

Submission on the proposed revocation and the conservation land - Smedley land exchange

Te Taiao Environment Forum

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Introduction

This submission is made on behalf of the Te Taiao Environment Forum. We are opposed to the revocation of conservation park status and the land exchange proposed by Department of Conservation due to the fact that

- it is unlawful;
- there is no justification for the revocation of conservation park status;
- when assessing conservation gains, the Department of Conservation has neglected to adequately recognise the 'Like for like' principle;
- has wrongly used 'Current values' for assessment; and
- has heavily relied on the dam applicant's reports and surveys which could be deemed as a conflict of interest.

Te Taiao Environment Forum's concerns are discussed in detail below.

Land exchange unlawful

The Department of Conservation /Smedley land exchange can be deemed unlawful. The details of this will be covered in Forest and Bird own submission.

No justification for the revocation of conservation park status

The conservation park land which has been proposed for revocation clearly holds values that justify conservation park status so there is no proper reason to revoke that status. These values are:

- Comprises of Acutely Threatened and Chronically Threatened land environments
- Threatened species (e.g. NZ falcon, long tailed bat, North Island fernbird, red mistletoe, indigenous fish species) have habitats within the conservation park land
- Contains significant lowland indigenous biodiversity
- Contains important wetlands and shrubland habitat types
- Part of the broader conservation park

'Like for like' principle

Land exchanges must be done using the like for like principle, i.e. significant vegetation/landforms that are permanently removed must be replaced with the same type vegetation/landforms. The like for like principle has not been used properly when assessing the exchange of conservation values. For example:

- The alluvial landform/vegetation types within the Doc exchange area are to be swapped with dissimilar hill country landforms/vegetation. These comments are reflected in Dr Kelvin

Lloyds comments made to the BOI - “Mr Kessels endorses the ‘Smedley Exchange Block’ as an important component of a vegetation enhancement and protection area⁹⁶ (Paragraphs 8.34-8.36 of the evidence of Mr Kessels). This block does not conform with the criteria I have listed above, as it comprises hill country without significant riparian vegetation or recent alluvial terraces, has no gravel riverbed, a limited amount of forest, and lacks kowhai-dominant forest and terrace wetlands. It is a primarily a pasture- and-scrub covered block of a type that is relatively common in the landscape and not likely to have much area on Acutely Threatened or Chronically Threatened land environments.”

- Wetlands on the conservation land and in the Smedley Block are not equivalent. The wetland areas covered in the land swap differ significantly in nutrient status and hydrology and vegetation types. Seepages on the Smedley block have a high level of degradation and eutrophic conditions as indicated by cattle pugging and exotic grasses evident in photo provided in Kessels *et al.* SEB survey, Figure 7, pg 10. The oxbow wetland on conservation land contains indigenous wetland plants, is hydrologically intact and is well-connected to surrounding indigenous vegetation, habitats, and the riparian margins of Dutch Creek (photo provided, Kessels *et al.* TER, pg 35). The oxbow wetland within the Doc exchange area has a greater diversity of habitats and indigenous plants. The wetland within the Smedley block is has been classed as a seepage (*A treeland with podocarps (e.g. kahikatea and rimu), lacebark, manuka, cabbage tree linked to a seep zone with remnant sedges, fern species, blackberry, pasture grasses and herbs*). The wetland within the Doc exchange has been classed as an oxbow wetland (including diverse indigenous vegetation; *slender spike sedge, Carex and Juncus species, kiokio and swamp kiokio, toetoe, astelia, mountain flax, Hydrocotyle, Sphagnum moss, Coprosma species, cabbage tree, manuka and koromiko, wheki-ponga kahikatea, wineberry, broadleaf, kowhai, lancewood, lacebark, black matipo, snowberry, mingimingi, matai and horopito*)
- The Smedley block is degraded and grazed land, connected to other pasture and remnant forest, whereas the conservation land is not grazed and in particular within Dutch Creek is continuous with other indigenous vegetation and habitats and forms an important connection to the Ruahine Conservation Park
- The diversity of indigenous flora within the conservation area proposed for exchange area is likely to be far greater than that of Smedley block. This is especially the case for riparian and associated stream/bluff vegetation types particularly within Dutch Creek, which have been over looked in assessments of vegetation types. These vegetation types form an important riparian ecosystem on an important stream and river, and provide good food sources for indigenous birds and invertebrates. Riparian vegetation is limited to small streams within the Smedley block, that are not associated with major streams and rivers, and lack the functions of the riparian habitats on the conservation land.
- The Doc exchange block comprises of Acutely Threatened (16.6%) and Chronically Threatened (82.5%) land environments. The 22ha within the Doc exchange block forms a continuous block of threatened land environments which is a national priority for the protection of indigenous biodiversity. The Smedley exchange block has no Acutely Threatened land environments and 29.95ha of Chronically Threatened land environments. The 29.95ha of Chronically Threatened Environment is patchy and dispersed through 234.25 ha of less reduced/better protected

