *McGuire v Hastings District Council* [2002] 2 NZLR 577 (PC), at [9] line 34 and [21]; also see the discussion in *Tūwharetoa Māori Trust Board v Waikato Regional Council* [2018] NZEnvC 93, at [90]-[124] and specifically [129]; *Ngāti Maru Trust v Ngāti Whātua Ōrākei Whai Maia Ltd* [2020] NZHC 2768, at [69]; and *Ngāi Te Hapū Inc v Bay of Plenty Regional Council* [2017] NZEnvC 73, at [82].

25 We note that there have been environmental issues occur on the Maunga since the ski fields were operative in the 1950's.

26 See *Port Otago Ltd v Environmental Defence Society Inc.* [2023] NZSC 112.

51. Given the exclusion of our interests in this process, we see no need to delve into a detailed analysis of how those principles apply and how they have not been given effect to. In our view, it is sufficient to simply state that Ngāti Hāua have not been considered as a relevant polity to engage in this process at a formal and substantive level, which goes against the principles of partnership and active protection as expressed above. It is that exact exclusion that provides the grounds for decline of the Application because it is clear that Ngāti Hāua have not been considered and engaged with, amounting to no ability for the decision maker to:

(a) apply the Conservation Act consistently with the requirements of section 4 particularly assessing the effects,[27] appropriateness in the circumstances,[28] and lawfulness[29] of the Application against the relevant Treaty principles; and

(b) recognise and provide for Te Awa Tupua status and Tupua te Kawa in a way consistent with Te Awa Tupua Act.[30]

52. On that basis, we consider that the procedural failures identified above provide sufficient grounds to decline the Application, pursuant to section 17SB Conservation Act unless a resolution is struck between Ngāti Hāua, the Applicant and DoC. Where no resolution is reached, we submit that the Application obviously does not comply with, and is inconsistent with, the provisions of the Conservation Act, with the determining factors being inconsistency with the obligations of the Te Awa Tupua Act and section 4 Conservation Act.

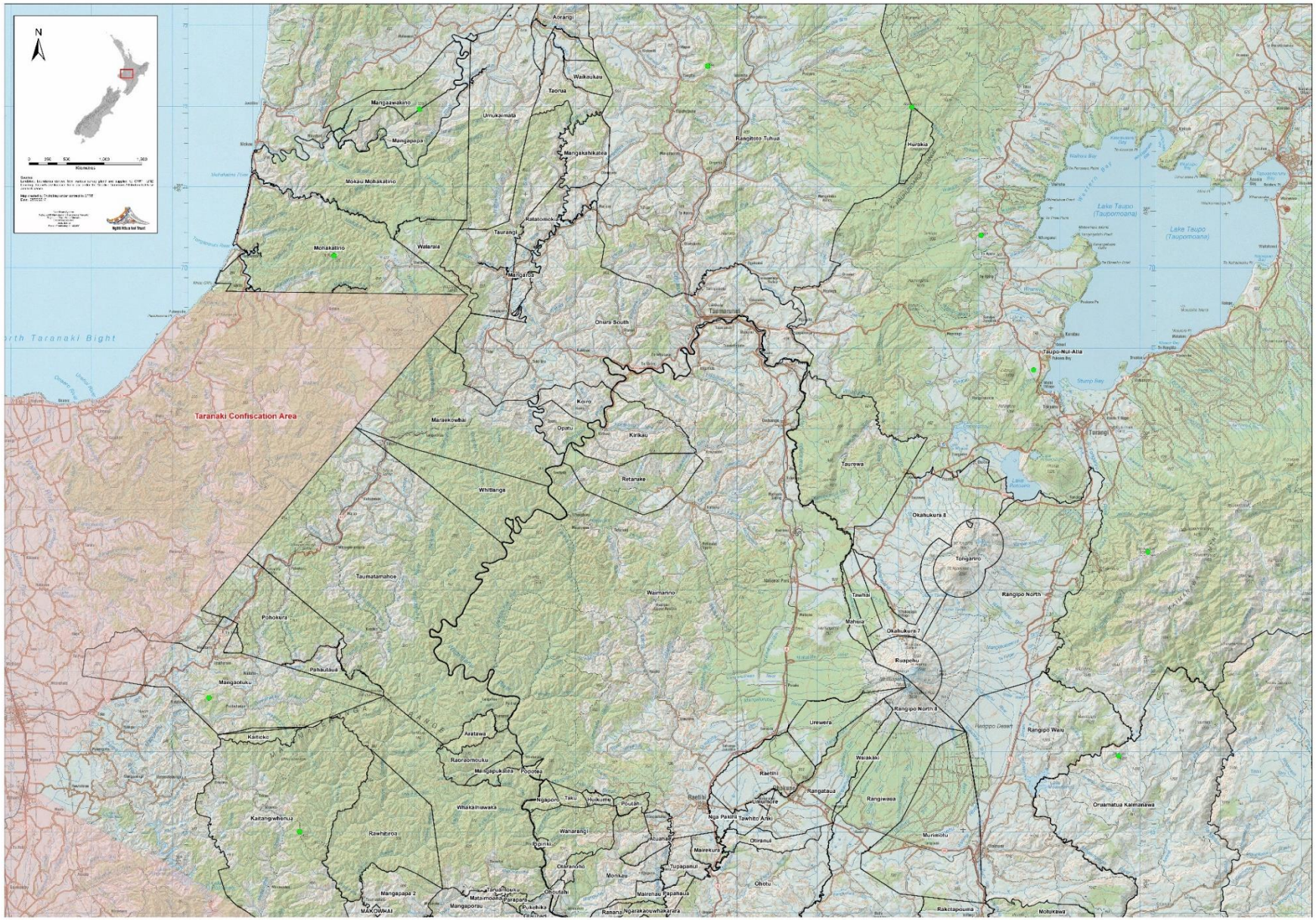
Dated 25 February 2024

Sec 9(2)(a)

Kuru Ketu, Environmental Manager
Ngāti Hāua Iwi Trust

27 Conservation Act 1987, ss 17U(1),and (2)(a) and (b).
28 Conservation Act 1987, s17U(8).
29 Conservation Act 1987, s17U(3) and 17S(g)(ii)
30 Refer to Te Awa Tupua (Whanganui River Claims Settlement) Act 2017, s 15.

Map of Area of Interest (Indicative)



As part of this supplementary submission, volume 1, 2 and 3 of the Te Kāhui Maunga Report were provided to the panel. Due to the size of these documents, we are unable to attach these in their full form via our website. For reference to these documents, please observe via the following link : https://www.waitangitribunal.govt.nz/news/tongariro-national-park-claims-2/.

Department of Conservation
Te Papa Atawhai

DC115/DOC-7507802

22 November 2023

Graeham Bell
Chair
Ngāti Hāua Iwi Trust

Sec 9(2)(a)

Tēnā koe Graham

Re: Concession application to operate Tūroa ski field

The purpose of this letter is to let you know that we recently met with the principals of the company Pure Tūroa Ltd (PTL), who advise that they intend to submit a concession application and apply in the coming weeks, for the necessary licences and leases to operate the Tūroa ski field.

We do not have the details of their proposal at this stage but wish to give you early notification of their intention to lodge a concession application for the ski field and to determine your preference for engagement throughout the upcoming process.

The application is likely to comprise a request for both a license and lease, which will require that that we publicly notify the application within a reasonable time of the Department of Conservation receiving it.

We also note that they will be seeking public notification as soon as possible prior to Christmas shut down. This means the application will be available for members of the public as well as iwi, hapū and whānau to review and provide a submission on the proposal.

We have held previous discussions with you regarding potential concessions to operate ski fields on the maunga and we wish to continue these discussions in good faith and consistent with the obligations under Section 4 of the Conservation Act.

We would welcome your feedback on how you wish to be engaged in the process over the coming months, and whether you would like to meet with the Department in a separate forum or prefer to submit within the formal public consultation process (or potentially a combination of both).

We understand there has been some discussion between iwi on the idea of some form of pan-iwi entity. We expect further correspondence will follow on this but felt it important to send an initial given PTL's indications.

Department of Conservation *Te Papa Atawhai*
Taupō Office
PO Box 528, Taupō 3351,
www.doc.govt.nz

I look forward to hearing from you and to continuing to work with you throughout the process.

Ngā mihi nui

Damian Coutts
Director Operations, Central North Island

cc: Maxine Ketu, Pou Ārahi – Sec 9(2)(a)

Ngāti Hāua Iwi Trust

18 December 2023

Department of Conservation, Central North Island
C/ Damian Coutts

By email only: dcoutts@doc.govt.nz
jdelange@doc.govt.nz

Tēnā koe Damian

Tūroa Ski Field Concession Discussions

1. We refer to your letter dated 22 November 2023 regarding your meeting with the principals of Pure Tūroa Limited (**PTL**) and their intention to submit a concession application to operate the Tūroa ski field, together with your email today attaching the PTL application. We respond below.

2. At the outset, we note that we were very surprised to receive your email today appending the application from the applicants, in the absence of any further updates from the Department of Conservation (**DOC**) and the lack of engagement with Ngāti Hāua from the applicants. In discussions with DOC, we have noted repeatedly that the lack of engagement with and information provided to Ngāti Hāua would need to be addressed before any application should proceed.

3. In the absence of such engagement and information, we suggest that the prudent course of action for DOC at this point would be to refer the application back to the applicants for further information, consistently with DOC's obligations under both legislation and its internal standard operating procedures.

4. Ngāti Hāua were not appropriately included or provided for in previous concession arrangements relating to Ruapehu Alpine Lifts Limited and the ski fields on Ruapehu maunga, and this treatment will not be tolerated by Ngāti Hāua.

5. As we have said, our tupuna maunga Ruapehu is a central part of our identity as Ngāti Hāua. Our people and our iwi are connected to Te Kāhui Maunga and the Whanganui River as one, which is why we refer to them as "Te Kāhui Maunga". The severing of our Maunga from our people and the division of the Maunga into pieces by the Crown are a contravention of our kawa and tikanga.

6. In relation to the issue of engagement and the process more generally with regard to the ski fields on Ruapehu, we have repeatedly advised the Crown (including Ministers and the leadership of both DOC and other agencies) that the process adopted in relation to the liquidation and potential sale of the assets of Ruapehu Alpine Lifts Limited has been an affront to Ngāti Hāua and to the relationship with the Crown that we have been seeking to restore through the Treaty settlement negotiation process. The Crown has been engaging in an inconsistent and haphazard manner with ngā iwi o te Kāhui Maunga, as have the potential concession operators. This has placed Ngāti Hāua at a disadvantage and is continuing to manifest through the new applications for concessions that are now proposed to be lodged and publicly notified.

7. As advised, DOC have not reset these previous deficits in engagement with us, and we remain concerned with the way DOC continues to ignore our concerns and advice.

8. We also note that your letter of 22 November 2023 does not accurately outline DOC's processing obligations in relation to concession applications, including with respect to assessing the concession application. This is important given that Ngāti Hāua have not been engaged by PTL to assess the effects on our values of any proposed activity. There are other considerations that also need to be considered in light of significant changes in circumstance relating to Ruapehu Maunga in recent years.

9. Their complexity means they cannot be assessed by a side wind, and without provision of the previous concession application documentation or any engagement from PTL up until this point, it is unclear how DOC have unilaterally considered public notification to be an option prior to Christmas or why such a rushed process would be appropriate in the above circumstances.

10. We note the statements in your letter of 22 November and your email today, but we consider that DOC have defined obligations and concession processing requirements under both legislation and policy that we consider are being set aside in favour of PTL. That is not acceptable. As noted above, we consider that the application is incomplete and not fit for purpose in terms of those legislative and policy requirements, particularly as they relate to Ngāti Hāua.

11. We seek to discuss these matters with you urgently, and prior to any public notification of the PTL application.

Ngā mihi

Sec 9(2)(a)

Graham Bell / Maxine Ketu
Chairperson / Pou Ārahi
Email: Sec 9(2)(a)

Date: 12 December 2023

To: Stef Bowman, Permissions Regulatory Delivery Manager

From: Lynette Trewavas, Senior Permissions Advisor

Subject: Recommendation to Publicly Notify Concession Application: *Pure Tūroa Limited 109883-SKI*

Purpose

To make a decision to publicly notify the application.

Context

On 11 December 2023 Pure Turoa Limited applied for a 30-year lease/licence for the operation of recreational and tourism activities within the current Turoa ski area boundaries. The Turoa Ski Field was previously operated by Ruapehu Alpine Lifts (RAL) until they entered receivership in 2022. A lease has been requested over all buildings and the base Plaza area with the remaining area covered by a licence. There are no significant changes to the activities included in the previous licence held by RAL.

The Applicant was requested to provide the Department of Conservation Aircraft Application form and Filming form 5a which were not provided in the original application form. These were provided on 12 December 2023.

The Tongariro District Operations have reviewed the application and consider all information from an Operations perspective is included. The Permissions team consider the application includes all the required information under section 17S of the Conservation Act 1987 (the Act) and is ready for public notification.

Section 17SC requires the Minister/delegate to publicly notify an application for: a) a lease; or b) a licence for a term of more than 10 years; or c) if having regard to the effects of the licence they consider it appropriate.

No issues arise about whether the application lacks required information (s 17SA); or is obviously inconsistent with the Act (s 17SB).

Public notification must conform with the requirements of s 49(1) of the Act – that is, as s 17SC of the Act requires the application to be publicly notified, the application must be publicly notified in a newspaper circulating in the area where the subject matter of the application is situated and at least once in each of 4 daily newspapers published in Auckland, Wellington, Christchurch and Dunedin; but may limit the publication of the notice to a newspaper circulating throughout the locality or region in which the subject matter is situated, if satisfied that the thing is of local or regional interest only.

Because of the widespread public interest in the application, it is considered that it should be publicly notified in a local paper and 4 daily newspapers published in the 4 cities mentioned above.

Section 49(2) of the Act provides that where the Minister gives public notice of an application for a concession: (a) any person or organisation may object to the Director-General against the proposal, or make written submission on the proposal; (b) provides that the Minister must

give persons and organisations wishing to make objections or submissions at least 20 working days; ba) provides that every objection or submission must be sent to the Director-General at the place, and by the date, specified in the notice; and (c) provides that where a person or organisation making an objection or submission so requests, the Director-General must give them a reasonable opportunity of appearing before the Director-General in support of the objection or submission.

Document Links

Original Application	DOC-7522295
Additional application forms	DOC-7524196

Recommendation

It is recommended that you:

(a) Note this concession application is ready for public notification.

(b) Agree to insert a public notice setting out the requisite matters in s 49(2) noted above in the following publications with notification for a period of 20 working days. Note while the public notices will be placed prior to Christmas, due to the statutory Christmas close down period, public notification will not commence until 11 January 2024 (and ending on 9 February 2024):

- New Zealand Herald (Auckland) – 19th December 2023
- The Post (Wellington) – 19th December 2023
- The Press (Christchurch) – 19th December 2023
- Otago Daily Times (Dunedin) – 19th December 2023
- Ruapehu Bulletin – 20th December 2023
- Taupo Times – 22nd December 2023
- Taupo Turangi Herald 21st December 2023
- Taumarunui Bulletin – 21st December 2023

(c) Agree to publicly notify the application on the Department's website (but noting that this is not a requirement under s 49).

SE Bowman

Signed: _____ Date: 12/12/2023

Addendum to memo 17 January 2024

A question has been asked of the Department whether iwi engagement by the Applicant, in accordance with Section 4 of the Conservation Act 1987, was considered by the Department as part of the assessment about whether the applicant is complete and appropriate for public notification.

Public notification occurs at the start of the concession process to enable all views to be included in the determination of the decision. The test for determining an application to be ready for public notification is to ensure the application is complete and members of the public would be able to understand the proposed activity.

This test does not specifically include ensuring iwi engagement has occurred. Iwi engagement is encouraged by the Applicant but is not a criterion for accepting an application and proceeding to notification under section 17SC of the Conservation Act 1987.

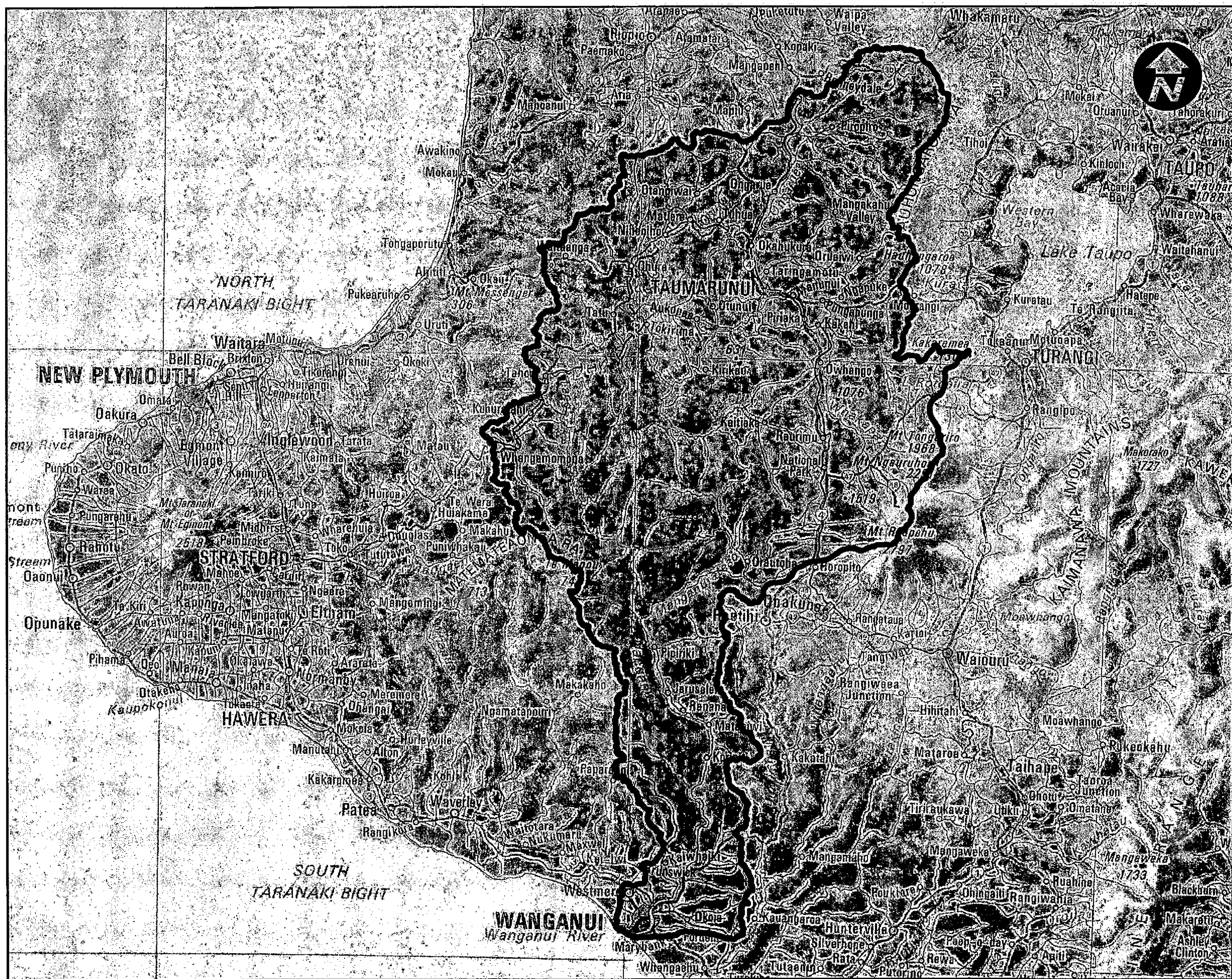
Informal conversations occurred during the consideration of whether the application was ready for public notification. It was noted that the Applicant did not specifically engage with Ngāti Hāua iwi and has instead relied on the Department to engage on their behalf. It was also noted that no Cultural Impact Assessment was undertaken. The Department can only encourage the Applicant to engage with all Treaty Partners but cannot require it. It is the expectation of the Department that the Applicant will engage with all Treaty Partners including Ngāti Hāua iwi throughout the concession process and throughout the term of any concession, if granted. The Department will also continue to engage with all Treaty Partners with an interest in the area during the processing of this concession. For these reasons, it was recommended to progress on to public notification of the application.

It is also noted that since the date of this memo, the Applicant has reduced their proposed term to 10 years.

Signed: Date: 18/1/24

Comments:

As outlined above, I agree for public notification to continue based on the current application and noting the apparent lack of engagement by the application with Ngāti Hāua specifically, that the Department addresses this through its own engagement directly with Ngāti Hāua as part of the consideration of the application, either in parallel to the public notification process or following it.



The Crown and Whanganui Iwi agree that SO 469123, when approved by Land Information New Zealand, represents the agreed boundary of the Whanganui River catchment..

Approved as to boundaries:

Dukeltapu 11/12/13
for Whanganui Iwi

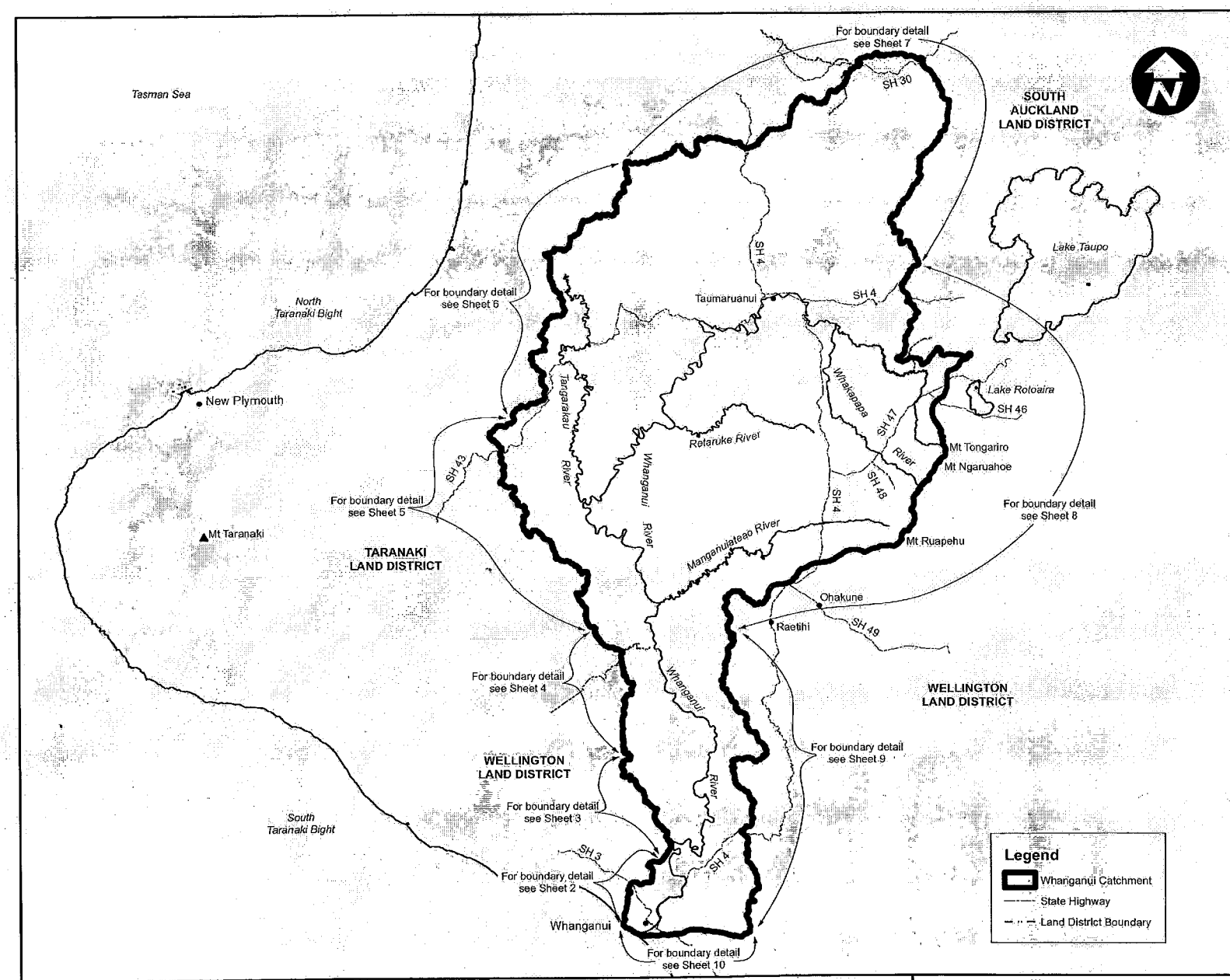
E Wood 11/12/13
for and/on behalf of the Crown

SO 469123 (Title Plan)
Cpy-01/01,Pgs-011,26/02/14,09:48
DocID: 213640551

Notes:

1. Coordinates are in terms of New Zealand Transverse Mercator 2000 (NZTM).
2. All seaward boundaries follow the line of mean high water springs but cross the mouths of all rivers, inlets and estuaries except where otherwise shown.
3. For boundary detail refer to sheet 2.
4. Base mapping sourced from Land Information New Zealand data. Crown copyright reserved.

Land District:Wellington, Taranaki & South Auckland Districts	**WHANGANUI RIVER CATCHMENT**	TERRITORIAL AUTHORITY: Otorohanga, Ruapehu, Stratford, Taupo, Waitomo & Wanganui Districts Compiled by Sinclair Knight Merz Ltd Scale: 1:700,000 at A3 Date: September 2013	File AE04482.04 Instructions: September 2013	**SO 469123** Sheet 1A of 10



The Crown and Whanganui Iwi agree that SO 469123, when approved by Land Information New Zealand, represents the agreed boundary of the Whanganui River catchment.

Approved as to boundaries:

11/12/13

for Whanganui Iwi

J. Wood 11.12.13

for and on behalf of the Crown

Notes:

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2. All seaward boundaries follow the line of mean high water springs but cross the mouths of all rivers, inlets and estuaries except where otherwise shown.
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4. Base mapping sourced from Land Information New Zealand data. Crown copyright reserved.

Land District:Wellington, Taranaki & South Auckland Districts

WHANGANUI RIVER CATCHMENT

TERRITORIAL AUTHORITY: Otorohanga, Ruapehu, Stratford, Taupo, Waitomo & Wanganui Districts

Compiled by Sinclair Knight Merz Ltd

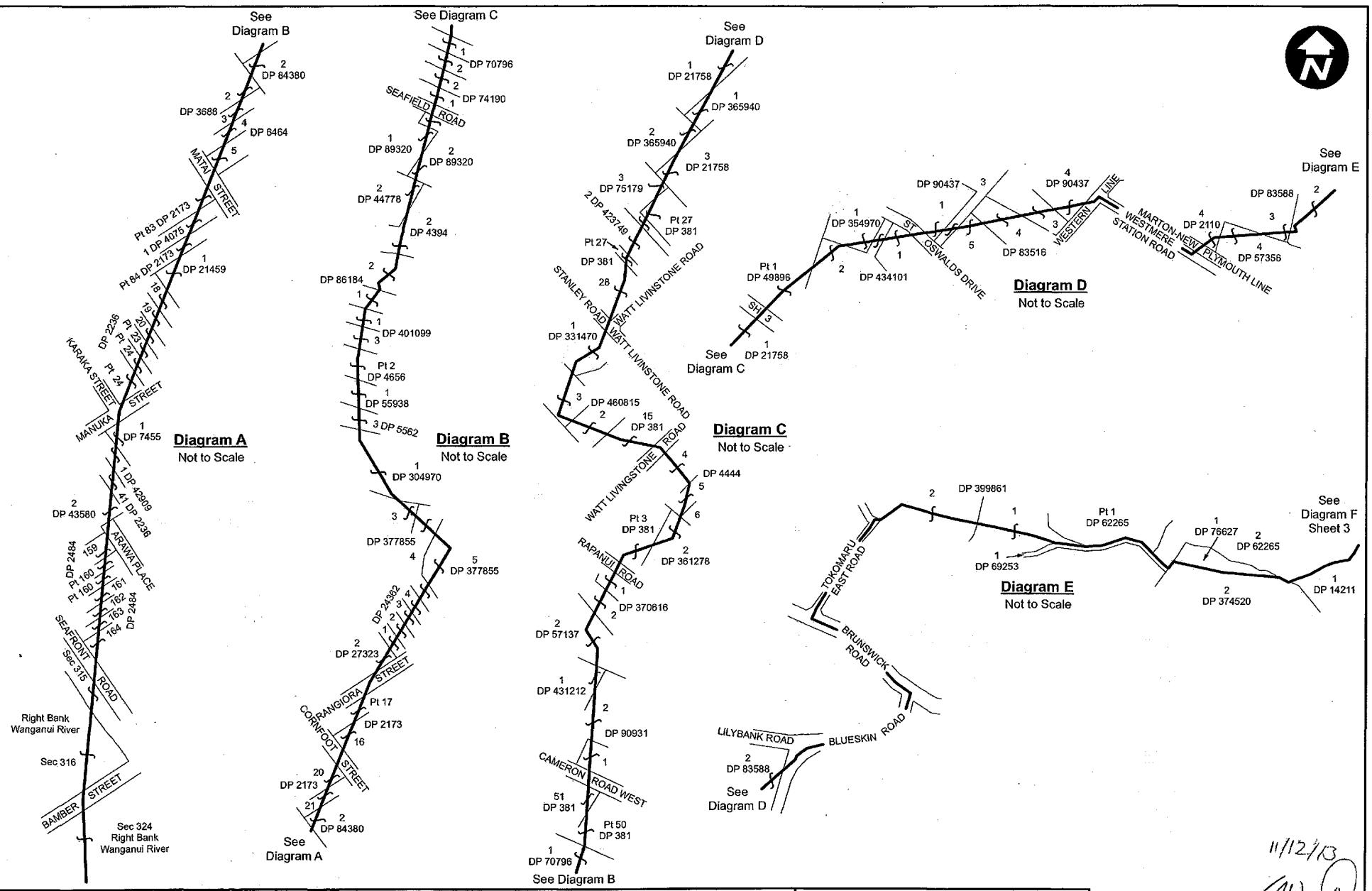
Scale: 1:700,000 at A3 Date: September 2013

File AE04482.04

Instructions: September 2013

SO 469123

Sheet 1B of 10



11/12/13

Land District:Wellington, Taranaki & South Auckland Districts

WHANGANUI RIVER CATCHMENT

TERRITORIAL AUTHORITY: Otorohanga, Ruapehu, Stratford, Taupo, Waitomo & Wanganui Districts

Compiled by Sinclair Knight Merz Ltd

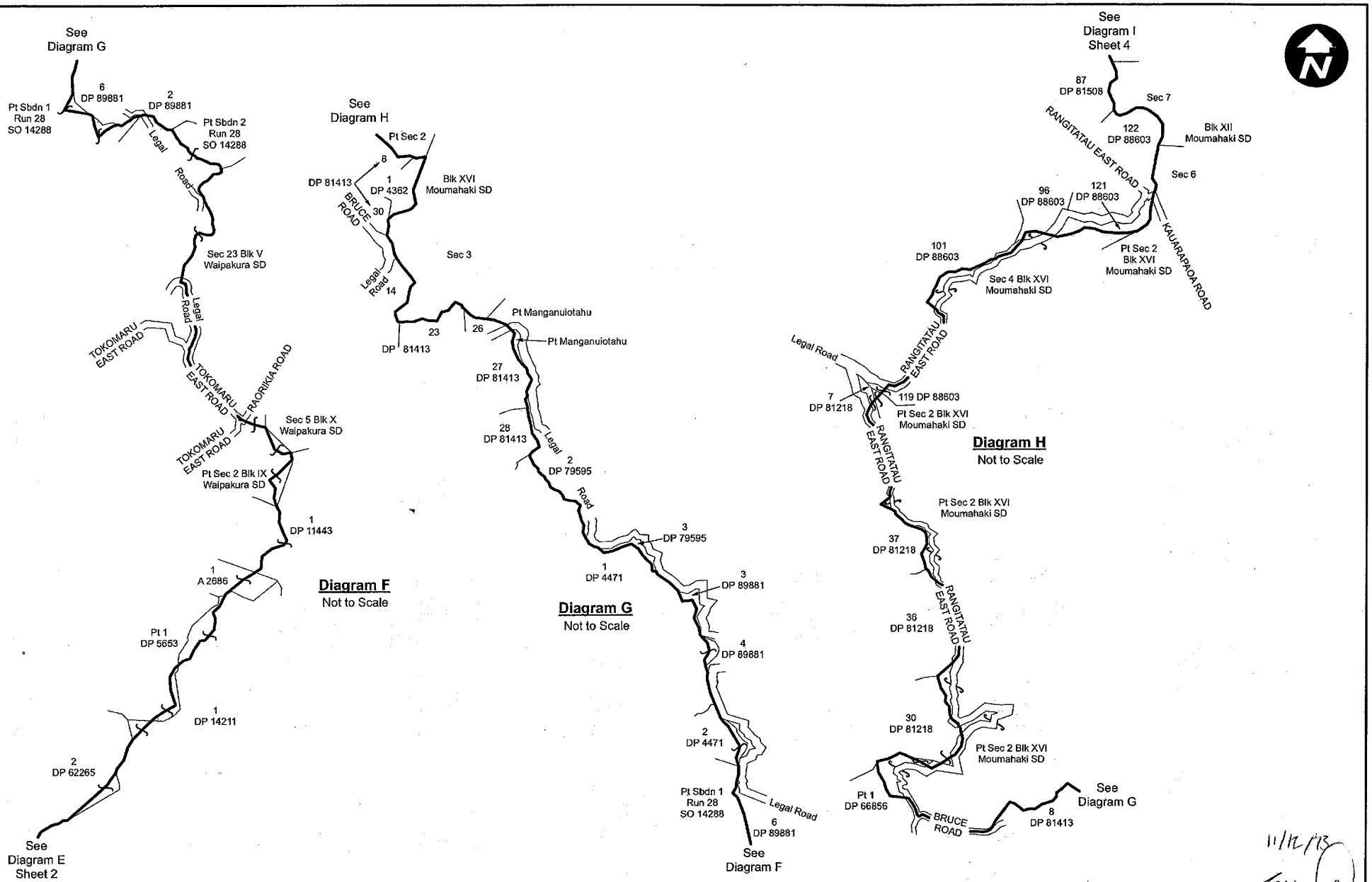
Scale: Not To Scale Date: September 2013

File AE04482.04

Instructions: September 2013

SO 469123

Sheet 2 of 10



Land District: Wellington, Taranaki & South Auckland Districts

WHANGANUI RIVER CATCHMENT

TERRITORIAL AUTHORITY: Otorohanga, Ruapehu, Stratford, Taupo, Waitomo & Wanganui Districts

Compiled by Sinclair Knight Merz Ltd

Scale: Not To Scale Date: September 2013

File AE04482.04

Instructions: September 2013

SO 469123

Sheet 3 of 10

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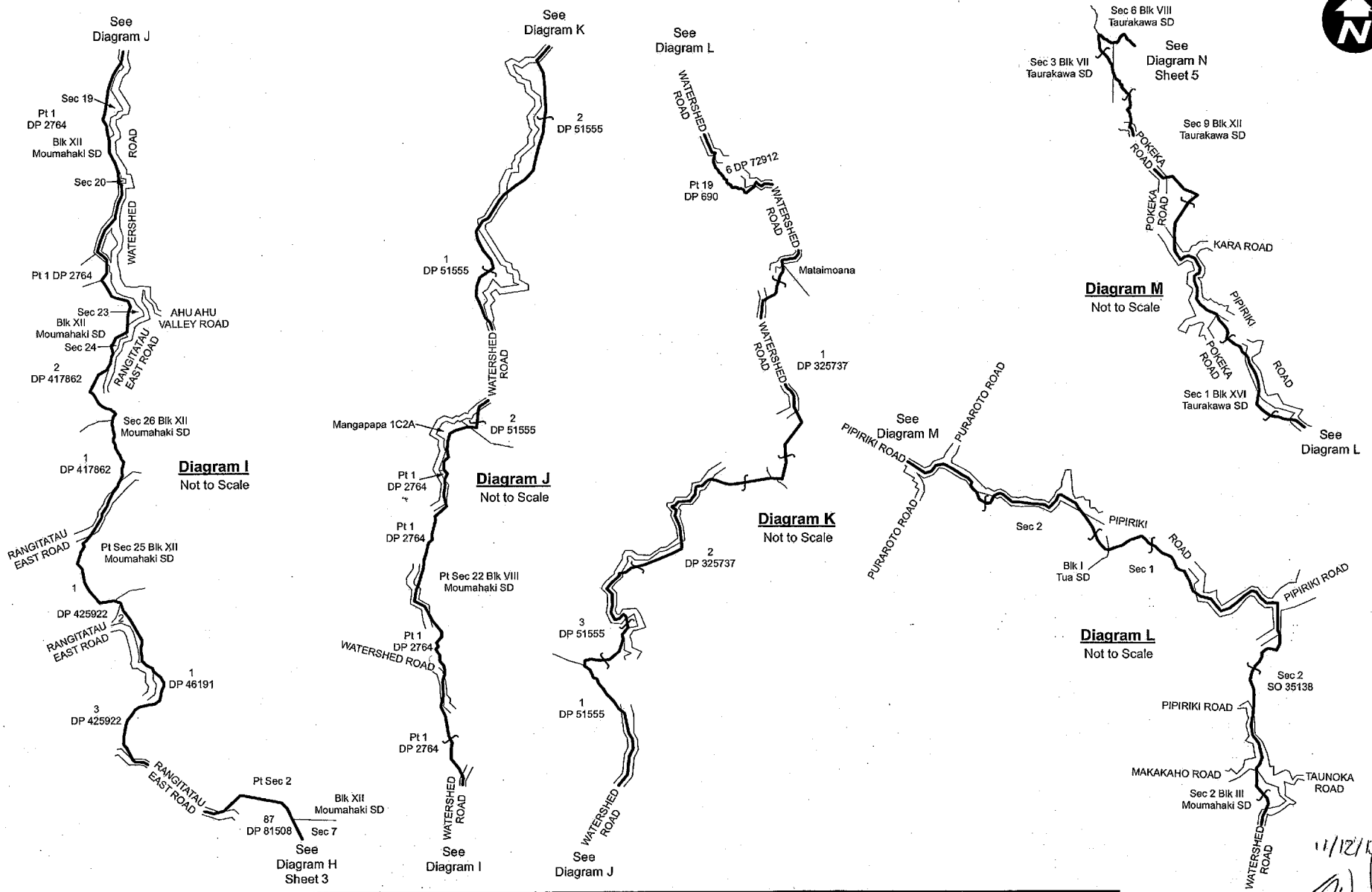

Land District: Wellington, Taranaki & South Auckland Districts

WHANGANUI RIVER CATCHMENT

TERRITORIAL AUTHORITY: Otorohanga, Ruapehu, Stratford, Taupo, Waitomo & Wanganui Districts

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Scale: Not To Scale Date: September 2013

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Instructions: September 2013

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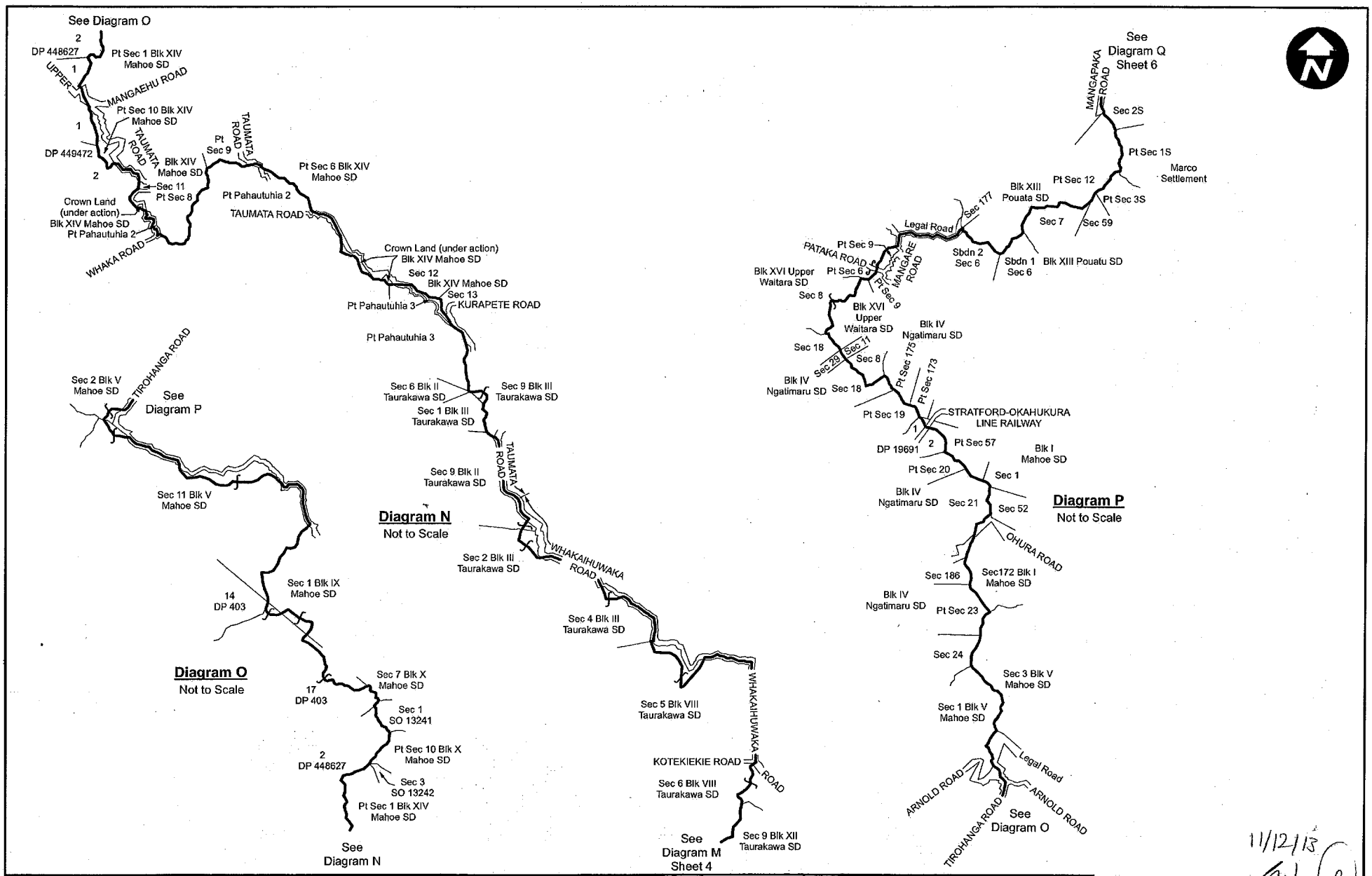

Land District: Wellington, Taranaki & South Auckland Districts	**WHANGANUI RIVER CATCHMENT**	TERRITORIAL AUTHORITY: Otorohanga, Ruapehu, Stratford, Taupo, Waitomo & Wanganui Districts Compiled by Sinclair Knight Merz Ltd Scale: Not To Scale Date: September 2013	File AE04482.04 Instructions: September 2013 **SO 469123** Sheet 5 of 10