environment. Furthermore not all of the 29.95ha of the Chronically Threatened land environments would be protected (i.e. exchanged) within the 146ha DOC has proposed for the land swap. The exchange of Acutely Threatened for Chronically Threatened land environments is a fundamental problem with the proposed exchange, as it results in net loss of important lowland indigenous biodiversity that is exchanged for a larger area of less important hill country indigenous biodiversity. This is trading down, not trading up.

- The vegetation/habitat types recorded in the assessment have not been verified and may not be reliable. For example, no specific riparian vegetation types have been listed for the conservation area proposed to be exchanged. This results in a misleading assessment of equivalence between the conservation land and the Smedley Block.
- The TER survey indicates that threatened species (e.g. NZ falcon, long tailed bat, North Island fernbird, red mistletoe, indigenous fish species [refer to Young et al. for fishes]) have habitats within the conservation land proposed for exchange. In contrast, There are no recorded red mistletoe plants within the Smedley Exchange block and no recent, specific recordings of NZ falcon or North Island fernbird, even though calls for fernbirds were elicited during Smedley Block bird surveys, and all bird sightings were recorded (SEB survey).
- The exchange of a maternal long-tailed bat roost close to the river on the conservation land, for uncertain bat mitigation proposals on the Smedley Block, is not equivalent as it exchanges certain loss of an important habitat for indigenous fauna for very uncertain gain.
- The assessment of conservation gains for threatened species relies on the Applicant's experts, and is unbalanced. The assessment should acknowledge Dr Kelvin Lloyd discussion where use of bat roosting boxes can be unsuccessful (EPA hearing , Transcripts of Proceedings -6 Dec 2013 pg 1696) and the successful transplanting of mistletoe highly variable (Dr Kelvin Lloyd EPA evidence, Pg 46, Pt 151.)
- The area of wetland within the Doc exchange is larger than the 0.29ha stated due to the fact that the desktop mapping technique used by Kessels Ecology does not identify small wetlands. Refer to comments of Dr Kelvin Lloyd (EPA, Statement of Evidence, point 97) below:

'The reservoir site includes swamp wetlands, seepages on cliffs and riverbanks, and what Mr Kessels defines as 'seepzones', which are probably also seepages, in toeslope habitats. The TER mapping defined 5.11 ha of wetland vegetation on terraces and in 'seepzones', but the mapping units do not cover seepages on cliffs, which are a prominent feature of the part of the project area that I visited, for example in the lower part of Dutch Creek. I appreciate that these seepages would be difficult to map, due to their presence on steep topography, but they are a distinctive indigenous wetland type in the proposed reservoir site and would qualify under National Priority 2. I note that the TER maps only a single swamp wetland³⁸. I observed indigenous swamp vegetation on a terrace on conservation land on the north bank of the Makaroro River [Doc exchange land] within the proposed reservoir, but this vegetation has not been mapped, possibly because it is difficult to distinguish from surrounding vegetation in aerial imagery. None-the-less, it is apparent that there will be more than 5.11 ha of indigenous wetlands affected by the proposed reservoir.'