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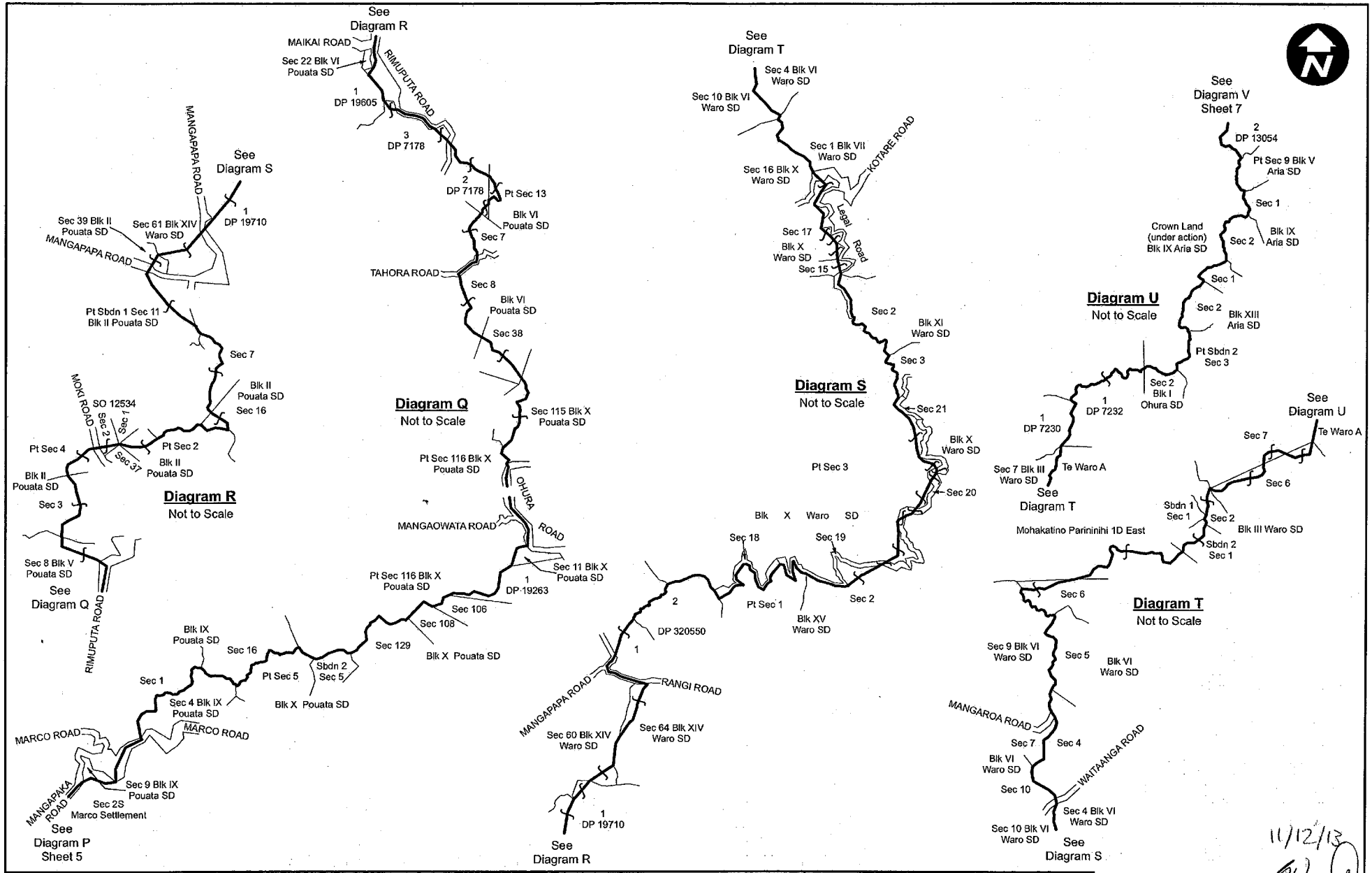

Land District: Wellington, Taranaki & South Auckland Districts

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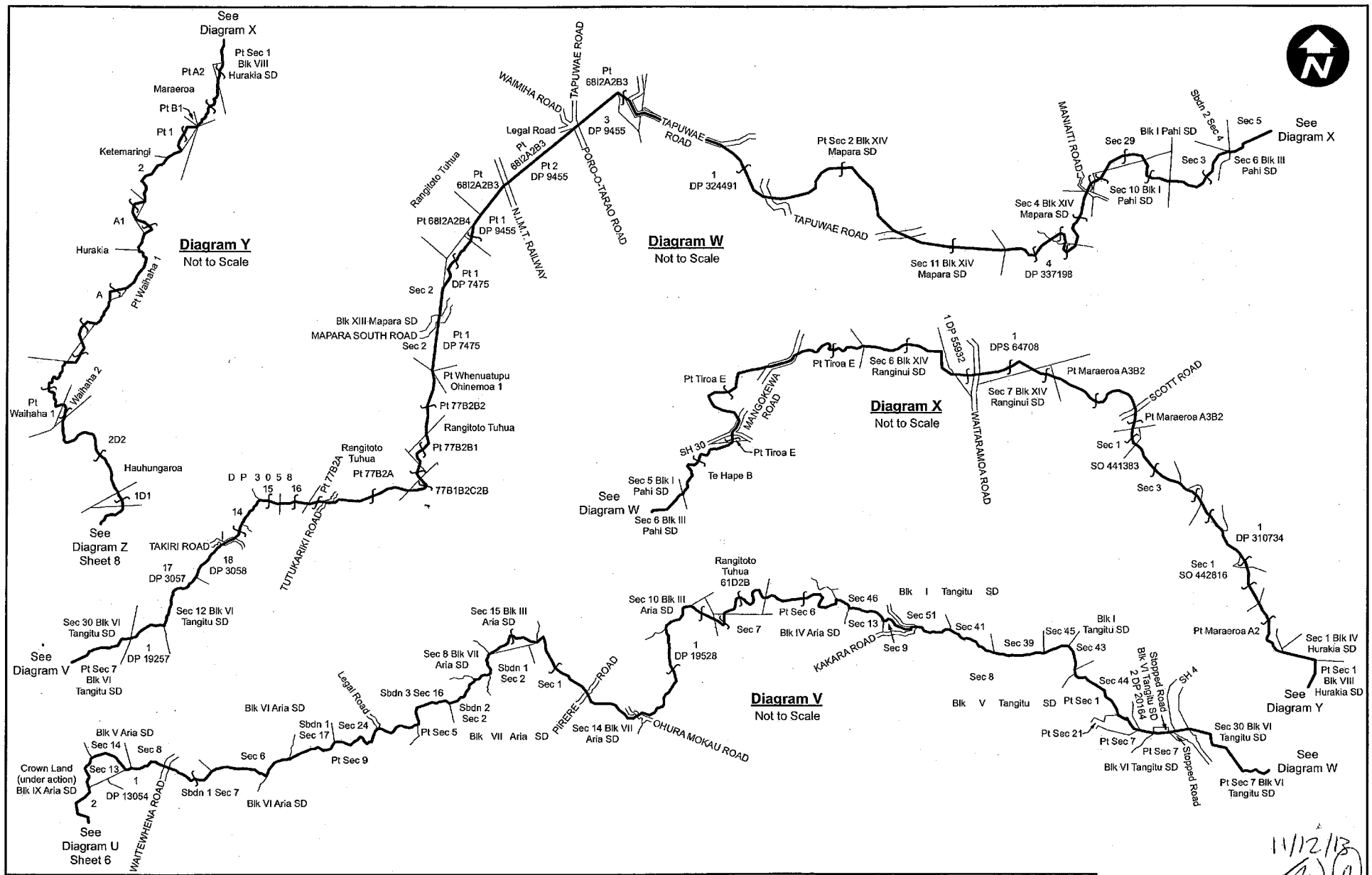

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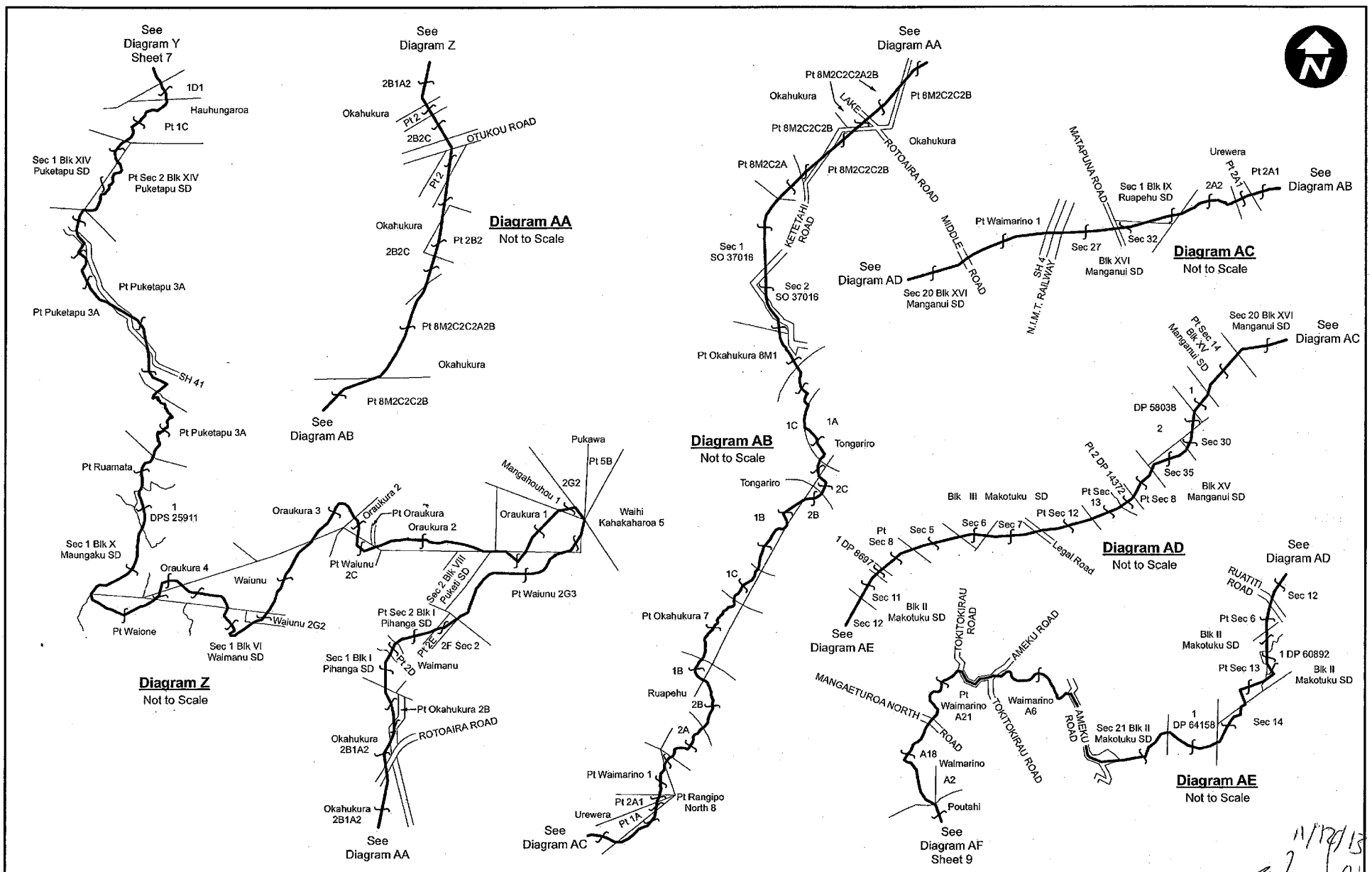

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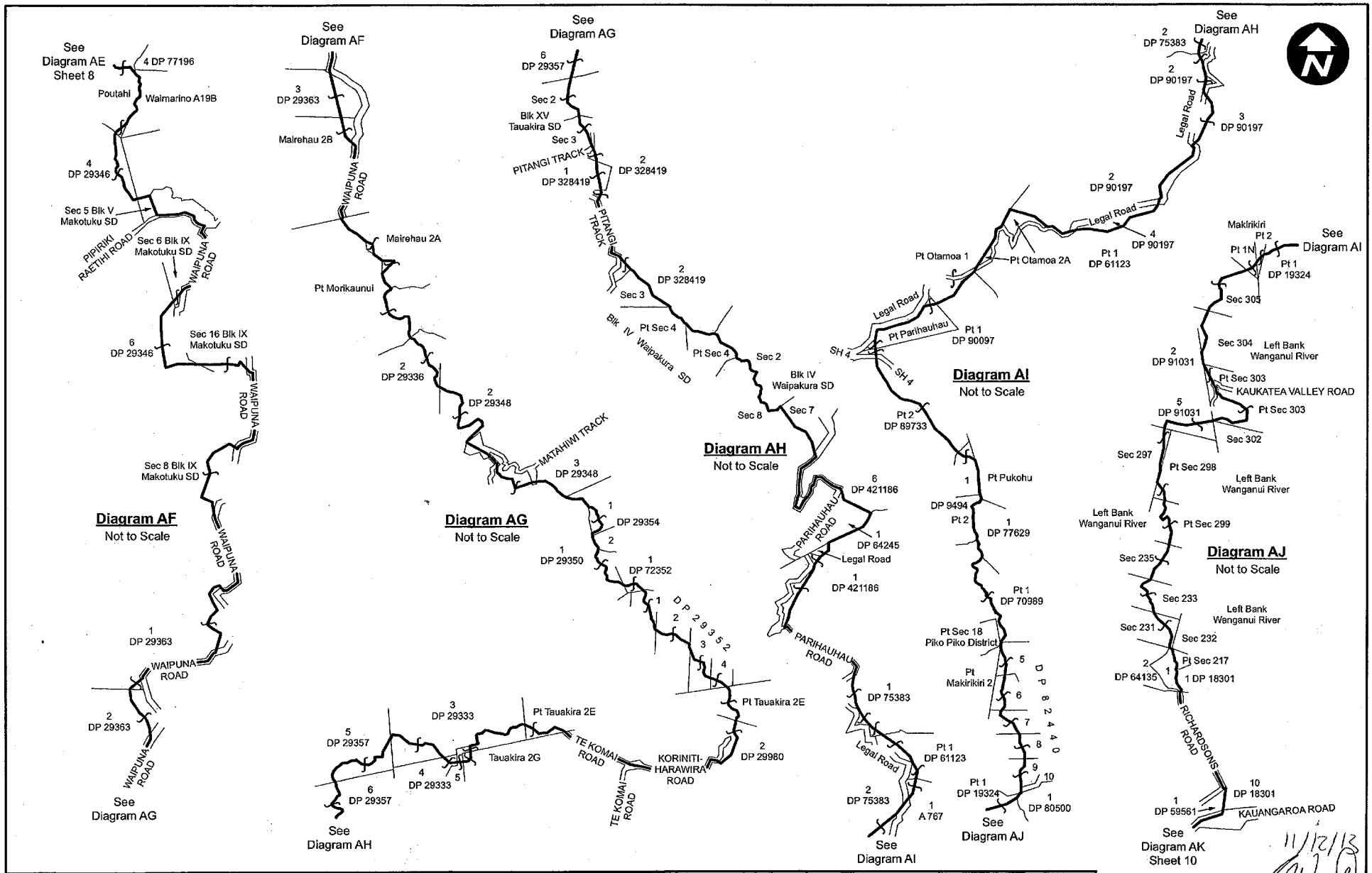

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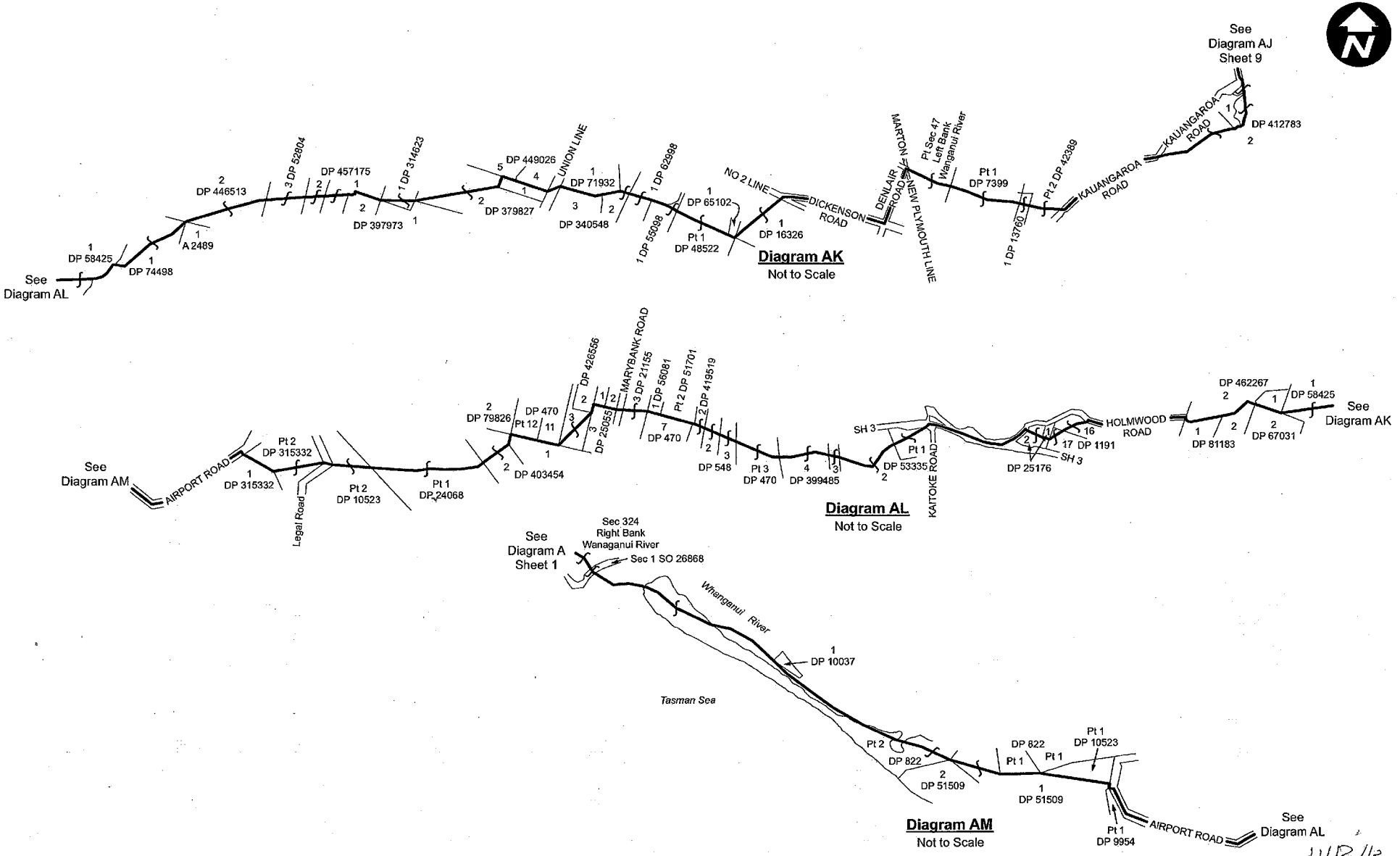

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As part of this supplementary submission, The Agreement in Principle to Settle Historic Claims between Ngāti Hāua Iwi Trust and the Crown was provided to the panel. Due to the size of this document, we are unable to attach these in their full form via our website. For reference to this document, please observe via the following link : https://www.tearawhiti.govt.nz/te-kahui-whakatau-treaty-settlements/find-a-treaty-settlement/ngati-haua/

IN THE SUPREME COURT OF NEW ZEALAND

I TE KŌTI MANA NUI

SC 11/2018
[2018] NZSC 122

BETWEEN	NGĀI TAI KI TĀMAKI TRIBAL TRUST Appellant
AND	MINISTER OF CONSERVATION First Respondent
	FULLERS GROUP LIMITED Second Respondent
	MOTUTAPU ISLAND RESTORATION TRUST Third Respondent

Hearing:	14 August 2018
Court:	Elias CJ, William Young, Glazebrook, O'Regan and Ellen France JJ
Counsel:	J P Ferguson, A H C Warren and R A Siciliano for Appellant V L Hardy and C D Tyson for First Respondent A F Pilditch and D C S Morris for Second Respondent S J M Mount QC and A R Longdill for Third Respondent G M Illingworth QC and P T Beverley for Te Rūnanga o Ngāi Tahu as Intervener
Judgment:	14 December 2018

JUDGMENT OF THE COURT

A The appeal is allowed.

B We direct that the second respondent's application for a concession be reconsidered by the first respondent's delegate in light of this judgment. The licence awarded to the second respondent on 31 August 2015 will remain in force until that reconsideration has occurred.

C **The decision of the first respondent's delegate granting a permit to the third respondent dated 15 October 2015 is quashed. We direct that the third respondent's application for a concession be reconsidered by the first respondent's delegate in light of this judgment.**

D **Costs are reserved.**

REASONS

ELIAS CJ, GLAZEBROOK, O'REGAN AND ELLEN FRANCE JJ
(Given by O'Regan J)

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Judicial review proceedings

[1] Ngāi Tai ki Tāmaki Tribal Trust (the Ngāi Tai Trust) applied for judicial review of the decision of a delegate of the first respondent, the Minister of Conservation, granting concessions to Fullers Group Ltd and the Motutapu Island Restoration Trust (MRT) for commercial tour operations on Rangitoto and Motutapu.[1] Its claim failed in the High Court.[2] The High Court decision was upheld on appeal to the Court of Appeal.[3] This Court granted leave to appeal, the approved question being whether the Court of Appeal was correct to dismiss the Ngāi Tai Trust's appeal to that Court.[4] Te Rūnanga o Ngāi Tahu was given leave to intervene and we received both written and oral submissions from its counsel.

Issues

[2] The High Court found that the decision-maker had made errors of law in the reasoning supporting the decisions and that finding was not overturned by the Court of Appeal. However, both Courts found that these errors had not affected the outcome. Those errors related to s 4 of the Conservation Act 1987, which requires that that Act be interpreted and administered as to give effect to the principles of the Treaty of Waitangi.[5] The High Court declined to grant relief and that decision was upheld by the Court of Appeal. The primary issue on appeal is whether relief ought to have been granted.

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1 We will refer to the first respondent as "DoC", the recognised abbreviation for the Department of Conservation, given that the decisions under challenge were made by officials of DoC acting under delegated authority of the Minister.

2 *Ngāi Tai ki Tamaki Tribal Trust v Minister of Conservation* [2017] NZHC 300, [2017] NZAR 485 (Fogarty J) [*Ngāi Tai* (HC)]. In a separate costs judgment, Fogarty J ruled that each party should bear its own costs: *Ngai Tai ki Tamaki Tribal Trust v Minister of Conservation* [2017] NZHC 872.

3 *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation* [2017] NZCA 613, [2018] 2 NZLR 453 (Kós P, Miller and Clifford JJ) [*Ngāi Tai* (CA)].

4 *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation* [2018] NZSC 41.

5 All references in these reasons to section 4 or s 4 are to s 4 of the Conservation Act.

[3] The analysis of that issue requires consideration of the application of s 4 to the decisions under review. The essential issue in the appeal is whether the Courts below were correct that the decisions did meet the requirements of that section, despite the errors of law just mentioned.

Factual background

[4] Rangitoto and Motutapu are islands (motu) within the Tīkapa Moana/Hauraki Gulf. They are proximate to each other and connected by a short causeway. We will refer to Rangitoto and Motutapu together as "the Motu". The majority of the land comprising the Motu is subject to the Reserves Act 1977, being land within the Rangitoto Island Scenic Reserve, the Ngā Pona-toru-a-Peretū Scenic Reserve (the summit of Rangitoto), or the Motutapu Island Recreation Reserve.

[5] The Ngāi Tai Trust represents the iwi of Ngāi Tai ki Tāmaki. The rohe of Ngāi Tai ki Tāmaki extends across Tīkapa Moana/Hauraki Gulf and includes the ancestral motu of Rangitoto, Motutapu, and Motu-a-Ihenga (Motuihe), with which it has deep and long-standing connections. There is no dispute that from the mid-nineteenth century Ngāi Tai ki Tāmaki was marginalised from its ancestral islands following a series of transactions in which the Crown participated.[6]

[6] Ngāi Tai ki Tāmaki is part of Ngā Mana Whenua o Tāmaki Makaurau, a group of iwi and hapū that the Crown recognises as having claims based on historical breaches of the Treaty of Waitangi in the Tāmaki Makaurau region (the Tāmaki Collective).[7] While the Crown has pursued and continues to pursue settlement of these claims through negotiation with individual iwi and hapū, the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 (the Collective Redress Act) was passed to provide redress relating to maunga, motu and lands "in respect of which all the iwi and hapū have interests" and "in respect of which all the iwi and hapū will share".[8] The vesting of maunga in the Tūpuna Taonga o Tāmaki Makaurau Trust

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6 This has now been acknowledged by the Crown in the Ngāi Tai ki Tāmaki Claims Settlement Act 2018. See ss 7–9 of that Act, and the historical account contained in the Ngāi Tai ki Tāmaki Deed of Settlement of Historical Claims (7 November 2015).

7 See the preamble to the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014 [Collective Redress Act].

8 See the preamble to the Collective Redress Act.

(Tūpuna Taonga Trust) was a significant element of the cultural redress provided in that Act. The Tūpuna Taonga Trust is an entity set up to represent the Tāmaki Collective. The Collective Redress Act gave effect to a Deed of Settlement between the Crown and the Tāmaki Collective that was entered into in December 2012 (the Collective Redress Deed).

[7] The Ngā Pona-toru-a-Peretū Scenic Reserve, which encompasses the summit of Rangitoto, was one such site vested in the Tūpuna Taonga Trust although it remains a reserve administered by DoC for the purposes of the Reserves Act.[9] The remaining land[10] on the Motu was temporarily vested in the Tūpuna Taonga Trust before revesting in the Crown 32 days later.[11] James Brown, the Chairperson of the Ngāi Tai Trust, gave evidence to the effect that the Ngāi Tai Trust, the iwi and its negotiators are very clear that, despite the collective nature of the redress provided under the Collective Redress Act, it is Ngāi Tai ki Tāmaki and not the Tāmaki Collective that has mana whenua and customary interests on the Motu. The extent to which other iwi or hapū have overlapping customary rights on the islands is not clear.[12] Ngāti Paoa has an historic and enduring relationship with Motutapu and disputes any suggestion of exclusive interests in Motutapu, despite acknowledging that "Ngāi Tai has a greater level of customary association with Motutapu".

[8] The only members of the Tāmaki Collective who participated in the consultation process in relation to the two decisions under challenge were Ngāi Tai ki

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9 Collective Redress Act, s 70. Two properties on Rangitoto were also vested in the Tūpuna Taonga Trust and are administered by the trustee of that Trust, rather than the Crown: see ss 73 and 77.

10 Except two specific sites on Rangitoto: see above n 9.

11 See ss 68 and 69 of the Collective Redress Act.

12 The statements of association which appeared in the *New Zealand Gazette* on 20 August 2015 acknowledged the following iwi and hapū as having a spiritual, ancestral, cultural, customary and historic interest in Motu-a-Ihenga, Motutapu, and Rangtitoto: Ngāi Tai ki Tāmaki, Ngāti Maru, Ngāti Paoa, Ngāti Tamaoho, Ngāti Tamaterā, Ngāti Te Ata, Ngāti Whanaunga, Ngāti Whātua Ōrākei, Ngāti Whātua o Kaipara, Te Kawerau ā Maki and Te Patukirikiri. This includes all members of the Tāmaki Collective, except Te Ākitai Waiohua. However, note that statements of association do not grant, create, or affect any interests or rights in relation to the lands referred to in the statements: s 17 of the Collective Redress Act.

Tāmaki, Te Kawerau ā Maki,[13] Ngāti Whanaunga,[14] Ngāti Whātua Ōrākei,[15] and Te Patukirikiri.[16] The Tāmaki Collective also participated in consultation.

[9] Ngāi Tai ki Tāmaki has also reached its own settlement with the Crown. The deed of settlement (the Ngāi Tai Settlement Deed) was entered into on 7 November 2015 and the legislation to give effect to that settlement, the Ngāi Tai ki Tāmaki Claims Settlement Act 2018 (the Ngāi Tai Settlement Act), came into force on 5 July 2018 and took effect from 27 September 2018.[17] Amongst other things, the settlement provides for the transfer of wāhi tapu sites on Motutapu and Motu-a-Ihenga to the Ngāi Tai ki Tāmaki Trust;[18] statutory acknowledgments of Ngāi Tai ki Tāmaki's relationship with Motutapu and the surrounding coastal marine area;[19] and a Conservation Relationship Agreement between Ngāi Tai ki Tāmaki and DoC.[20]

[10] Ngāi Tai ki Tāmaki is also a member of the Pare Hauraki Collective, which entered into a deed of settlement for collective redress on 2 August 2018.

The challenged decisions

[11] The Ngāi Tai Trust seeks judicial review of two decisions to grant concessions pursuant to s 17Q of the Conservation Act. These were granted by a DoC official as delegate of the Minister.[21] The concession decisions were:

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13 Te Kawerau ā Maki did not oppose the Fullers application but noted Fullers should work towards a greater level of cultural interpretation.

14 Ngāti Whanaunga requested a number of seats on Fullers' Volcanic Explorer shuttle be allocated to iwi free of charge. This was not something DoC was able to impose as a term of the concession and was declined.

15 Ngāti Whātua Ōrākei supported the continuation of the Fullers concession but queried waste disposal. Ngāti Whātua o Kaipara confirmed it was happy for Ngāti Whātua Ōrākei to respond on its behalf.

16 Te Patukirikiri did not oppose the Fullers concession provided there were no concerns raised from other iwi in the Tāmaki Collective.

17 See ss 2 and 4 of the Ngāi Tai ki Tāmaki Claims Settlement Act 2018 [the Ngāi Tai Settlement Act].

18 This is a governance entity formed in 2013 and is a different trust from the Ngāi Tai Trust.

19 See s 74 of the Ngāi Tai Settlement Act, which acknowledges the statements of association made in the documents schedule to the Settlement Deed.

20 Discussed in more detail below at [45]–[46].

21 The decision-maker was a senior DoC official. She received and acted on the recommendations set out in a report prepared by another DoC employee. We will refer to them as the decision-maker and the report writer respectively.

(a) The decision of 24 June 2015 to grant a permit for a period of five years allowing the MRT to conduct guided walking tours on the Motu. MRT subsequently requested to defer the term of its concession, resulting in a new decision made on 15 October 2015.

(b) The decision of 31 August 2015 to grant a licence for a period of five years allowing Fullers to conduct guided walking and tractor/trailer tours on Rangitoto.

[12] The Ngāi Tai Trust itself had been granted a concession on 22 May 2014, to operate guided walking tours on the Motu. That concession is for a term of nine years and eleven months. This is discussed in more detail below.[22]

[13] Applications relating to the two challenged decisions, together with two similar applications relating to concessions on Rangitoto and Motu-a-Ihenga respectively, were referred to the same DoC report writer for consideration. The Ngāi Tai Trust's concession application does not appear to have been part of this consolidated group.

[14] Prior to the preparation of the reports to the decision-maker on the Fullers and MRT applications, the Manager – Conservation Partnerships for the Auckland Region prepared a memorandum dated 30 April 2015 giving advice on issues that the Ngāi Tai Trust had raised in relation to those applications. We will call this the Advice Memorandum. Extracts from the Advice Memorandum are set out in the reasons of William Young J.[23]

Fullers decision

[15] Fullers operates a number of ferry services in the Waitematā Harbour and Tīkapa Moana/Hauraki Gulf. It has been operating a ferry service to Rangitoto since 1988. In 1999, Fullers launched its Volcanic Explorer service, which offers guided tours around Rangitoto in a tractor/trailer vehicle. It stops at the base of the summit track on Rangitoto, where the driver and guide accompanies those able and willing to walk to the summit. In accordance with its current and previously held concession

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22 See below at [28]–[29].
23 William Young J below at [120]–[121].

licences, Fullers is obligated to maintain the roads on which the Volcanic Explorer operates. Fullers also jointly funded a new boardwalk providing access to the summit of Rangitoto as part of the original concession. Fullers does not offer a standalone guided walking service.

[16] On 23 August 2013, Fullers sought a rollover of its existing concession which allowed it to operate its Volcanic Explorer service on Rangitoto. A pre-application meeting between Fullers and DoC was held on 24 September 2013. Fullers was advised its application for a new concession would be assessed as a renewal on the basis that there was no material change to the proposed concession activity. On 20 November 2013, DoC confirmed the existing concession would roll over and invited Fullers to apply for the new concession, which Fullers did on 18 December 2013.

[17] Fullers' application specified the activities being applied for as: (a) use of DoC's building at Rangitoto Wharf as a lunch room and for storage; and (b) a licence to operate tractor train tours and guided walks to the summit of Rangitoto, to operate 364 days per year, with a maximum party size of 60 people and maximum of six trips per day. The concession was sought for a period of 10 years.

[18] In the environmental impact assessment annexed to the application, Fullers provided details of the consultation it had undertaken to date. This was mostly with Ngāi Tai ki Tāmaki and included discussions relating to Te Haerenga Project, a proposed guided walk on the Motu, which is explained in further detail below, and other possible opportunities to involve Ngāi Tai ki Tāmaki personnel in Fullers' services.[24]

[19] It appears that in the time between the Fullers application being lodged in December 2013 and the concession being granted in August 2015, communication between DoC, Fullers and the Ngāi Tai Trust broke down. Mr Brown's evidence was that the Ngāi Tai Trust was not re-engaged in the consultation process until December 2014. In January 2015 the Ngāi Tai Trust's solicitors wrote to DoC formally recording the Ngāi Tai Trust's objection to the Fullers concession application, as well as raising

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[24] Below at [24].

concerns over DoC's handling of the application. The primary objections raised related to the rollover provisions and DoC's unwillingness to provide information to the Ngāi Tai Trust.

[20] The Ngāi Tai Trust then met with DoC on 30 March 2015 to discuss its objections to all four concession applications under consideration. It recounted its key concerns in a letter of 19 May 2015, noting that they mirrored concerns detailed in a letter of 17 November 2014 regarding MRT's concession application. These included the negative impact on culture and whakapapa because of the operators' mispronunciation of te reo Māori and inadequate cultural knowledge. The Ngāi Tai Trust argued that a concession holder should have sufficient knowledge of things like motu names, pā sites and native flora and fauna, including an understanding of tikanga and background to those sites and names. The Ngāi Tai Trust was also concerned about the continued progression of the applications given its expectation that no concessions would be granted while Ngāi Tai ki Tāmaki's Treaty settlement negotiations were underway. While the letter does refer to the Ngāi Tai Trust's aspirations to develop its own presence on the Motu, there was no mention of an intention to set up a guided vehicle tour which would compete with (or replace) the Volcanic Explorer service.

[21] The decision to approve the Fullers concession was made on 31 August 2015. The concession was granted for a term of five years to align with the development of a conservation management plan for the Tīkapa Moana/Hauraki Gulf inner motu that is to be developed in accordance with the Collective Redress Act.[25] It imposed conditions requiring Fullers staff to attend a te reo course at DoC's direction and to make all reasonable endeavours to participate in any cultural induction or competency training offered by local iwi. It also required Fullers to consult with mana whenua prior to providing interpretation on matters of cultural significance. Fullers was notified of the decision on 1 September 2015.

[22] Mr Brown indicated that despite repeated follow-ups, the Ngāi Tai Trust was not made aware of this decision until 7 October 2015, when DoC emailed the Ngāi Tai

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25 Discussed further below at [43].

Trust informing it of the outcome of all of the four applications referred to above at [13]. While that is clearly a matter of concern to the Ngāi Tai Trust, it does not affect the matters at issue in the present appeal.

MRT concession

[23] MRT was formed in 1993 to implement the Motutapu Restoration Plan. Its charitable purposes include habitat restoration, protection of indigenous plants and animals, and management and enhancement of conservation lands. MRT estimates the value of its total contribution to Motutapu at over $70 million.

[24] MRT applied for a concession to conduct guided walking tours on the Motu on 21 October 2014. This was a new application; MRT had not previously held a guided walking concession although discussions had been in the pipeline for several years. In 2011, MRT, together with DoC, Fullers and the Newmarket Rotary Club, consulted Ngāi Tai ki Tāmaki about the development of a "Great Rangitoto-Motutapu walk" (Te Haerenga). Following a reconnaissance trip in 2012, Ngāi Tai ki Tāmaki indicated that after its Treaty settlement it expected to be in a position to lead the cultural component of the visitor experience. The progress on the project stalled in 2014. MRT was surprised to learn that the Ngāi Tai Trust had applied for an individual guided walking concession in April 2014, considering it had been part of the steering group on the shared guided walk concept for several years. A trustee of MRT gave evidence that MRT never considered the guided walk concept to be the exclusive domain of any one entity.

[25] Despite the granting of a concession for a guided walk to the Ngāi Tai Trust, MRT resolved to apply for its own guided walk concession. The evidence of MRT trustees was that they regarded the application as mutually beneficial and complementary to the Ngāi Tai Trust's concession for guided cultural tours. This was reflected in MRT's concession application. The application also stated that MRT did not intend to interpret or provide cultural information as that is the property of mana whenua. Rather, it would focus on showcasing the MRT's work in restoring Motutapu. The application also covered tracks and walkways on Rangitoto, stating that guided walks would cover ecological restoration. The maximum party size was 13 people,

with up to 12 trips per week on Motutapu and seven on Rangitoto. The concession was sought for a period of nine years and six months.

[26] The decision to grant the concession was made on 24 June 2015, although the concession was not formally granted until 3 August 2015. The concession contract was for a period of five years. The approval letter recommended a number of measures similar to the conditions contained in Fullers' concession contract. MRT staff were required to attend a te reo course at DoC's direction and to make all reasonable endeavours to attend any cultural induction or competency training offered by local iwi. MRT were also required to engage with mana whenua prior to providing information of cultural significance. MRT executed the contract and returned it to DoC.

[27] MRT then wrote to DoC asking to vary the start date of its concession so that the Ngāi Tai Trust could establish Te Haerenga without any perception of challenge or competition. It was not possible under the terms of the Conservation Act to vary the original concession. Therefore, DoC required MRT to surrender its concession and apply for a new one. The decision to grant the new concession was made on 15 October 2015. The only changes in the concession contract were that the start date was deferred to 1 October 2016, and the recommendations previously made in the letter of approval were inserted as conditions in the contract. Even under its deferred concession, MRT is not taking steps to commence its guided walks until the current proceedings are resolved, out of respect for Ngāi Tai ki Tāmaki.

The Ngāi Tai Trust's Te Haerenga concession and Ngāi Tai ki Tāmaki's aspirations

[28] The Ngāi Tai Trust's concession to operate guided walks on the Motu was granted on 22 May 2014 for a term of nine years and eleven months. The parameters of the activity were a maximum party size of 13, frequency of one group per day and maximum number of 365 trips per year. Activity, monitoring and management fees were waived for the first year of the concession, with fees commencing from 1 June 2015.

[29] In his evidence, Mr Brown explained that Ngāi Tai ki Tāmaki also aspires to run its own volcanic explorer activity and ferry services. It is not clear that DoC was

aware of these specific aspirations when it was considering granting the Fullers and MRT concessions. However, it is clear from the concession reports that Ngāi Tai ki Tāmaki had argued that DoC was obliged not to grant concessions to other parties as part of its duty of active protection of Māori interests. Ngāi Tai ki Tāmaki said that was because granting other concessions would limit or remove opportunities for Māori, whether economic or otherwise. However it appears Ngāi Tai ki Tāmaki did not provide detail about what those opportunities would be, in terms of the type of activity or the timeframe within which Ngāi Tai ki Tāmaki could be expected to develop them.

Summary

[30] To summarise, the three parties involved (Fullers, MRT, and the Ngāi Tai Trust) applied for different concession activities. The Ngāi Tai Trust's concession was to conduct guided walks on the Motu with a cultural focus. It was granted first and came as a surprise to MRT, which was under the impression that the Ngāi Tai Trust wanted to partner in developing a joint venture. MRT nevertheless applied to conduct its own guided walking tours on the Motu, but saw its proposed activity as complementary to the Ngāi Tai Trust's, in that it would provide information about its own activities and ecological restoration, rather than any cultural interpretation. Fullers did not consider its application for renewal of the Volcanic Explorer service on Rangitoto would be in competition with guided walking tours, as the service targeted only those who did not wish to walk.

[31] While the Ngāi Tai Trust expressed its view that no concessions should be granted to other operators in order to preserve its opportunities to develop services on the Motu, the detail of these services was not elaborated beyond the guided walking/Te Haerenga venture.

Statutory scheme

[32] As already mentioned, the provision at the heart of this appeal is s 4. However, the concession decisions also engaged a number of other statutory provisions and other considerations. To provide the context for the discussion of s 4, we summarise briefly these other provisions and considerations.

[33] We begin with s 4 itself. It provides:

> **4 Act to give effect to Treaty of Waitangi**
>
> This Act shall so be interpreted and administered as to give effect to the principles of the Treaty of Waitangi.

[34] Section 4 applies in the present case because the concessions relate to reserves under the Reserves Act. Under s 6 of the Conservation Act, DoC is responsible for the administration of the enactments in sch 1 to the Conservation Act. The Reserves Act is one of the enactments specified in sch 1 and the obligation under s 4 extends to those enactments.[26]

Reserves Act

[35] The Reserves Act sets out the purposes for which particular types of reserves are established. In the case of scenic reserves, s 19(1)(a) of the Act provides that such reserves are established "for the purpose of protecting and preserving in perpetuity for their intrinsic worth and for the benefit, enjoyment, and use of the public". In the case of recreation reserves, s 17(1) of the Act provides that such reserves are established "for the purpose of providing areas for the recreation and sporting activities and the physical welfare and enjoyment of the public, and for the protection of the natural environment and beauty of the countryside".

Hauraki Gulf Marine Park Act

[36] The Motu are within the boundaries of the Hauraki Gulf Marine Park and therefore subject to the Hauraki Gulf Marine Park Act 2000 (the HGMP Act). The HGMP Act provides, through ss 7 and 8, a coastal policy statement for resource management purposes. Those provisions also take effect as a statement of general policy under s 17B of the Conservation Act.[27]

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[26] *Ngai Tahu Maori Trust Board v Director-General of Conservation* [1995] 3 NZLR 553 (CA) [the *Whales* case] at 557–558.

[27] Hauraki Gulf Marine Park Act 2000 [HGMP Act], ss 10 and 11.

[37] The connection of Māori to the Tīkapa Moana/Hauraki Gulf area is emphasised in the preamble to the HGMP Act:

> …
>
> (4) The Treaty of Waitangi was signed by tangata whenua of the Hauraki Gulf both at Waitangi and on the shores of the Gulf. The Treaty provides guarantees to both the Crown and tangata whenua and forms a basis for the protection, use, and management of the Gulf, its islands, and catchments. The Treaty continues to underpin the relationship between the Crown and tangata whenua. The assembled tribes of the Hauraki Gulf reaffirmed its importance to them in a statement from a hui at Motutapu Island, 14–15 November 1992 (**The Motutapu Accord**):
>
> …

[38] Section 7 of the HGMP Act records the national significance of the Tīkapa Moana/Hauraki Gulf. Section 7(2) provides:

> (2) The life-supporting capacity of the environment of the Gulf and its islands includes the capacity—
>
> (a) to provide for—
>
> (i) the historic, traditional, cultural, and spiritual relationship of the tangata whenua of the Gulf with the Gulf and its islands; and
>
> (ii) the social, economic, recreational, and cultural well-being of people and communities:

[39] Section 8 sets out the objectives of the management of Tīkapa Moana/Hauraki Gulf islands and catchments. These include:

> …
>
> (c) the protection and, where appropriate, the enhancement of those natural, historic, and physical resources (including kaimoana) of the Hauraki Gulf, its islands, and catchments with which tangata whenua have an historic, traditional, cultural, and spiritual relationship:
>
> (d) the protection of the cultural and historic associations of people and communities in and around the Hauraki Gulf with its natural, historic, and physical resources:
>
> …
>
> (f) the maintenance and, where appropriate, the enhancement of the natural, historic, and physical resources of the Hauraki Gulf, its islands, and catchments, which contribute to the recreation and

> enjoyment of the Hauraki Gulf for the people and communities of the Hauraki Gulf and New Zealand.

[40] Section 13 of the HGMP Act requires the decision-maker to have particular regard to ss 7 and 8 when considering a concession application relating to the Motu.

Part 3B of the Conservation Act

[41] Part 3B of the Conservation Act deals with concessions. Under s 59A(1) of the Reserves Act, Part 3B applies to concessions relating to reserves, and so is relevant to the concessions in issue in this appeal. Under s 17Q of the Conservation Act, the Minister of Conservation may grant a concession in the form of a lease, licence, permit or easement in respect of any activity. In the present case, the MRT concession is a permit and the Fullers concession is a licence. The Minister has delegated this power to specified DoC officials. The Minister must not grant a concession if the proposed activity is contrary to the Conservation Act or the purposes for which the land is held.[28] Section 17U(1) of the Act sets out a list of matters to be considered in relation to concession applications.