- The conservation gain of small-leaved shrubland is not valid. The small-leaved shrubland recognized within the Smedley block refers broadly to 'kanuka/manuka/coprosma species and varying amounts of pasture'. Small-leaved shrubland based on major vegetation types (e.g. kanuka/manuka/coprosma species) also exist within the Doc exchange land and are referred to as 'Broadleaf-small leaved-tussock scrubland', 'Broadleaf-small leaved -monocot scrub/treeland', 'kanuka/manuka treeland' types within TER and Doc Submission documents. Therefore there is a greater diversity of small-leaved shrubland types on the conservation land, and the suggested additional gain of a small-leaved shrubland type (indigenous shrublands) will not occur as the same shrubland type is found within the Doc exchange area. Furthermore the diversity of small-leaved shrubs described within the Doc exchange site indicates that this vegetation type is in significantly better condition than that within the Smedley exchange block. Therefore the exchange would result in a significant loss of an important shrubland habitat type if the revocation and exchange were to occur.
- Threatened species for Smedley Exchange block are based on desktop data and extrapolation from the TER report rather than formal recording within the Smedley exchange block. Lighter emphasis of what threatened species should be used when considering Conservation gains.
- Exclusion of recordings - Fernbirds (more than 1 bird) and pair of NZ falcons and frequent long-tailed bat activity were recorded within the Dutch Creek tributary (refer to TER) and will be frequenting the Doc Exchange land. Therefore Doc land exchange should be recognized as important habitat of these Acutely and Chronically Threatened species.
- Basing the exchange on simple factors such as the area of indigenous vegetation, and the overall land area (both of which are larger in the Smedley Block) is misleading, as it fails to address the significant differences in ecological values between the two areas, as described above.

Current values

The use of 'current values' when assessing conservation gains is not valid as the dam will have detrimental effects to the Smedley exchange block and any management of the exchange block to fulfill conservation gains (e.g. restoration of vegetation, weed and pest control and translocation or colonisation of threatened species) relies heavily on the 'biodiversity offset package' presented by the dam applicants.

Land exchange assessment has been made on the bases of 'current value approach to conservation values' i.e. as if no dam was built. The question arises as to whether the exchange would occur if a dam was not built. Certainly the resources via the dam applicant's 'Biodiversity offset package' to restore the Smedley exchange block would not be available. The 'current value approach' is nonsensical. Any assessment should take into account the effects of the dam on the exchange block. For example; The edge effects of the dam on Smedley block (this has not been assessed), the clearing of 0.39 ha of black beech (which is deemed ecologically significant) on a chronically threatened environment for forestry road access and, the loss of fish passage for threatened fish species, and habitat and food for birds, lizard, insects.

Conflict of interest/ limits to reporting

- The Doc Science and Capability team's, La Cock report shows that there has been a heavy reliance on the Applicant's expert surveys and reports (i.e. Kessels *et al.* reports). Independence from Applicant's experts is required. While time and money may be an issue, there is a need for Doc to consider assessments which are clearly independent of the dam applicants and that are reviewed by suitably-experienced independent ecologists.
- The Doc Science and Capability team (La Cock report) suggests that no comment can be made on the maternity bat roost as Doc did not make any comment within the BOI submission. DOC has a statutory duty to consider all values of the conservation land regardless of what it submitted in the BOI process. Therefore it is appropriate that Doc assesses and makes comment on the loss of a significant maternal bat roost.

Conclusion

The justification for the proposed land exchange is based on factually incorrect information and takes a partisan, unbalanced view, that relies on simple exchange factors (primarily a larger area of land) that do not adequately account for indigenous biodiversity losses and gains. Under the proposed exchange, indigenous biodiversity bears all the risks, with certain loss traded against uncertain gains. The loss of lowland riparian vegetation and habitats on Acutely Threatened land environments cannot be addressed by gains of hill country vegetation and habitats on land environments of less importance. The proposed exchange would simply add to the ongoing loss of important lowland biodiversity.

It is not appropriate to rely on advice from experts retained by the Applicant. This conflict of interest must be addressed by engaging independent experts or balancing the views of the Applicant's experts against those of other experts represented at the EPA hearing.