Auckland Conservation Management Strategy

[42] Another document that is relevant to the concession applications is the Auckland Conservation Management Strategy 2014–2024 (Auckland CMS) made under s 17D of the Conservation Act. The concession reports for both the Fullers application and that of MRT contain an extensive outline of the relevant provisions of the Auckland CMS. The Auckland CMS records the vesting and revesting of the Motu in the Tāmaki Collective[29] and states that, after the passing of the Collective Redress Act, iwi or hapū of the Tāmaki Collective have a role in the co-governance of the Motu. It also records the great potential of the Motu as visitor destinations, given their close proximity to Auckland and the need for adequate facilities to support increased interest and visitor numbers.

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[28] Conservation Act, s 17U(3). The Conservation Act was amended in 2017 to give the Minister power to decline an application for a concession if it is obviously contrary to the Conservation Act or any relevant conservation management plan or conservation management strategy: see s 17SB(1).

[29] See above at [7].

Collective Redress Act and the Motu Plan

[43] The Collective Redress Act, discussed earlier, was also relevant. Subpart 10 of Part 2 of the Collective Redress Act requires the Director-General of DoC to prepare a conservation management plan for the Tīkapa Moana/Hauraki Gulf inner motu (Motu Plan) and for the final plan to be approved by the Director-General and the Tūpuna Taonga Trust. The Director-General is required to consult the Tūpuna Taonga Trust, Auckland Council and other interested parties. The Motu Plan had not been prepared when the concession discussions were made and has still yet to be prepared. One of the reasons given for the five year terms for the Fullers and MRT concessions was that it was envisaged that the Motu Plan would be finalised by the time that term had lapsed. It could then be factored into any decisions as to whether those concessions should be renewed.

Ngāi Tai Settlement and Conservation Relationship Agreement

[44] The Ngāi Tai Settlement Act was passed only recently and was therefore not a factor in the concession decisions. But the negotiation of the Ngāi Tai Settlement Deed was well advanced at the time the concession decisions were made and was clearly relevant to the decisions, given the likelihood that it would be finalised during the term of the concessions.

[45] Provision is made in the Ngāi Tai Settlement Deed for a Conservation Relationship Agreement to be entered into between Ngāi Tai ki Tāmaki and DoC. The terms of this document had been substantially agreed at the time the concession decisions were made. It was not envisaged that it would be signed until after the coming into effect of the Ngāi Tai Settlement Act and we were told it remained unsigned at the time of the hearing of the appeal. Nevertheless, the draft provided relevant context.

[46] The draft agreement records that two of the purposes of the agreement are to complement the cultural redress provided for in the Ngāi Tai Settlement Act and to give effect to the principles of the Treaty as required by s 4. The agreement refers to Ngāi Tai ki Tāmaki's aspirations to have a meaningful role in influencing policies in a way consistent with their mana whenua status and partnership relationship with the

Crown. It also records Ngāi Tai ki Tāmaki's desire to welcome and host all visitors to Motutapu as part of any cultural concession that Ngāi Tai ki Tāmaki acquires for Motutapu (the provision does not refer to Rangitoto). However, another provision refers to Ngāi Tai ki Tāmaki's strong interest in exploring opportunities for concessions, including guided walking tours on the Motu and other locations.

Section 4

[47] Much of the argument before us centred on what s 4 requires of DoC when considering a concession application relating to an area over which an iwi or hapū has mana whenua.

[48] Section 4 is stated in imperative terms. The obligation on DoC in its administration of the Conservation Act is to "give effect to" Treaty principles. This has some similarity to s 9 of the State-Owned Enterprises Act 1986, which provides: "Nothing in this Act shall permit the Crown to act in a manner that is inconsistent with the principles of the Treaty of Waitangi."[30] Section 9 was recently described by this Court as a "fundamental principle guiding the interpretation of legislation" in *New Zealand Maori Council v Attorney-General*.[31] The requirement to "give effect to" the principles is also a strong directive, creating a firm obligation on the part of those subject to it, as this Court noted in a different context in *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd*.[32]

[49] The leading authority on the application of s 4 to decisions made in respect of concession applications is *Ngai Tahu Maori Trust Board v Director-General of Conservation* (the *Whales* case).[33] The context was a decision by the Director-General of Conservation to issue a permit under the Marine Mammals Protection Regulations 1990 (made under the Marine Mammals Protection Act 1978) for a whale watching business off the Kaikōura coast. An entity owned by Ngāi Tahu had held a permit for

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30 There are now 25 Acts that contain provisions requiring some form of consideration of the principles of the Treaty, but s 4 is the only one requiring that effect be given to them.

31 *New Zealand Maori Council v Attorney-General* [2013] NZSC 6, [2013] 3 NZLR 31 at [59].

32 *Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd* [2014] NZSC 38, [2014] 1 NZLR 593 at [77].

33 The *Whales* case, above n 26.

the same activity for some years and was concerned that the entry of a competitor would compromise this business, in which it had made a significant capital investment.

[50] It was common ground in the *Whales* case that s 4 applied to decisions made under the Marine Mammals Protection Regulations. In a judgment delivered by Cooke P, the Court of Appeal made a number of important observations about s 4. In particular:

(a) Statutory provisions for giving effect to the principles of the Treaty of Waitangi in matters of interpretation and administration should not be narrowly construed. In the context of the decision under review, the Director-General was required to interpret the Marine Mammals Protection Act and Regulations to give effect to the principles of the Treaty, at least to the extent that the provisions of the Act and Regulations were not clearly inconsistent with those principles.[34]

(b) The claim by Ngāi Tahu that no permit should be granted without its consent (not to be unreasonably withheld) was "pitched too high".[35]

(c) Although a commercial whale watching business was not a taonga or the enjoyment of a fishery within the contemplation of the Treaty, it was sufficiently linked to taonga and fisheries "that a reasonable treaty partner would recognise that treaty principles are relevant".[36] The principles require active protection of Māori interests and this required more than mere consultation with iwi: restricting the active protection obligation to consultation "would be hollow".[37] On the facts of the case a reasonable Treaty partner would not restrict consideration of the Ngāi Tahu interests to mere matters of procedure.[38]

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34 At 558.
35 At 559.
36 At 560.
37 At 560.
38 At 561.

(d) Ngāi Tahu was in a different position in substance and on the merits from other possible applicants for permits. Subject to overriding conservation considerations and the quality of service offered, "Ngai Tahu are entitled to a reasonable degree of preference".[39]

[51] The matter was referred back to the Director-General for reconsideration. However the Court emphasised that it was the particular combination of features of the case that influenced the Court, and that that combination may well be unique. It added that the "precedent value of this case for other cases of different facts is likely to be very limited".[40]

[52] Despite the unusual facts of the *Whales* case and the importance of the factual context in determining how s 4 influences particular decision-making powers, some general observations can be made. In the present case, there was agreement among counsel about some elements of s 4. In particular, counsel for DoC, Ms Hardy, accepted (correctly, in our view) that, in the context of decisions relating to the granting or declining of concessions:[41]

(a) Section 4 is a "powerful" Treaty clause because it requires the decision-maker to give effect to the principles of the Treaty.

(b) Section 4 requires more than procedural steps. Substantive outcomes for iwi may be necessary including, in some instances, requiring that concession applications by others be declined.

(c) Enabling iwi or hapū to reconnect to their ancestral lands by taking up opportunities on the conservation estate (whether through concessions or otherwise) is one way that the Crown can give practical effect to Treaty principles.

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39 At 562.

40 At 562.

41 Counsel for Fullers adopted the submissions of counsel for DoC. Counsel for MRT accepted in his oral submissions that the passages identified by the Courts below and noted below at [57]–[58] were misstatements of the law but did not specifically comment on the requirements of s 4.

[53] To this can be added the general requirement that, in applying s 4 to a decision relating to a concession application, DoC must, so far as is possible, apply the relevant statutory and other legal considerations in a manner that gives effect to the relevant principles of the Treaty.

[54] We acknowledge that s 4 does not exist in a vacuum and a number of other factors must be taken into account in making a decision on a concession application. For example, in the present case, the direction given in s 4 must be reconciled with the values of public access and enjoyment in the Reserves Act designations relating to the Motu. Those values are also reflected in s 6(e) of the Conservation Act, which lists as one of the functions of DoC the fostering of the use of natural and historic resources for recreation and allowing their use for tourism to the extent that this is not inconsistent with the conservation of such resources. They are also a feature of s 8(e) of the HGMP Act. This complexity is also reflected in the Auckland CMS.[42] But s 4 should not be seen as being trumped by other considerations like those just mentioned. Nor should s 4 merely be part of an exercise balancing it against the other relevant considerations. What is required is a process under which the meeting of other statutory or non-statutory objectives is achieved, to the extent that this can be done consistently with s 4, in a way that best gives effect to the relevant Treaty principles.

[55] How these observations are applied to a particular decision will depend on which Treaty principles are relevant and what other statutory and non-statutory objectives are affected.

Application of s 4 in this case

[56] We will deal with the issues arising in the appeal by addressing three questions:

(a) Were there errors of law in the decisions under challenge?

(b) If so, did the decisions nevertheless comply with s 4?

(c) If not, should a remedy have been granted?

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[42] See above at [42].

Were there errors of law?

[57] The Ngāi Tai Trust's challenge to the concession decisions focuses on two statements made in the reports of the report writer to the decision-maker. These passages were:

(a) In the Fullers concession report, the report writer wrote:

> Economic benefit to Iwi: [the Ngāi Tai Trust] requested the declining of applications on the basis that concession opportunities should be preserved for the economic benefit of Iwi within whose rohe that opportunity was presented.
>
> Applications for concessions are processed in the chronological order in which they are received, unless there is an allocation process being undertaken. There is no basis for preferential entitlement to concessions in favour of any party under the relevant legislation or current planning documents.

A statement to the same effect appeared in the concession report for MRT's application.

(b) In the MRT concession report, the statement just mentioned was repeated and was followed by the following statement:

> Furthermore, the economic benefit that could potentially be accrued as a result of a concession, or the fact that another applicant is interested in that same benefit, is not something that can be taken account of under the Conservation Act for the purposes of determining a concession.

The Courts below

[58] In the High Court, Fogarty J found that both of these statements were errors of law.[43] DoC did not cross-appeal to the Court of Appeal against that finding and the Court was not prepared to differ from Fogarty J in the absence of a cross-appeal.[44]

[59] However, the Court of Appeal did consider for itself the requirements of s 4, in the context of its analysis of ss 7 and 8 of the HGMP Act, which was the main focus

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43 *Ngāi Tai* (HC), above n 2, at [7] and [86]–[87].

44 *Ngāi Tai* (CA), above n 3, at [54]. The Court of Appeal's analysis of the decisions focused on their compliance with ss 7 and 8 of the HGMP Act rather than s 4.

of the Court's decision. The Court considered the application of the HGMP Act required a balancing of diverse interests and values reflected in ss 7 and 8 of that Act.[45] It concluded that the decision-maker had turned her mind to the purposes of the HGMP Act and had balanced the relevant competing interests. The Court said that, in applying ss 7 and 8 of the HGMP Act, the decision-maker needed also to comply with the obligations in s 4. It noted that the concessions were granted for five years and commented:[46]

> Limited consenting for an existing activity for so short a period does not in our view impair materially the Crown's capacity to take reasonable action in the future to comply with its Treaty obligations.

[60] The Court considered that the Ngāi Tai Trust's reliance on the *Whales* case was overstated. It considered that that case could be distinguished from the present case.[47] It was not satisfied that any error could be demonstrated in either the High Court decision or in the decisions under challenge, and certainly none that could demonstrate that the principles of the Treaty were not given effect to.[48] It concluded as follows:[49]

> Neither the provisions of the HGMP Act nor those of the Conservation Act, severally or in combination, required Fullers and MRT's applications be declined in the face of objections by Ngāi Tai.

Submissions

[61] Counsel for the Ngāi Tai Trust, Mr Ferguson, argued that the guided tour activities on the Motu to which the concessions granted to Fullers and MRT apply are activities that fall within the scope of the customary rights and responsibilities that Ngāi Tai ki Tāmaki is entitled to exercise in accordance with tikanga as part of its rangatiratanga resulting from its mana whenua status. He said that the Ngāi Tai Trust has the right and responsibility to exercise manaakitanga and kaitiakitanga in its traditional rohe. This right arises from the principles of the Treaty, as applied through s 4 as well as ss 7 and 8 of the HGMP Act and the common law recognition of the relevance of tikanga, he argued.

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45 At [41].
46 At [45] (footnote omitted).
47 At [48]–[50].
48 At [50].
49 At [53].

[62] The principles of the Treaty he relied on were those of partnership, active protection, right to development, and redress. Mr Ferguson emphasised that these principles do not cease to apply when the Crown has settled a claim for historical breaches of the Treaty, as has now occurred in relation to Ngāi Tai ki Tāmaki's claims.[50] He said it was important to Ngāi Tai ki Tāmaki that the redress provided under the Ngāi Tai settlement is complemented by the application of the principles of the Treaty, as s 4 requires. It was not appropriate, nor in accordance with Ngāi Tai ki Tāmaki tikanga, for other groups to be providing guided tours on Ngāi Tai ki Tāmaki's most sacred lands, he argued.[51]

[63] Ms Hardy did not take issue with the relevant Treaty principles that were identified by Mr Ferguson, but argued that the Ngāi Tai Trust's position was, in effect, a claim to have a veto over the granting of concessions under the Reserves Act on the Motu. She argued this was an overstatement of the content of the s 4 obligation, just as a similar claim to a veto by Ngāi Tahu in the *Whales* case had been characterised by the Court of Appeal in that case as overstating the position.

There were errors of law in the challenged decisions

[64] As can be seen from this summary of the submissions made to us, the parties had differing views as to the nature of the obligation imposed on DoC by s 4 in the present context. We do not consider it is appropriate for us to rule definitively on that issue, given that it is, as the *Whales* case illustrates, an issue that has to be evaluated in light of the particular facts. There are some gaps in the evidence and factual uncertainties that need to be resolved before a view on the content of the s 4 obligation in the present context can be reached. For example, the nature of the associations of other iwi, hapū or collectives of iwi and/or hapū with the Motu is not clear to us. Although some iwi participated in the consultation by DoC, it is unclear whether that included consultation on the Ngāi Tai Trust's claim that its mana whenua was such that issuing concessions to others would be inappropriate.

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50 Citing *Ririnui v Landcorp Farming Ltd* [2016] NZSC 62, [2016] 1 NZLR 1056 at [51] per Elias CJ and Arnold J.

51 Mr Ferguson made it clear, however, that the Ngāi Tai Trust was not suggesting that there should be any restriction of public access to the Motu. Its concern relates only to the commercial operations on the Motu.

[65] We do not see it as necessary to resolve the differing views on how s 4 should be applied in order to determine whether there were errors of law in the decisions under challenge. Ms Hardy did not seriously contest that the statements highlighted by Fogarty J were errors of law.[52] But she refuted the submissions of the Ngāi Tai Trust as to the content of the s 4 obligation. Neither did counsel for Fullers, Mr Pilditch, nor counsel for MRT, Mr Mount QC, take issue with the High Court's finding that the decision-maker had misstated the law as to the application of Treaty principles.

[66] Ms Hardy highlighted the fact that the decision-maker amended the concession report in a manner which, she said, indicated that the decision-maker was aware of the nature of the active protection principle. The amendment was made in the following part of the first MRT concession report:

> Active protection of Maori interests: [The Ngāi Tai Trust] have identified that future opportunities on the Island are important to them, whether economic or otherwise. They have noted concern that the granting of concessions to other parties is not "active protection" of Maori interest by the Crown, and that the granting of other concessions may limit or remove opportunities for Maori.
>
> The granting of this concession does not remove the opportunity for [the Ngāi Tai Trust] to apply for concessions that cover the same or similar activities, and the Department is committed to exploring any potential opportunities with Iwi. The Inner Motu CMS will provide an opportunity to further clarify and protect Maori interests on the Islands, and provide guidance for future management of these resources.
>
> *The Department will not recommend a decline on the basis of active protection of Maori interests, instead implementing a shorter term to align with the development of policy documents.* Monitoring of concessions on the Islands will provide further information to support the development of any management plan.
>
> (emphasis added)

[67] The decision-maker made a handwritten comment adjacent to the italicised part of the quotation above. That handwritten notation was:[53]

> In some cases declining an application for a concession may be the only way to ensure active protection – in this case the recommendation is not to decline.

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52 See above at [57].

53 This notation was not made in the second MRT concession report, which reported on the proposal that MRT's concession would commence one year later than the commencement date of the concession initially granted to MRT.

[68] We accept the handwritten amendment made by the decision-maker in relation to the MRT concession report indicates that she considered that there may be a case in which declining an application was required because of the operation of s 4, though apparently only when there is no other way of providing active protection. That qualification is problematic. In addition, the decision-maker's acknowledgment did not lead her actually to apply that statement to the application under consideration, and the handwritten amendment did not affect the Fullers application decision at all.[54]

[69] We do not consider there is any doubt that the statements set out above at [57] misstated the law relating to s 4. The statement that there is no basis for preferential entitlement to concessions cannot be reconciled with the *Whales* case. Similarly, the statement that economic benefit to an iwi with mana whenua cannot be taken into account failed to recognise the active protection principle of the Treaty. The handwritten annotation referred to above at [67] appears to acknowledge the error.

[70] The decisions under challenge were made on the basis that demand for services of the kind to be offered by Fullers and MRT should be met, that is, subject to other considerations[55] and in the absence of a limited supply situation,[56] the concessions should be granted. The errors of law essentially excluded from consideration the possibility of deciding not to meet that demand if a refusal to grant any concession was what s 4 required. That was the outcome the Ngāi Tai Trust was seeking. The decision-maker should have grappled with that preference.

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54 Nor did it affect the revised MRT decision, which is the concession decision under challenge. However, the handwritten notation in the first MRT decision indicates the thinking of the decision-maker in relation to MRT's application and we are prepared to assume this also applied to the revised decision, which was aimed at changing the commencement date of MRT's concession and otherwise adopted the original MRT decision.

55 Such as those which the decision-maker is required to consider under s 17U of the Conservation Act. See also the requirements of the statutory regime set out above at [32]–[46].

56 The report writer explained that a limited supply situation occurs when the number of concessions available for allocation is capped under relevant planning and policy strategies in order to protect the conservation values and recreational experiences of visitors. In those situations, DoC will undertake a competitive allocation process such as a tender. However, at the time the challenged decisions were made, there was no limit on the number of visitors to the Motu nor on the number of providers permitted to operate on the Motu.

[71] This exclusion of the possibility of declining to award a concession where demand exists is also illustrated by the observation in the concession report for the Fullers application that DoC was:[57]

> wary of setting standards which effectively exclude all other providers of visitor experiences, as the standard set is such that no one other than Iwi can meet the high test of knowledge and competency that have been identified.

[72] As acknowledged earlier, s 4 does not exist in a vacuum and a number of other factors must be taken into account in making a decision on a concession application. Our earlier discussion of those considerations illustrates the complexity of the task facing the decision-maker.[58]

[73] We consider that DoC failed to apply these statutory and other legal considerations consistently with the requirements of s 4. The decision-maker's dismissal of the possibility of preference being accorded to an iwi with mana whenua over the land to which the challenged decisions related and of the economic benefit that could accrue to such an iwi being taken into account meant she did not give proper consideration to those possibilities as s 4 required her to do.

[74] We uphold the finding of Fogarty J that the statements set out above at [57] were errors of law.

[75] Before we leave this aspect of the case, we comment on two relevant matters.

Conservation General Policy

[76] The Conservation General Policy published by DoC includes the following statement under the heading "Treaty of Waitangi Responsibilities":[59]

> The Conservation Act 1987, and all the Acts listed in its First Schedule, must be so interpreted and administered as to give effect to the principles of the Treaty of Waitangi (section 4, Conservation Act 1987). Where, however, there is clearly an inconsistency between the provisions of any of these Acts and the principles of the Treaty, the provisions of the relevant Act will apply.

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57 An almost identical observation appeared in the concession report for the MRT application.
58 Above at [54].
59 Department of Conservation *Conservation General Policy* (revised 2007) at 15.

[77] We disagree with that statement, which effectively says s 4 is trumped by other statutory provisions. As noted earlier, what is required is that those other statutory provisions be applied consistently with the s 4 requirement.

Mana whenua

[78] The Ngāi Tai Trust argued that the Court of Appeal erred in its consideration of whether Ngāi Tai ki Tāmaki has mana whenua over the Motu and rangatiratanga in relation to them.

[79] The Ngāi Tai Trust's case is based on its claim that Ngāi Tai ki Tāmaki has mana whenua over the Motu. The Ngāi Tai Trust argues that this brings with it rangatiratanga, entitling it to the preference it claims in relation to concessions regarding the Motu. Ms Hardy confirmed that DoC accepts Ngāi Tai ki Tāmaki has mana whenua over the Motu. Mr Ferguson was critical of the Court of Appeal's observation (endorsing a similar observation by Fogarty J) that, while there was no doubt Ngāi Tai ki Tāmaki held mana whenua over the Motu, it could not be determined whether Ngāi Tai ki Tāmaki had rangatiratanga over the Motu.[60] The Court of Appeal's observation was premised on the need for exclusivity of interest in order to have rangatiratanga. The Court pointed out, correctly, that other iwi or hapū and the Tāmaki Collective also have interests in the Motu.

[80] Like the Courts below, we have no doubt that Ngāi Tai ki Tāmaki has mana whenua over the Motu. This is clear from many of the documents and legislative instruments produced in evidence or as authority.[61] Mr Ferguson emphasised that the Ngāi Tai ki Tāmaki Trust will receive exclusive redress on Motutapu under the Ngāi Tai Settlement Deed, which he said confirmed it had a pre-eminent interest in the Motu.[62] There are, however, many indications of overlapping interests of iwi and hapū in the Motu, as the Collective Redress Act confirms.[63] But lack of an exclusive interest does not necessarily undermine the Ngāi Tai Trust's position as to preference and

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60 *Ngāi Tai* (CA), above n 3, at [5].

61 These include the Ngāi Tai Settlement Deed, the statement of association (to form part of statutory acknowledgments) set out in the Documents Schedule to that Deed in relation to the Tīkapa Moana/Hauraki Gulf and the Motutapu Island Recreation Reserve, and the Conservation Relationship Agreement.

62 The redress is the vesting of fee simple title to certain sites on Motutapu.

63 See above at [6]–[7].

active protection in relation to concessions on the Motu. Mr Ferguson put it this way in oral argument:

> … if one has mana whenua status, even if others might also assert that … then it follows that type of control and authority, an exercise of tikanga kaitiakitanga, manaakitanga flows from that.

[81] The Ngāi Tai Trust's claim to preference in relation to certain concessions on the Motu needs to be evaluated against that background.

Did the decisions nevertheless comply with s 4?

[82] The Ngāi Tai Trust's case was that the errors of law made by the report writer and adopted by the decision-maker were such that the challenged decisions were wrong in law and should be reconsidered. We start our consideration of this submission by outlining what was decided in the Courts below.

Courts below

[83] As mentioned earlier, Fogarty J found that the statement that there was no basis for preferential entitlement was an error of law, as was the statement that economic benefits were irrelevant.[64] However, he concluded that these errors were not sufficient to say that the Minister had failed to give effect to Treaty principles, as required by s 4. His conclusion is summarised in these paragraphs:

> [103] I have found so far, applying the first step in the analysis, that there is an identifiable error of law in the reasoning of the two DoC decisions. I have made that finding recognising that DoC overstated the law when saying that there is no basis for preferential entitlement, and that economic benefits were irrelevant considerations.
>
> [104] The next step is whether, nonetheless, the DoC decisions give effect to the principles of the Treaty of Waitangi. I am satisfied that they did. It was not, on the facts, reasonable to prefer [the Ngāi Tai Trust] beyond limiting the Fullers and MRT concessions to five years, and in so doing giving the parties time to come to a mutually beneficial accommodation of self-interests. …
>
> …
>
> [107] I find that the errors of statements of principle by the Minister's delegates were not sufficient to say that the Minister failed to give effect to Treaty principles. I find that in fact he did give effect to the principles of the

64 *Ngāi Tai* (HC), above n 2, at [7] and [86]–[88].

> Treaty of Waitangi by limiting the new terms of Fullers, and MRT to five years, enabling the possibility of a partnership with [the Ngāi Tai Trust] in the near term. I would add the Minister's delegates were acting reasonably and in good faith.
>
> [108] Overall I find that the Minister and his delegates, notwithstanding their misstatements of the law, did not fail to give effect to the Treaty principles. On the facts both decisions did "give effect to the principles of the Treaty of Waitangi". Accordingly, there is no basis for this Court to intervene and set aside the decisions.

[84] The Court of Appeal upheld Fogarty J's decision, though its reasoning differed from his in some respects.

Submissions

[85] DoC's position is that the concession decisions reflect a reasonable and practical balancing of interests sufficient to give effect to Treaty principles, and therefore comply with s 4. The fact that the report writer misstated the law when saying there was no basis for preferential entitlement for iwi and that potential economic benefit was not something that could be taken into account in the concession decisions does not undermine that conclusion.

[86] DoC argued that the decision-maker did, in fact, consider the economic interest of Ngāi Tai ki Tāmaki (the Ngāi Tai Trust's desire to operate concessions on the Motu) and the limitation of the term of the concessions granted to Fullers and MRT to five years addressed that interest. DoC also argued that this meant that the decision-maker did, in fact, accord a reasonable degree of preference to the Ngāi Tai Trust. When all three concession decisions are considered together, the ten year term allowed for the Ngāi Tai Trust's concession, when compared to the five year terms for Fullers and MRT, indicates that preference has been given to the Ngāi Tai Trust. The waiving of fees for the first year of the Ngāi Tai Trust's concession also involves preference.

[87] DoC's position was supported by both Fullers and MRT. Both argued that, when the concession decisions were considered alongside the decision granting the Ngāi Tai Trust's concession, it was apparent that the errors of law identified in the Courts below had not affected the outcome and the decision met the requirements of s 4. This meant that it was appropriate that no order for reconsideration of the

decisions was made. For MRT, Mr Mount characterised the High Court decision as follows:

> … the best reading of it is that whilst finding what the [High Court] Judge called an error of law, overall he concludes that the decision-maker did not err in law, is because he doesn't directly address the question of remedy.

[88] DoC's counsel also undertook a detailed analysis of the concession decisions highlighting extracts indicating that the interests of Ngāi Tai ki Tāmaki had been considered by the concession report writer and the decision-maker, and highlighting in particular the handwritten amendment mentioned above.[65]

The decisions did not comply with s 4

[89] We accept that Ngāi Tai ki Tāmaki's interests were considered by the report writer and the decision-maker. The shorter terms of the concessions granted to Fullers and MRT were intended to provide a future opportunity for fuller consideration of Ngāi Tai ki Tāmaki's commercial position once the Motu Plan had been made and the Ngāi Tai settlement had been implemented. It is debatable however whether the shorter terms for Fullers' and MRT's concessions than for the Ngāi Tai Trust's is truly a "preference" to the Ngāi Tai Trust.

[90] Even if the shorter terms for the concessions granted to Fullers and MRT were classified as a "preference" to the Ngāi Tai Trust, that would not provide an answer to the allegations that the errors of law made by the report writer affected the proper application of s 4 to the concession decisions. In effect, DoC's argument is that the errors of law did not affect the outcome because the decisions involved some preference in favour of the Ngāi Tai Trust and some acknowledgment of its commercial interest. We do not think that logically leads to a conclusion that the errors of law had no impact on the decisions. If the decisions had been made on the basis of a proper understanding of s 4, the preference in favour of the Ngāi Tai Trust and the economic benefit to it may have been of greater substance.

[91] The High Court and the Court of Appeal appear to have taken the view that, unless s 4 required DoC to refuse any concession to any non-Ngāi Tai ki Tāmaki party,

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65 Above at [67].

then the errors of law were not material to the eventual outcome. The respondents' arguments in this Court echoed this. That can be attributed to the fact that the Ngāi Tai Trust's argument in this Court was to the effect that s 4, in combination with ss 7 and 8 of the HGMP Act and the common law recognition of tikanga, "provide a preference to mana whenua iwi/hapū to be granted concessions to undertake activities on conservation land within a rohe of an iwi where the activities engage the tikanga principles that underpin the practices of manaakitanga and kaitiakitanga".

[92] This argument was interpreted by the Courts below and the respondents as a claim to a veto over the granting of concessions to entities that do not have mana whenua over the Motu. As we have said, we do not consider it would be appropriate to make a generic ruling on the impact of s 4 (whether or not in combination with other factors) on the granting of concessions in areas where one or more iwi or hapū have mana whenua. As was made clear by the Court of Appeal in the *Whales* case, this is a matter of applying the principles of the Treaty to the facts of the particular case. In the present case, that involves the consideration of the mana whenua status of Ngāi Tai ki Tāmaki in relation to the Motu[66] and the other relevant considerations highlighted above at [35]–[46]. The lapse of time since the decisions under challenge were made means that some of those considerations have taken on greater prominence (the passing of the Ngāi Tai Settlement Act, for example). Future developments (such as the completion of the Motu Plan and the Conservation Relationship Agreement between DoC and Ngāi Tai ki Tāmaki) will have a similar impact.

[93] Rather, we consider the issue that needs to be resolved is whether the errors of law affected the concession decisions in a manner that meant the Ngāi Tai Trust's claim for preference as an iwi or hapū holding mana whenua was not evaluated properly, that is, in accordance with the law. If the answer is that it was not, then the case for the remedy sought by the Ngāi Tai Trust needs to be evaluated.

[94] In our view, the errors of law were such that they diverted the report writer and the decision-maker from proper consideration of the application of s 4 in the context

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[66] See the discussion above at [78]–[81]. Ms Hardy suggested in oral argument that Ngāi Tai ki Tāmaki's interest in, and association with, Rangitoto may be less significant than with Motutapu, requiring different consideration in respect of each of them. The argument was not developed and we do not consider it would be appropriate to address it in the absence of full argument.

of the concession applications. If the report writer had not misdirected herself about s 4 potentially requiring a degree of preference to be given to Māori and for Māori economic interests to be taken into account, she may well have reached a different conclusion on the application of s 4. She may, for example, have made further inquiries about Ngāi Tai ki Tāmaki's mana whenua status and how that fitted in with the interests of the Tāmaki Collective and the other iwi and hapū comprising the Tāmaki Collective in relation to the Motu. She may also have given further consideration to the possibility that what the Ngāi Tai Trust was contending for, namely that either or both of the Fullers and MRT applications should not be granted, leaving only the Ngāi Tai Trust's concession as an operative concession on the Motu, was what s 4 required.

[95] We do not make a finding that s 4 does, in fact, require that no concessions be granted in relation to the Motu, other than to mana whenua applicants. We accept that s 4 does not create a power of veto by an iwi or hapū over the granting of concessions in an area in which the iwi or hapū has mana whenua. Nor does it give such an iwi or hapū authority to require that only entities associated with the iwi or hapū will be granted concessions in the area. But we do consider that, having made the errors of law identified earlier, the report writer and the decision-maker did not put themselves into a proper position to assess the Ngāi Tai Trust's submission that what s 4 required was that no concessions be granted even though there was demand for the services subject to the proposed concessions.

[96] We do not, therefore, agree with the Courts below that the identified errors of law did not affect the outcome. Nor do we agree that the factors that led the Courts below to conclude that a degree of preference had been provided to the Ngāi Tai Trust in relation to its concession (a longer term and a waiver of fees) were necessarily sufficient to satisfy s 4 notwithstanding the flawed consideration of the application of that section to the concession applications. That will be a matter that the decision-maker should address when the decisions are reconsidered in the correct legal framework.

[97] As will be apparent, we do not agree with the view expressed by William Young J in his reasons that the decision to grant the MRT concession was not

influenced by the error of law set out at [57](b) above.[67] Nor do we regard the Advice Memorandum as supporting that view. The analysis in the Advice Memorandum begins by recording that the Ngāi Tai Trust seeks "to preserve economic opportunities for their iwi on the islands" then says that preserving such opportunities "cannot currently be considered as a relevant matter for decision makers".[68] This replicates the error in the MRT decision and the Fullers decision (or, perhaps more correctly, the error in the decisions replicates this error in the Advice Memorandum). The later discussion in the Advice Memorandum does nothing to correct the error and concludes without further reasoning that it is not appropriate to do what the Ngāi Tai Trust was asking for – decline other applications for concessions.[69] We consider the earlier error of law which ruled out this level of preference (describing it as a matter that cannot be considered as relevant) led to that conclusion being reached.

[98] We consider that the challenged decisions should not be allowed to stand and that the decision-maker should be required to reconsider the applications for concessions by Fullers and MRT applying s 4 correctly. The context in which the decisions will be made on reconsideration will be somewhat different from the position at the time the decisions were made, given that the Ngāi Tai Settlement Act is in force and, possibly, the Motu Plan will be finalised.

[99] In reconsidering its decisions, DoC will be required to consider whether, despite the fact that there is no issue of over-capacity or risk of environmental degradation of the Motu from the operation of the proposed concessions, nevertheless the correct outcome is to decline to grant the concession applications, given the requirements of s 4.

[100] We reiterate that we do not say that the decisions made in relation to the Fullers and MRT concession applications were wrong. Nor do we make any finding on the Ngāi Tai Trust's case that only those with mana whenua should be granted concessions on the Motu at least for a period of years. Rather, we conclude that the basis on which the concession applications were considered was flawed, and the Ngāi Tai Trust is

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67 See the reasons of William Young J below at [133].

68 At paras 5 and 6 of the Advice Memorandum, set out in the reasons of William Young J below at [120].

69 The relevant excerpts are set out in the reasons of William Young J below at [121].

entitled to have the decisions made after proper consideration of the application of s 4 which did not occur in relation to the decisions under review.

Should a remedy be granted?

Court of Appeal

[101] The Court of Appeal considered the question of remedy on the basis that the decision-maker had made the errors of law identified in the High Court judgment, despite its misgivings as to whether they were, in fact, errors. This was because the High Court's findings had not been subject to a cross-appeal.[70] The Court emphasised that relief is discretionary in judicial review cases, and identified three features of the case leading to the conclusion that it should decline to grant relief. These were: [71]

(a) the errors were minor;

(b) the Ngāi Tai Trust's fundamental challenge based on a perception of priority given in the HGMP Act in combination with s 4 had failed; and

(c) the Ngāi Tai Trust would not suffer "substantial prejudice" if the decisions were allowed to stand. On the other hand, both Fullers and MRT would suffer significant prejudice if what were already short-term interim decisions were quashed and their activities on the Motu were compelled to cease.

Submissions

[102] The Ngāi Tai Trust submitted that the MRT decision should be quashed and that an order should be made that the MRT concession application be reconsidered in light of this judgment. However, in relation to the Fullers decision, the Ngāi Tai Trust sought a declaration that the Fullers concession application decision was unlawful and

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70 See above at [58].
71 *Ngāi Tai* (CA), above n 3, at [61].

that it should be reconsidered in light of this judgment.[72] The Ngāi Tai Trust did not seek the immediate quashing of the Fullers decision, and made it clear that it did not object to the Fullers concession being allowed to continue during the period that Fullers' concession application was being reconsidered. However, it was only during the hearing in this Court that it became clear that this was what the Ngāi Tai Trust was seeking.

[103] The Ngāi Tai Trust's position in relation to Fullers reflects the pleading in its statement of claim, but it seems that its position in the Court of Appeal (as it was in its written submissions in this Court) was to seek the immediate quashing of the Fullers decision – hence the Court of Appeal's comment as to the likely prejudice to Fullers.

[104] Counsel for Fullers, Mr Pilditch, emphasised the potential harm to Fullers if its concession was quashed given the significant investment it has made in infrastructure on Rangitoto and its ongoing commitment to maintenance of the roads which its Volcanic Explorer operation utilises. He emphasised that Fullers was an innocent third party that would be adversely affected if the decision granting its concession was quashed. That submission was made against the background of the written submission on behalf of the Ngāi Tai Trust seeking the immediate quashing of the Fullers concession decision. It is obvious that the prejudice to Fullers from an order that the decision be reconsidered, but without quashing the order, substantially reduces the prejudice to Fullers.

A remedy should be granted

[105] We disagree with the three reasons given by the Court of Appeal for declining relief.

[106] We do not agree with the Court of Appeal that the errors were minor. Section 4 is a provision of fundamental importance in the exercise by DoC of its powers and

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[72] Judicature Amendment Act 1972, s 4(5)–(6). The Judicature Amendment Act applies to this proceeding notwithstanding its repeal by s 22 of the Judicial Review Procedure Act 2016 because it was commenced before that Act came into force: see s 23(2) of the Judicial Review Procedure Act. A declaration of this kind (with a requirement for reconsideration but not the quashing of the original decision) was made in broadly similar circumstances in *Hauraki Catchment Board v Andrews* [1987] 1 NZLR 445 (CA); and *Franz Josef Glacier Guides Ltd v Minister of Conservation* HC Greymouth CP14/98, 13 October 1999.

responsibilities. The effective sidelining of s 4 in the decisions under challenge, in circumstances where the Ngāi Tai Trust's interest was based on its mana whenua in relation to the Motu, was a failure to comply with this fundamentally important requirement. It was therefore an error of some consequence.

[107] Nor do we agree that the Ngāi Tai Trust's challenge based on s 4 failed. The Court of Appeal reached that view because of its focus on ss 7 and 8 of the HGMP Act, rather than on s 4. As we see it, the Ngāi Tai Trust has succeeded in establishing that s 4 was not properly applied in the challenged decisions. It did not need to establish that it was entitled to a decision that denied concessions to parties other than iwi or hapū with mana whenua to succeed in establishing an error in the application of s 4. So, in contrast to the Court of Appeal, we see the errors as serious and conclude that the Ngāi Tai Trust succeeded in its claim of error of law in relation to s 4, which is all it was required to do.

[108] We do not see the prejudice to Fullers and MRT as sufficiently serious to justify denying the Ngāi Tai Trust a remedy. The quashing of the MRT decision will have little practical impact on MRT, given that it is not, in fact, operating tours in accordance with its concession, out of respect for the position of the Ngāi Tai Trust. The proposed orders in relation to the Fullers application, which preserve its concession while the reconsideration of its application takes place, largely deal with the potential prejudice to Fullers.

Result

[109] We therefore allow the appeal and make the orders sought by the Ngāi Tai Trust. We quash the decision granting a concession to MRT and order that MRT's application be reconsidered in light of this judgment. We order that the Fullers application be reconsidered in light of this judgment. Fullers' concession will remain in force while this occurs.

Costs

[110] We reserve costs. If the parties do not agree on costs in this Court and the Courts below, submissions should be filed and served in accordance with the following timetable:

(a) Appellant: by 28 January 2019;

(b) Respondents: by 11 February 2019;

(c) Appellant in reply: by 18 February 2019.

WILLIAM YOUNG J

The relevant statutory framework

[111] This is discussed at length in the reasons of the majority.[73] For my purposes, it is sufficient to set out ss 4 and (6)(e) of the Conservation Act 1987 and ss 17(1) and 19(1)(a) of the Reserves Act 1977.

[112] Sections 4 and 6(e) of the Conservation Act provide:

> **4 Act to give effect to Treaty of Waitangi**
>
> This Act shall so be interpreted and administered as to give effect to the principles of the Treaty of Waitangi.
>
> **6 Functions of Department**
>
> The functions of the Department are to administer this Act and the enactments specified in Schedule 1, and, subject to this Act and those enactments and to the directions (if any) of the Minister,—
>
> …
>
> (e) to the extent that the use of any natural or historic resource for recreation or tourism is not inconsistent with its conservation, to foster the use of natural and historic resources for recreation, and to allow their use for tourism:

[73] See above at [32]–[46].

[113] Section 17(1) of the Reserves Act, applicable to Motutapu Island, is in these terms:

> **17 Recreation reserves**
>
> (1) It is hereby declared that the appropriate provisions of this Act shall have effect, in relation to reserves classified as recreation reserves, for the purpose of providing areas for the recreation and sporting activities and the physical welfare and enjoyment of the public, and for the protection of the natural environment and beauty of the countryside, with emphasis on the retention of open spaces and on outdoor recreational activities, including recreational tracks in the countryside.
>
> …

And s 19(1)(a), relevant to Rangitoto Island, provides:

> **19 Scenic reserves**
>
> (1) It is hereby declared that the appropriate provisions of this Act shall have effect, in relation to reserves classified as scenic reserves—
>
> (a) for the purpose of protecting and preserving in perpetuity for their intrinsic worth and for the benefit, enjoyment, and use of the public, suitable areas possessing such qualities of scenic interest, beauty, or natural features or landscape that their protection and preservation are desirable in the public interest:
>
> …

The sequence of events relating to consideration of the applications

[114] The Ngāi Tai ki Tāmaki Tribal Trust (the Ngāi Tai Trust) application was granted on 22 May 2014. The concession was granted for a period of nine years and eleven months. It allows the Ngāi Tai Trust to operate guided walks on Rangitoto and Motutapu.

[115] On 30 April 2015, the Department of Conservation's manager of conservation partnerships (Antonia Nichol) wrote a memorandum addressed to the issues raised by the Ngāi Tai Trust in respect of the Motutapu Island Restoration Trust (MRT) and Fullers Group Ltd (Fullers) applications. I will refer to this as the "Nichol memorandum".

[116] A draft of the first internal report to the decision-maker on the MRT application was finished on 2 June 2015. The handwritten note of the decision-maker to which I later refer was on this document. The initial decision to grant a concession to MRT was made on 24 June 2015.

[117] In the case of the Fullers application, a draft of the internal report to the decision-maker was completed on 27 July 2015 and the decision to grant the application was made on 31 August 2015.

[118] The second application by MRT, in effect to defer commencement of the concession by one year, was the subject of a report dated 13 October 2015 and the decision was made on 15 October 2015.

[119] The same person wrote the three reports (in other words, there was only one report writer) and there was, likewise, only one decision-maker.

The Nichol memorandum

[120] Under the heading "Competition and economic opportunities", the memorandum records:

> 5. NTKT [Ngāi Tai ki Tāmaki] seek to preserve economic opportunities for their iwi on the islands, and in some cases oppose these applications on the basis of potential or real competition for the provision of services to visitors such as guiding.
>
> 6. These are matters that cannot currently be considered as a relevant matter for decision makers under Part IIIB of the Conservation Act 1987. The legislation does not provide for this as a relevant matter under section 17U of the Act.
>
> 7. Applications for concessions are assessed in the sequence that they are lodged, unless a limited opportunity situation applies and concessions are then awarded under an allocation process. The Auckland Conservation Management Strategy 2014-2024 does not identify any limited opportunity situations on the relevant islands.
>
> 8. In future it may be possible that a limited opportunity situation could be provided for in statutory planning documents for some of the activities subject to these concession applications, if there are conservation related grounds to do so. This will be explored further through the conservation management plan to be developed for the inner Gulf motu under the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014.

9. It is appropriate to avoid locking in long terms for any of these concessions so that fresh decisions can be made relatively soon after the conservation management plan is approved. That would ensure that any limited opportunity situations can be given effect to relatively quickly, if they are provided for in the conservation management plan.

10. We do not consider that a shorter term will have an adverse effect for any of the applicants or concessionaires that could be seen as unreasonable in the circumstances. For example we are not aware of any significant capital expenditure that specifically hinges off the granting of any of these concessions.

Recommendation

11. That a shorter term be granted for the concession applications while the conservation management plan is being developed, up to a maximum of five years.

[121] The next section of the memorandum is headed "Active protection of Māori interests". It includes the following passage:

12. NTKT have identified that future opportunities on the islands is a key concern for them, whether economic or other. As noted above we expect that issues around these will be explored further in the conservation management plan, where policy guidance is necessary.

13. NTKT having identified to the Crown that they wish to explore opportunities are very concerned about those opportunities being narrowed or eliminated by the granting of concessions to others. They view the granting of concessions in this context as evidence of the Crown not fulfilling the terms the collective redress settlements expressed in the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014. They also view this as non fulfilment of their individual iwi Deed of Settlement [which is yet to be signed with the Crown].

14. In this situation the Treaty principle of active protection of Māori interests is relevant. We consider that it is very appropriate to explore ideas for opportunities on the islands through the conservation management plan process, and to not close off opportunities without the chance for them to be fully considered and tested in that framework. The conservation management plan will also be an opportunity to explore and test mechanisms that help to protect cultural values on the islands.

15. We also note that settlement redress in the form of a number of proposed land transfers to NTKT is also a form of active protection of their interests.

16. We do not consider that it is appropriate to outright decline any of the applications, but rather the requirement to prepare a conservation management plan in the next few years is another reason to grant shorter terms for the concessions. Fresh decisions can then be made

> in the context of the new conservation management plan. Our depth of engagement with iwi, including NTKT, will have increased over this time and we are likely to hold new knowledge and a deeper understanding of cultural concerns at that time.

[122] As I read the memorandum (particularly in light of the two headings to which I have referred) para 7 records the Department's position on competition arguments. Where there is a "limited opportunity situation" (a limit on the total amount of concession activity that can be carried out at a site), there is an allocation process based, in most cases, on tenders.[74] Otherwise, applications for concessions are assessed in the order in which they are lodged. Although this is not spelt out with precision in the memorandum, I take it that a limited opportunity situation might be the result of practical constraints which mean that it is feasible to allow only one operator. It is at least implicit that such practical constraints did not apply in respect of the MRT or Fullers applications. The memorandum also contemplates that a limited opportunity situation (in what I take to be the slightly different sense of a preference for Māori) might be created by statutory planning instruments. The last sentence of para 7 notes that the then current instrument did not create such a preference.

[123] I read paras 8–10 as contemplating the possibility that, in the future, there might be scope for a limited opportunity situation – in the form of a preference for Māori – to be created. To facilitate the implementation of such a preference, these paragraphs proposed that the concessions for Fullers and MRT should be for periods of time which would enable "any limited opportunity situations [to] be given effect to relatively quickly".

[124] In contradistinction I read paras 12–16 as dealing with what was treated in the memorandum as a separate issue, that is whether in the meantime – pending provision for a preference for Māori in the planning instruments – the duty of active protection required the MRT and Fullers applications to be declined. The memorandum recognised that such an outcome was legally possible – that depending on the circumstances, it might be appropriate to decline the applications so as not to limit future opportunities for Ngāi Tai ki Tāmaki. The recommendation, however, was that

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[74] The mechanism for competitive allocation processes is set out in s 17ZG(2) of the Conservation Act 1987.

active protection could be appropriately provided for in the respects identified in the memorandum.

The MRT concession

[125] The report to the decision-maker in respect of the MRT application contains the following passage, the paragraphs of which I have numbered for ease of future reference:

> (1) Cultural Effects
>
> (2) Through consultation undertaken with Ngai Tai ki Tamaki Tribal Trust (NTKT) across a number of concessions for the inner Hauraki Gulf Islands, a number of cultural effects have been identified. *These issues were later discussed between members of the Auckland District Office Partnerships Team, the Permissions Team, and the Legal Team. The document can be seen in full at dme://docdm-1594228/, but the issues raised are addressed and summarised as follows*:
>
> (3) Economic benefit to Iwi: NTKT requested the declining of applications on the basis that concession opportunities should be preserved for the economic benefit of Iwi within whose rohe that opportunity was presented. They held concerns that their aspirations, as set out in the draft Deed of Settlement with the Crown, would not be given effect to if concession opportunities they are interested in are being granted to other parties.
>
> (4) Applications for concessions are processed in the chronological order in which they are received, unless there is an allocation process being undertaken. There is no basis for preferential entitlement to concessions in favour of any party under the relevant legislation or current planning documents. Furthermore, the economic benefit that could potentially be accrued as a result of a concession, or the fact that another applicant is interested in that same benefit, is not something that can be taken account of under the Conservation Act for the purposes of determining a concession.
>
> (5) The activity applied for in this instance does not require a large degree of capital expenditure, nor has the activity been identified as one which is a limited opportunity (albeit that the activity will be based from a building which under the [Memorandum of Understanding] with the department is operated by the applicant as a museum). To put it another way, the granting of a concession to one party will not exclude any other party from applying for a similar activity for a similar amount of time.
>
> (6) The Department recommends a 5 year term for this concession, aligning with the development of the Tāmaki Makaurau motu plan ("the Inner Motu CMS") and any management direction which may result through this documentation. This shorter term has an associated

effect of not foreclosing the opportunities to undertake similar activities by other potential concessionaires.

(7) In regards to the NTKT's individual Deed of Settlement, the Department acknowledges that this will soon be formalised, however must make decisions within the context of legally approved legislation and policy.

(8) Active Protection of Maori Interests: NTKT have identified that future opportunities on the Island are important to them, whether economic or otherwise. They have noted concern that the granting of concessions to other parties is not 'active protection' of Maori interest by the Crown, and that the granting of other concessions may limit or remove opportunities for Maori.

(9) The granting of this concession does not remove the opportunity for NTKT to apply for concessions that cover the same or similar activities, and the Department is committed to exploring any potential opportunities with Iwi. The Inner Motu CMS will provide an opportunity to further clarify and protect Maori interests on the Islands, and provide guidance for future management of these resources.

(10) The Department will not recommend a decline on the basis of active protection of Maori interests, instead implementing a shorter term to align with the development of policy documents. Monitoring of concessions on the Islands will provide further information to support the development of any management plan.

(emphasis added)

The document referred to in the italicised portion of para (2) is the Nichol memorandum.

[126] Paragraphs (3) and (4) were found by Fogarty J to be erroneous in law,[75] as indicating an in limine rejection of the Ngāi Tai Trust's contention that it was entitled to preferential treatment extending to the declining of the MRT and Fullers' applications; such rejection being inconsistent with *Ngai Tahu Maori Trust Board v Director-General of Conservation* (the *Whales* case).[76]

[127] I agree that para (4) appears to be a response to the argument recorded in para (3) and that, read in this way, paras (3) and (4) are erroneous. On the other hand, the report separately addresses, in paras (8)–(10), active protection of Māori interests

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75 *Ngāi Tai ki Tamaki Tribal Trust v Minister of Conservation* [2017] NZHC 300, [2017] NZAR 485 at [86]–[88].

76 *Ngai Tahu Maori Trust Board v Director-General of Conservation* [1995] 3 NZLR 553 (CA) [the *Whales* case].

and, in particular, picks up and addresses the complaint by the Ngāi Tai Trust that granting concessions to others is not "'active protection' of Māori interests by the Crown".

[128] It will be observed that the passage which I have cited from the report bears a textual similarity to the passages which I have cited from the Nichol memorandum, which is unsurprising as this part of the report is expressed to be by way of summary of the Nichol memorandum. Accordingly, it seems to me that the report must be read together with that memorandum.

[129] As I read the report – and particularly in light of the earlier Nichol memorandum – the report writer:

(a) In para (4) was:

(i) setting out the departmental position on competition arguments: that if there was a limit on the total amount of concession activity, an allocation process applied; but, otherwise, applications were dealt with in the order in which they were lodged, without regard to trade protection arguments – such as, the effect on other current or likely concession holders – which I think is what is encompassed by "another applicant … interested in [the] same benefit"; and

(ii) noting that there was no provision for preference in the legislation or planning instruments.

(b) Addressed active protection arguments in paras (8)–(10).

(c) Was of the view that active protection might warrant a decision to decline applications, but did not recommend this in light of the option of stipulating a shorter concession term to align with the development of policy documents (para (10)).

[130] I regard this reading of the report as consistent with the report writer's affidavit in which she said:

> Overall the Department did not consider that active protection of relevant Treaty interests reasonably required recommending declining of the concessions in the circumstances and instead that implementing a shorter than standard concession term and requiring certain conditions in the concession contracts were a reasonable approach in the circumstances.

[131] The decision-maker plainly considered that she had the power to decline the application on the basis of active protection because she annotated para (10) with this comment:

> In some cases declining an application for a concession may be the only way to ensure active protection – in this case the recommendation is not to decline.

[132] And in her affidavit, the decision-maker said:

> 29. I also note that Ngāi Tai ki Tāmaki sought a decline of the concessions to ensure their economic interests were preserved. It was my assessment that Ngāi Tai ki Tāmaki sought to have the economic opportunities available via these concession opportunities for their exclusive use and it was their view that this was provided for in the Ngāi Tai ki Tāmaki settlement then under negotiation. It was my understanding that this was not a provision in their pending settlement and therefore I was not compelled to decline these concessions on this basis.
>
> 30. This was not a limited opportunity situation where I had to decide between competing applications. I agreed that there were opportunities for Ngāi Tai ki Tāmaki to establish a guiding enterprise which could recognise their interests in the Islands despite there being existing concessions. My role was to consider how to actively protect the Treaty interests of Ngāi Tai ki Tāmaki (and the other iwi) in the Islands. In this case I thought this could be achieved through the conditions imposed … and did not require the concessions to be declined.

[133] Against this background I see no basis for concluding that the decision to grant the concession was influenced by the mistake of law apparently embodied in para (4) of the report. The decision-maker's reference to active protection can only have been derived from s 4 of the Conservation Act. In her affidavit she said:

> 18. In making my decision I was very aware that section 4 of the Conservation Act 1987 required me as a decision maker to give effect to the principles of the Treaty of Waitangi when considering whether to grant the concessions under Part 3B of the Conservation Act 1987.

She recognised that this duty might extend to requiring an application to be declined. It is not suggested by the majority that the circumstances associated with this application necessarily required this result. Nor has it been held the decision to grant the concession was necessarily wrong. In particular the majority have not held that the Ngāi Tai Trust had a right of veto. I might add that I would see a conclusion that there was a right of veto (with its effect on the practicality of public access) as not easy to reconcile with s 6(e) of the Conservation Act and s 17(1) of the Reserves Act.

The Fullers application

[134] The Fullers report was in at least broadly similar terms to the MRT report, albeit that it was not annotated by the decision-maker in the same way. Given the way in which the applications were dealt with, with the same report writer and decision-maker and the general sequence of events, it is reasonable to assume that the decision-maker's general approach to the Fullers application was the same as her approach to the MRT application.

[135] For the reasons given in respect of the MRT concession, I am not persuaded that there was any material mistake of law in respect of the Fullers application.

Disposition

[136] I would dismiss the appeal.

Solicitors:
McCaw Lewis, Hamilton for Appellant
Crown Law Office, Wellington for First Respondent
Cook Morris Quinn, Auckland for Second Respondent
Alderton Mackenzie, Auckland for Third Respondent
Buddle Findlay, Wellington for Intervener

A. Permission Application Number and Name of Applicant

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Maxine Ketu
Organisation	Ngāti Hāua Iwi Trust
Date	9 February 2024

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☒ I am **Neutral** on this Application (I am making a submission).

☐ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☐ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☒ I **Do** wish to be heard in support of this objection or submission at a hearing, pending the outcome of further discussion with DOC and the Applicant as outlined in the attached interim submission.

OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 469

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	John Lovelock
Organisation	Lovelock Family
Date	09/02/24

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☒ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☐ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

1. The short concession period.
2.2The removal of facilities, particularly for learner and advanced skiers, over the first concession period.
3.The intention to reduce the number of skiers over time.
4.The splitting of the Ruapehu skifields into two entities.
5.The failure to by Government agencies to consider similar funding for a community solution to the re-establishment of a twin field operation.

My reasons for my objection or submission are:

1. The entire concession concept (even if it were to be extended) is not conducive to long-term investment in the two ski areas. It has already proven to be a constraint and will forever limit an operator's vision and options.
2. The Turoa field already has limited access to areas for advanced skiers yet the plans will further reduce access. Also the removal of the Giant and Nga Waiheke will interfere with learner and intermediate skiers accesthr as to the mid-field slopes. Learners' facilities will also be reduced with the removal of the Wintergarden platters (and the Snowflake Cafe)The usefulness of the Giant cafe will be reduced and will probably not remain viable without the Giant terminus. As an international visitor destination it will become worthless.
3. Reducing the numbers of skiers over time will result in reduced revenue, increased crowding at Whakapapa and a significant reduction in revenue for Ohakune businesses.
4. Splitting the two fields into two separate businesses has been tried before and found wanting. The mountain's fickle weather requires the option of two fields as does the financial viability.
5. The failure of Government departments (MBIE ?_ to offer the same financial support to a community-based operation is perplexing, short-sighted and morally reprehensible.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

All the points above need to be dealt with.

Sec 9(2)(a)

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

A. Permission Application Number and Name of Applicant

SUB 470

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	BENJI HUBAND
Organisation	N/A
Date	9th February 2024

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☒ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

1. The duration of the concession is only 10 years.
2. The Tongariro National Park (TNP) treaty claim(s) have not been negotiated or settled.
3. Not enough information to know if Pure Tūroa Limited (PTL) will be financially sound.
4. The decreased access to the mountain if the concession is awarded.
5. The concession excludes wider alpine snow sports assets on Mt Ruapehu, specifically Whakapapa.
6. Compressed negotiation and consultation period.
7. Redaction of important information, including parties involved and consulted.

My reasons for my objection or submission are:

1. There currently remains an existing concession on the site of 60 years.

The short length of the concession sought indicates a clear lack of a long-term commitment to the operation, to the wider area and opens the door for asset stripping and an imbalance between commercial priorities and public interest. Environmentally, the longer the commitment to a place, the more invested a party is in the sustainability of a place. The PTL concession falls short on this front.

2. Tongariro National Park (TNP) treaty claim(s) may lead to immediate litigation costs.

The well publicised interests of other parties (including those under a Treaty claim) in the existing concession and RAL assets mean that should this PTL concession be awarded at this time, there is high risk of conflict and subsequent litigation which will bleed resources which could otherwise be used to enable and ensure equitable access to the assets and the ski field.

3. It is difficult to tell if the business will be financially viable.

Appendix 7 cash flow model makes it difficult to tell if the business makes commercial sense.

Information provided excludes information on what DoC and MBIE will need to pay to remove infrastructure from the mountain if the business fails.

4. Increased costs and decreased mountain capacity will make Tūroa less accessible to New Zealanders.

The reduction in capacity with the removal of the Nga Wai Heke chair, Giant Chair, and the Wintergarden Platter and less operational days, longer inactive vs active time on the mountain and lowered accessibility to the Maunga during the operating season. The lower capacity of 4500 would see increased demand, leading to price increases which will take the cost of utilising this natural resource beyond the reach of most New Zealanders.

5. Competing business interests with Whakapapa and lack of complementary business operation.

A lack of synergy between the other snow sports assets on Mt Ruapehu lowers the chance of mitigating partial operational closure across the Maunga – further reducing access for those who have travelled some distance to stay and experience the thrill and majesty of Mt Ruapehu.

6. Past concessions negotiations took around four years.

The short period of time between the consultation period and opening of the 2024 season means that there cannot be full consideration of important aspects.

7. Key information has not been provided.

The extensive redaction of names (e.g. Directors of PTL), this information is a matter of public record and should not be redacted.

Iwi engagement has been completely redacted.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

Any concession needs to be for a longer period of time (minimum 30 years).
Any concession needs to show partnership and/or endorsement from mana whenua. Cease ignoring iwi and retract from seeking new concessions, as they have said they will not approve new concessions until Treaty claims are settled on the Maunga.
Keeping the existing RAL concession in place provides a safe working relationship while the TNP treaty claims are being negotiated between the Government and various iwi interests over coming years.
Any concession should be for the whole mountain, being Whakapapa and Tūroa.
Any concession needs to show active consideration of ongoing accessibility (including socio-economic) to the Operation within this National Park. Especially as a non-profit operator is seen as being more compatible with public access to a National Park environment.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment

How do I submit my objection or submission?

Complete this form and email to mtruapehusubmissions@doc.govt.nz. You may also mail your objection and submission to: Director-General, c/o Permissions Hamilton, Department of Conservation, Private Bag 3072, Hamilton 3240.

OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 471

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Michael Green
Organisation	
Date	09/02/24

D. Statement of Support, Neutrality or Opposition

☒ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☐ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

All parts. I **support** the granting of concessions to Pure Turoa Ltd.

My reasons for my submission are:

I **support** the granting of concessions to Pure Turoa Ltd because:

- We have strong personal and family connections to the mountains of Tongariro National Park going back to 1995, and we enjoy skiing/snowboarding, with our family and many of our friends. We are regular and respectful visitors to TNP and being there is one of our favourite things to do.
- As noted on p35 of the Tongariro National Park Management Plan (2006) Mt Ruapehu is 'nationally important' for skiing as it is the only place in the North Island where lift-serviced alpine snowsports can be provided (notwithstanding a small club field at Taranaki). Given the failure of Ruapehu Alpine Lifts, it is important to ensure that another entity takes over immediately. Snow sports account for about half of all TNP visitors according to the TNPMP.
- The proposal is within the amenity area of Turoa Ski Area identified in the TNPMP and is generally consistent with the TNPMP's objectives.
- Granting the concession would **foster recreation** and therefore be consistent with section 6(e) of the Conservation Act, which states:

  "to the extent that the use of any natural or historic resource for recreation or tourism is not inconsistent with its conservation, to foster the use of natural and historic resources for recreation, and to allow their use for tourism."
- While there are reasons to consider delaying the granting of concessions until after Te Tiriti o Waitangi claims have been settled, I believe that the applicant's growing relationship with Ngāti Rangi and others, combined with the relatively short term sought (compared with the current RAL concession's 60 years) and the proposal to eventually remove and replace the Ngā Wai Heke, Park Lane, Wintergarden and Giant lifts with one gondola or high capacity chair with a mid-station, plus the fact that the infrastructure will be damaged by ice if not operated each winter, mean granting the concession now and then working with iwi collaboratively is the best approach.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

I submit that the Department of Conservation:

1. **Grant the concessions** sought by Pure Turoa Ltd to operate Turoa Ski Area
2. Consider how the term of the concession can be extended to provide sufficient time for payback of the capital investment required to remove and replace some of the lifts as shown in the indicative development plan, while also respecting and providing for collaboration with Ngāti Rangi and any other relevant iwi so that the outcomes of their treaty settlement can be recognised and provided for by the applicant and DOC when the time comes.
3. Note that climate change will potentially render commercial ski areas on Mt Ruapehu economically unviable at some point during this century if the 2,300m elevation remains the upper limit for development, so allowing lift development in the 1,900m – 2,300m zone within the current ski area boundary may be desirable to ensure that popular and rewarding lift-serviced alpine snow sports can continue on the maunga for as long as possible.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment

How do I submit my objection or submission?

Complete this form and email to mtruapehusubmissions@doc.govt.nz. You may also mail your objection and submission to: Director-General, c/o Permissions Hamilton, Department of Conservation, Private Bag 3072, Hamilton 3240.

From: Jordana Holloway
To: Mtruapehusubmissions
Subject: Support of Pure Tūroa Limited
Date: Friday, 9 February 2024 6:44:12 pm

SUB 472

You don't often get email from Sec 9(2)(a) Learn why this is important

Dear Department of Conversation,

My partner and I have missed the 5pm deadline to for submissions in regards to Pure Tūroa Limited application to maintain and operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park.

We understand it's after the 5pm deadline but we still wanted to email this evening to express our support for Pure Tūroa Limited application.

We Sec 9(2)(a) both snowboard at Tūroa in Sec 9(2)(a) Like many other local residents and businesses, we hope Pure Tūroa Limited is successful with their application.

Thank you,

Jordana Holloway & Matiu Wilkie

OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 473

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Rebecca Honeybone
Organisation	N/A
Date	09/02/2024

D. Statement of Support, Neutrality or Opposition

☒ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☐ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

All parts. I **support** the granting of concessions to Pure Turoa Ltd.

My reasons for my submission are:

I **support** the granting of concessions to Pure Turoa Ltd because:

- My father and I first started skiing on Mt Ruapehu in 1982 at Whakapapa when I was 5 years old and then the rest of our family joined us skiing at Turoa in 1985. We have a very strong connection to Turoa and Ohakune and have considered them our second home since 1985. We cannot bear to think of Turoa ceasing to exist and therefore threatening the livelihoods of so many people in the area. While I believe that everyone's enjoyment of snow sports at Turoa is very important, the survival of businesses and people's incomes in the area is the main reason for my submission.
- As noted on p35 of the Tongariro National Park Management Plan (2006) Mt Ruapehu is 'nationally important' for skiing as it is the only place in the North Island where lift-serviced alpine snowsports can be provided (notwithstanding a small club field at Taranaki). Given the failure of Ruapehu Alpine Lifts, it is important to ensure that another entity takes over immediately. Snow sports account for about half of all TNP visitors according to the TNPMP.
- The proposal is within the amenity area of Turoa Ski Area identified in the TNPMP and is generally consistent with the TNPMP's objectives.
- Granting the concession would **foster recreation** and therefore be consistent with section 6(e) of the Conservation Act, which states:

  "to the extent that the use of any natural or historic resource for recreation or tourism is not inconsistent with its conservation, to foster the use of natural and historic resources for recreation, and to allow their use for tourism."
- While there are reasons to consider delaying the granting of concessions until after Te Tiriti o Waitangi claims have been settled, I believe that the applicant's growing relationship with Ngāti Rangi and others, combined with the relatively short term sought (compared with the current RAL concession's 60 years) and the proposal to eventually remove and replace the Ngā Wai Heke, Park Lane, Wintergarden and Giant lifts with one gondola or high capacity chair with a mid-station, plus the fact that the infrastructure will be damaged by ice if not operated each winter, mean granting the concession now and then working with iwi collaboratively is the best approach.
- I also believe that Pure Turoa Ltd has the mountain and all stake holder's interests at the core of its submission. It is in New Zealand's best interest to keep Turoa running.
- Sec 9(2)(a) [redacted]

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

I submit that the Department of Conservation:

1. **Grant the concessions** sought by Pure Turoa Ltd to operate Turoa Ski Area
2. Consider how the term of the concession can be extended to provide sufficient time for payback of the capital investment required to remove and replace some of the lifts as shown in the indicative development plan, while also respecting and providing for collaboration with Ngāti Rangi and any other

relevant iwi so that the outcomes of their treaty settlement can be recognised and provided for by the applicant and DOC when the time comes.

3. Note that climate change will potentially render commercial ski areas on Mt Ruapehu economically unviable at some point during this century if the 2,300m elevation remains the upper limit for development, so allowing lift development in the 1,900m – 2,300m zone within the current ski area boundary may be desirable to ensure that popular and rewarding lift-serviced alpine snow sports can continue on the maunga for as long as possible.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment

How do I submit my objection or submission?

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OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant SUB 474

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Michelle Nielsen
Organisation	Personnel capacity
Date	10/02/2024

D. Statement of Support, Neutrality or Opposition

☒ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☐ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

PTL will make a great operator and will support the local community. Turoa has for a long time been undervalued by RAL with a lack of investment, that PTL is now willing to pick up. By having two separate sides it will support Ohakune and the surrounding area more than staying together.

PTL have built strong relationships, as they are a group of passionate locals who care about the mountain and the community.

My reasons for my objection or submission are:

I believe the PTL is the best operator for the Turoa side of the mountain.

PTL have built strong relationships, as they are a group of passionate locals who care about the mountain and the community.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

None

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment

How do I submit my objection or submission?

Complete this form and email to mtruapehusubmissions@doc.govt.nz. You may also mail your objection and submission to: Director-General, c/o Permissions Hamilton, Department of Conservation, Private Bag 3072, Hamilton 3240.

A. Permission Application Number and Name of Applicant SUB 475

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Suping Wang
Organisation	
Date	08 Feb 2024

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☒ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☒ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

1. The duration of the concession is only 10 years.
2. The Tongariro National Park (TNP) treaty claim(s) have not been negotiated or settled.
3. Not enough information to know if Pure Tūroa Limited (PTL) will be financially sound.
4. The decreased access to the mountain if the concession is awarded.
5. The concession excludes wider alpine snow sports assets on Mt Ruapehu, specifically Whakapapa.
6. Compressed negotiation and consultation period.
7. Redaction of important information, including parties involved and consulted.

My reasons for my objection or submission are:

1. There currently remains an existing concession on the site of 60 years.

The short length of the concession sought indicates a clear lack of a long-term commitment to the operation, to the wider area and opens the door for asset stripping and an imbalance between commercial priorities and public interest. Environmentally, the longer the commitment to a place, the more invested a party is in the sustainability of a place. The PTL concession falls short on this front.

2. Tongariro National Park (TNP) treaty claim(s) may lead to immediate litigation costs.

The well publicised interests of other parties (including those under a Treaty claim) in the existing concession and RAL assets mean that should this PTL concession be awarded at this time, there is high risk of conflict and subsequent litigation which will bleed resources which could otherwise be used to enable and ensure equitable access to the assets and the ski field.

3. It is difficult to tell if the business will be financially viable.

Appendix 7 cash flow model makes it difficult to tell if the business makes commercial sense.

Information provided excludes information on what DoC and MBIE will need to pay to remove infrastructure from the mountain if the business fails.

4. Increased costs and decreased mountain capacity will make Tūroa less accessible to New Zealanders.

The reduction in capacity with the removal of the Nga Wai Heke chair, Giant Chair, and the Wintergarden Platter and less operational days, longer inactive vs active time on the mountain and lowered accessibility to the Maunga during the operating season. The lower capacity of 4500 would see increased demand, leading to price increases which will take the cost of utilising this natural resource beyond the reach of most New Zealanders.

5. Competing business interests with Whakapapa and lack of complementary business operation.

A lack of synergy between the other snow sports assets on Mt Ruapehu lowers the chance of mitigating partial operational closure across the Maunga – further reducing access for those who have travelled some distance to stay and experience the thrill and majesty of Mt Ruapehu.

6. Past concessions negotiations took around four years.

The short period of time between the consultation period and opening of the 2024 season means that there cannot be full consideration of important aspects.

7. Key information has not been provided.

The extensive redaction of names (e.g. Directors of PTL), this information is a matter of public record and

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

Any concession needs to be for a longer period of time (minimum 30 years).

Any concession needs to show partnership and/or endorsement from mana whenua. Cease ignoring iwi and retract from seeking new concessions, as they have said they will not approve new concessions until Treaty claims are settled on the Maunga.

Keeping the existing RAL concession in place provides a safe working relationship while the TNP treaty claims are being negotiated between the Government and various iwi interests over coming years.

Any concession should be for the whole mountain, being Whakapapa and Tūroa.

Any concession needs to show active consideration of ongoing accessibility (including socio-economic) to the Operation within this National Park. Especially as a non-profit operator is seen as being more compatible with public access to a National Park environment.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment

How do I submit my objection or submission?

Complete this form and email to mtruapehusubmissions@doc.govt.nz. You may also mail your objection and submission to: Director-General, c/o Permissions Hamilton, Department of Conservation, Private Bag 3072, Hamilton 3240.

A. Permission Application Number and Name of Applicant SUB 476

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Ann Louise Mitcalfe (individual)
Organisation	
Date	8 February 2024

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☑ I **Oppose** this Application (I am making an objection).

E. Hearing Request

☐ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☑ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

Application shows no evidence of real partnership or genuine engagement with those holding mana whenua

Application is not substantiated by up to date data

Application produces a splintering effect on the maunga and upon local communities by applying for only a small part of RAL's traditional operation zone and paying no regard to RAL's broader geographical zones of operation and obligations

Application pays insufficient regard to the wider responsibilities of operating in this fragile alpine environment

Application content has inadequate environmental research or analysis and no evidence of cultural awareness for operating in a UNESCO dual World Heritage site of global significance

Application has chosen a very short tenure, only 10 years, which is more likely to produce a "boom-and-bust" cycle, with unsustainable results for the local community; for the alpine environment and for climate change

Application demonstrates no regard for the concession's impact upon the region's limited energy sources

Application shows no planning for the negative impacts upon the environment and the community (and our planet!) of encouraging "destination tourism" without the concomitant planning for sustainable transport to, through and at the destination

Application reduces opportunities for the majority of New Zealanders who generally are and will be beginners on the snow and first-time visitors in these unusual alpine areas

Application reduces the number and type of lifts available, increasing the crowding in the area of operations

Application is receiving significant amount of taxpayer monies without demonstrating community benefit

Concession operations would be run 80% for private profit-taking rather than reinvesting profits into future snow operations

This is a new concession application by new applicants yet limited consideration time is given - it should instead receive full scrutiny of all aspects of the application and planned operations, ab initio

Application contents do not demonstrate long-term planning despite long term planning being what is required for a DoC concession operation to succeed and for environmental and community harm to be avoided

Application redacts information which should be available to ascertain relevant experience of personnel and to permit examination of claims made

Te Tiriti o Waitangi claims with respect to the wider Ruapehu maunga and all of the proposed operation zones for this application are outstanding. No concession should be granted by DoC to any applicant until those have been explored and addressed

Iwi information is entirely redacted. Media reports suggest iwi in the central north island do not support the granting of this concession. That alone should be sufficient reason to decline this application

My reasons for my objection or submission are:

The deep cultural importance of Ruapehu, Tongariro National Park, Kahui Maunga has not been respected by this application.

The recent August 2023 apology by the Crown for having omitted and then rushed consultations re earlier commercial suggestions for Ruapehu's alpine areas should be a caution to us to exercise higher standards of care and transparency.

For winter activities / snow recreation and skifield operations to succeed they need to be founded upon community working together - with an eye always to the long-term impacts of any day-to-day decisions and policy; based upon real partnership and genuine community interest; ecological concerns to the fore in NZ's oldest National Park.

Instead, the limited contents of this application appear to provide only for a very short-term, extractive approach whereby private profit for a few individuals is placed above all ecological, environmental, mana whenua and public interests. The application requires further robust examination. It is inadequate in its contents and should not be granted at this time.

The combination of short tenure and 80%-for-private-profit produce a likely "boom and bust" result. That form of operations is not appropriate for DoC to encourage in Tongariro National Park. Nor are they appropriate in a UNESCO dual World Heritage area. The UNESCO award is a symbol that our central north island is a globally important area, culturally and ecologically.

The entire ecology of the zones impacted upon by this application are fragile - and exist under a delicate seasonal balance. This is more than rare plants - and the beautiful Tūroa alpine flush zones - it is the entire ecology of this area which becomes threatened by hasty decision making.

Short-term thinking produces exactly the effects none of us want to see - more fossil fuels burnt; more private petrol-powered vehicles travelling, increased local and national temperatures, wilder weather, less snow falling and less snow on the ground.

The application proposes more snowmaking machinery; increased snowmaking; plus one "snow factory" to combat reduced snowfall - yet these proposed activities themselves consume more energy, perpetuating the vicious cycle of less and less snow falling, a vicious cycle which is further contributed to by encouraging "destination tourism".

Where is the planning for the sustainable electricity generation which is required for the increased energy consumption and fossil fuel emissions caused? These sorts of questions raised are just part of why we need a considered, whole-community approach to continue for Ruapehu rather than encourage or grant this short-term application which could be seen as merely profiteering.

The content of this application and the form of the planned operations appear inappropriate within DoC's stewardship role for Tongariro National Park and the ecology of the area. We need a whole of mountain solution for Ruapehu, not separation and division.

This is particularly the case since this short-term concession applied for does not need to be granted by DoC. Traditional winter snow activities can still occur as usual upon Ruapehu this winter and in the future without this concession being granted.

Instead of granting this application, RAL (or some form thereof) can be taken out of the receivership in which our government department, MBIE, placed it. RAL and individual employees within RAL have the experience and expertise to manage both Ruapehu ski areas sustainably, without separation, until treaty obligations and claims are considered and addressed.

By doing that, we'll have made enough time for mana whenua questions to be truly considered; for national and regional government's revitalisation and creation of sustainable communal transport options, such as regular, affordable rail services for the public to, through and around our central north island. We have enough time for local, sustainable energy generation to be better considered - and all of this we can achieve without compounding our region's and planet's problems to solve.

RAL placing itself into administration in 2022 gave us an opportunity for a re-set in our area - a valuable opportunity to look to the future and to the long-term in exactly the way the DoC legal operating framework requires.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

DoC should not grant this consent

DoC should encourage withdrawal of the application in order to engage in real consultation with those holding mana whenua (by DoC and by these and any other potential applicants for a concession).

An up-to-date environmental assessment report needs to be prepared for any application before it is resubmitted

A full Botanical Survey of the geographical areas impacted by any application needs to be completed prior to any new concession being considered or granted. This should not be limited to merely the presently known areas of rare plants nor merely to the presently known rare ecological sites such as the Tūroa alpine flushes.

Particular areas needing protection and / or exclusion zones need to be more visible, better maintained and more frequently surveyed. These need to be conditions in any new concession, if granted.

Perpetual conditions as to the complete removal of litter from the “downstream” zones of Tūroa, as well as inside the concession area of operations, need to be incorporated into any new concession, if granted

Water testing needs to be performed on a more regular basis. Results need to be publicly available. Negative impacts from ski area operations on clean water and air need to be minimised and eventually removed.

Results of all ecological testing need to be publicly reported and available at all times

Updated ecological assessments, development plan documentation, and subsidiary environmental analysis need to be arranged and incorporated by the applicants before the concession application can be further considered.

All such information and planning documents need to be publicly available at all times, as well as prior to the application being further considered.

Transparent and publicly available details of the extent and duration of NZ Governmental financial and equivalent support need to be provided, as soon as possible, for the taxpayer to better be able to consider the merits of this application.

Any new concessions, if granted, need to make clear the obligations of the concession holder to make good any environmental harm caused and to ensure that the responsibility for such harm attaches to any applicants personally, for example in the event that any company holding DoC concessions should be dissolved

No concession should be granted which does not take into account the effects of encouraging “destination tourism”. Each concession application needs to plan for, advocate for, support and provide sustainable forms of transport to and at the destination. Appropriate planning and management of this needs to be incorporated into this application before it should be reconsidered.

Alternative and sustainable energy sources more appropriate to operating within a National Park and dual World Heritage area need to be incorporated into the application before it should be further considered or granted

All of these conditions discussed above need to be incorporated into any concession for it to warrant further consideration.

G. Attachments

If you are using attachments to support your objection or submission clearly label each attachment, complete the table below and send in your attachments with this 'objection or submission form'.

Document title	Document format (e.g. Word, PDF, Excel, jpg etc.)	Description of attachment

How do I submit my objection or submission?

Complete this form and email to mtruapehusubmissions@doc.govt.nz. You may also mail your objection and submission to: Director-General, c/o Permissions Hamilton, Department of Conservation, Private Bag 3072, Hamilton 3240.

Department of Conservation
Te Papa Atawbai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 477

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Peter Nelson
Organisation	
Date	09/02/2024

D. Statement of Support, Neutrality or Opposition

☐ I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

✓ I **Oppose** this Application (I am making an objection).

E. Hearing Request

✓ ☐ I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

The specific parts of the application that this objection or submission relates to are:

I object to the removal of lifts which limit the terrain available for skiiers and snowboarders.

My reasons for my objection or submission are:

As recognised in the management plan, the national park provides the only alpine environment for snowsports recreation in the north island. This application proposes to remove the Nga Wai Heke chairlift which provides excellent terrain for advanced skiiers and snowboarders.

The money for this lift was paid for by skiiers and snowboarders through the non-profit RAL. The proposal to take the lease and licence off a community owned non-profit and giving it to a for profit company will reduce the responsiveness of the organisation to provide for the recreational needs of the North island snowsports community.

Reducing the lift capacity for snowports is short-sighted given the increasing population and that there are only two commercial ski areas in the north island.

The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

The Recreational needs of north island skiiers and snowboarders. Permission to remove Ngai Wai Heke should not be granted. A proposal reducing the terrain and/or the lift capacity for snowsports should not be granted.

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SUB 478

From: Bon Scott
To: Mtruapehusubmissions
Subject: FW: Page feedback - Pure Tūroa Limited
Date: Monday, 12 February 2024 9:27:59 am
Attachments: image001.png

FYI.

Feedback about the Pure Turoa Limited consultation.

Bon Wilton Scott (he/him)
Product Owner and Senior User Experience Advisor | Kaitohu matua Tuihono-a-Iwi
Conservation House | Whare Kaupapa Atawhai
Phone: Sec 9(2)(a) but MS Teams call preferred

www.doc.govt.nz

From: doc website <docwebsite@doc.govt.nz>
Sent: Wednesday, February 7, 2024 7:43 PM
To: Webteam <HOWebTeam@doc.govt.nz>
Subject: Page feedback - Pure Tūroa Limited

Page ID: 276085

Page name: Pure Tūroa Limited

Page URL: www.doc.govt.nz/get-involved/have-your-say/all-consultations/2023-consultations/pure-turoa-limited/

Comments:

what exactly is in their application? the devil is in the detail, a summary is not really helpful to understanding what Pure Turoa's intention are. Are they going to fix the toilet problems? what about lift problems? and limited facilities? How is it going to be paid for? Are any cuts going to be made to staffing levels? Is staff training going to be a priority in view of a noticable decline in staff competance over the past 2 seasons?

OBJECTION OR SUBMISSION

Department of Conservation
Te Papa Atawhai
New Zealand Government

A. Permission Application Number and Name of Applicant

SUB 479

Pure Tūroa Limited 109883-SKI

B. Name of Proposed Activity and Location(s)

Lease and license to operate Tūroa Ski Area on Mount Ruapehu in Tongariro National Park for a period of 10 years. The application also includes associated aircraft and filming activities.

C.2 Your name

In placing your name and organisation below, you acknowledge that you are the person or authorised person submitting this objection or submission. You are also acknowledging that your name and organisation will be published.

Printed name of submitter or person authorised on behalf of submitter	Blake Dodson
Organisation	
Date	8 Feb 2024

D. Statement of Support, Neutrality or Opposition

X I **Support** this Application (I am making a submission)

☐ I am **Neutral** on this Application (I am making a submission).

☐ I **Oppose** this Application (I am making an objection).

E. Hearing Request

X I **Do Not** wish to be heard in support of this objection or submission at a hearing.

☐ I **Do** wish to be heard in support of this objection or submission at a hearing

F. Objection or submission

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The outcomes that need to be addressed by this application are:
Give precise details, including the parts of the application you wish to have amended and the general nature of any conditions sought if the application is approved.

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SUB 480

From: Becks Baker
To: Mtruapehusubmissions
Subject: Re: Submission on Tūroa Ski Field Concession Application
Date: Wednesday, 14 February 2024 5:32:09 pm
Attachments: pure-turoa-submission.pdf

You don't often get email from Sec 9(2)(a) m. Learn why this is important

Hi there

Thanks for that for some reason my new lap top is not playing ball

I Rebecca Baker SUPPORT THE APPLICATION

Regards

Rebecca Baker

On Thu, Feb 8, 2024 at 3:23 PM Mtruapehusubmissions

Out of Scope

[redacted]

You don't often get email from Sec 9(2)(a) . Learn why this is important

[redacted]

SUB 481

From: Darron Beange
To: Lauren Bollu
Subject: Re: Submission Form
Date: Thursday, 15 February 2024 1:24:43 pm

Hi Lauren,

My submission was in support of Pure Turoa Limited, unsure why it didn't go through.

Darron

Out of Scope

SUB 482

From: Paul Green
To: Lauren Bollu
Subject: Fwd: Submission on Turoa ski field Tongariro National Park 109883_Ski
Date: Wednesday, 21 February 2024 7:02:34 am

Out of Scope

[redacted]

Out of Scope

[redacted]

From: Allan McKenzie Sec 9(2)(a)
Sent: Tuesday, February 6, 2024 11:21:59 am
To: mtruapehusubmisions@doc.govt.nz <mtruapehusubmisions@doc.govt.nz>
Subject: Submission on Turoa ski field Tongariro National Park 109883_Ski

1. Background

I make this submission with a background in the public service of forty five years. The majority of which was with the Department of Conservation and the Department of Lands and Survey both of whom respectively administered the National Parks Act (1953 and 1980) and the National Parks in a statutory relationship with the NZ Conservation Authority and respective conservation boards. I have prior experience in conservation policy development, environmental impact assessment ,land purchases ,treaty settlements and restoring leases to full crown ownership.

2. The Application

I do not oppose the transfer of the existing license to a new operator with the same terms and conditions as the previous operator but subject to a greater and more rigorous compliance regime by the Department.

3. Lease versus Licence

I am totally opposed to the issue of a lease to an operator for buildings and curtilage and more particularly in the open space areas of the plaza and platinum carpark where it would give the company trespass rights that could effectively block the main physical and practical public access higher in the national park. (On five recent occasions i have been challenged or asked my business on my right to be in the national park by ral staff in summer)

The suggestion that a lease is needed versus a licence seems to arise from the principle of exclusive right of occupation.. That concept goes against the legislation which guarantees all nzers right of access. To now promote leases after years of licenses is a major step of alienation.

In the case of the South Island high country pastoral leases where there was a home involved(house and curtilage) an exclusive right of occupation was deemed appropriate and used for that purpose. I don't think a skifield gets anywhere near that test.

In the case of the national park it will be an alienation and will create a property right. Technically it will create a stronger interest in land and if the crown wanted to modify or extinguish that right it may have to pay. Additionally the crown for concession purposes would have to value it separately. I think exclusive rights of occupation have no place in a national park where access is the right of all New Zealanders. At the very least there should not be leases over the open areas that is the plaza and platinum carpark.

4.Concessions Aircraft noise

Tongariro National Park is one of two national parks in nz with restrictions on aircraft noise. The management plan provides for very limited aircraft use for avalanche control. The proposed use of drones for ski patrol sweeps is unacceptable in the context of the management plan and unnecessary. Canadian skifield operators do not use drones. I oppose slackening of existing rules.

5. Term

I support only a ten year term. It is important for the crown to resolve the current treaty claim without further alienation and complication.

I am not in a position to be heard but am happy for any questions to be put to Paul Green who is familiar with my views and background.

Allan McKenzie

Sec 9(2)(a)

Sec 9(2)(a)

From: Stephanie Bowman
To: Lynette Trewavas; Lauren Bollu
Subject: FW: Pure Turoa Submission
Date: Friday, 23 February 2024 9:34:41 am

Hi
We just spoke with Richard who came along to the hearing as he wasn't sure if his submission has been received. He tried to send on the 7th and experienced some issues. I'm happy to accept and include in the bundle of subs.

Many thanks
Stef

Stephanie Bowman
Kaimanatū Tutohu | Permissions Regulatory Delivery Manager (Hamilton)
Office of Regulatory Services
Te Papa Atawhai | Department of Conservation
Sec 9(2)(a)

Kirikiriroa / Hamilton Office
Level 4 73 Rostrevor Street | Private Bag 3072, Hamilton 3204
T: +64 7 858 1000

From: Richard Newson Sec 9(2)(a)
Sent: Friday, February 23, 2024 9:23 AM
To: Stephanie Bowman <sbowman@doc.govt.nz>
Subject: Fwd: Pure Turoa Submission

Sent from my iPhone

Begin forwarded message:

> **From:** Richard Newson Sec 9(2)(a)
> **Date:** 7 February 2024 at 12:57:00 PM NZDT
> **To:** mtruapheusubmissions@doc.govt.nz
> **Subject: Pure Turoa Submission**
>
> A .Pure Turoa Limited 109883 SKI
> Lease and License to Operate
>
> B .Turoa Ski Area on Mt Ruapehu for 10 years with associated aircraft and filming activities
>
> C .Submitter
> R J Newson

Richard Newson
Sec 9(2)(a)
Sec 9(2)(a)
Sec 9(2)(a)
I wish to keep contact details confidential

D .I Support the Application 7.2.24

E .I wish to be heard in support of the submission

F .Support Grounds
.The operational foot print will be reduced
.Redundant structures removed
.Daily skier number reduced and capped.
.Reduced strain on infrastructure
.New lift and snow groomer technology will have less impact on environment
.Implementation of new lift deicing and prevention technologies greatly improving skier experience and reduce H&S issues
.Support of Local Iwi with significant ongoing consultation
.Massive financial returns for Ruapheu District and Businesses filtering down to Community
.Enduring Community and Government support
.Commercially sustainable structure and management with Ruapheu District knowledge.

G .No attachments

Sent from my iPhone