

5 October 2015

Andrew Newman  
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Dear Andrew

**RUATANIWHA WATER STORAGE SCHEME – PROPOSED LAND EXCHANGE UNDER THE  
CONSERVATION ACT 1987**

**Introduction**

1. This letter sets out my decision on the proposal by Hawkes Bay Regional Investment Company Limited (HBRIC) to exchange approximately 146 hectares (ha) of private land located within Smedley Station for two parcels of Ruahine Forest Park (RFP) land totalling approximately 22 hectares. The proposed exchange is for the purposes of the proposed Ruataniwha Water Storage Scheme which involves the placement of a dam over the Makaroro River and the inundation of land behind the dam which includes the RFP land. As the land is currently held by the Public Trust, the exchange has been proposed subject to HBRIC taking title to the 146 ha of private land.
2. This letter should be read alongside two reports that have been provided to me, each containing a series of recommendations with a “yes/no” choice for each which I have circled as appropriate. The reports are the “Report and Recommendations from Hearing Convenor - for Ruahine Conservation Park change for status proposal” dated 22 September 2015 (Hearing Convenor’s Report), and the Departmental Submission entitled “Decisions (Declaration, Revocation, Exchange & Special Protection) In Respect Of Part Of Ruahine Forest Park” dated 25 September 2015 (Departmental Submission). This letter and these reports which now indicate my decision on each recommendation form my overall decision.

**Summary of decision**

3. I have decided to authorise the proposed land exchange, subject to several conditions. My reasons are set out below. As I set out in paragraph 6 below and as explained in some detail in the Departmental Submission, my decision to authorise the proposed exchange has required me to make a number of other decisions. The decisions and conditions are set out in full on pages 4 to 6 of this letter.

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### Proposal

4. HBRIC has proposed the exchange of approximately 146 hectares of private land located within Smedley Station (the Smedley land) for two parts of Ruahine Forest Park land totalling approximately 22 hectares located on the edge of the Makaroro River and Dutch Creek (the RFP land). The exchange is for the purposes of the Ruataniwha Water Storage Scheme (RWSS) which involves the placement of a dam over the Makaroro River. The reservoir to be formed behind the dam will inundate the RFP land.
5. The Smedley land is currently held by the Public Trust as a cadet training farm, and so is not owned by HBRIC. Approval of the proposed exchange has therefore been sought subject to HBRIC taking title to the Smedley land.

### Decisions required

6. As the RFP land is currently held as deemed conservation park, progressing the proposed exchange has required me to make a series of decisions. These decisions are to:
  - (a) Declare the RFP land to be held for “conservation purposes” under Section 7(1) of the Conservation Act 1987 (the Act);
  - (b) Revoke the status of the RFP land under Section 18(7) of the Act; and
  - (c) Authorise the proposed land exchange under Section 16A of the Act.

### Information considered

7. I have considered the information contained in the Department’s Submission to me together with the report provided by the Director-General’s delegate (the Hearing Convenor) referred to in paragraph 2 above. The latter contained a summary of objections and submissions; it also made recommendations as to the extent to which objections should be allowed and comments accepted, concluded that the proposed exchange met the test under s 16A of the Act and recommended that I revoke the conservation park status of the RFP land if I wished to progress the exchange.
8. I have also considered a range of other information put before me including HBRIC’s letter proposing the exchange; The Royal Forest & Bird Protection Society’s (Forest & Bird) written objection to the revocation/exchange proposals; various reports on the ecological values of the respective areas and the responses to them by various parties; further assessment work undertaken by the Department; relevant statutory planning documents as described in the Departmental Submission; the views of the Conservation Board; and subsequent correspondence between HBRIC and the Department including the letter referred to in paragraph 14 below.

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9. As well I am conscious that s 4 of the Act requires the Act to be interpreted and administered so as to give effect to the principles of the Treaty of Waitangi. There has been extensive consultation with iwi and hapu who have expressed a range of views. Some oppose the proposal due to impacts on cultural values of mana whenua; others' support it because the revocation and exchange will bring about significant conservation gains.
10. I have taken into account future enhancement to the Smedley land as well as future adverse effects of the RWSS on the values of the RFP land. These include the effects of the proposed reservoir on the Smedley land, the removal of grazing if the exchange proceeds, and pest and plant management activities proposed by HBRIC. I have also considered the values of the RFP land and the Smedley land without taking future effects or enhancements into account.
11. I recognise that determining possible outcomes in the long term is difficult because of uncertainty associated with the content and success of plant and pest management measures proposed by HBRIC, and I have given these measures little weight in my decision accordingly. I am satisfied that there would be a gain in conservation values under the proposed exchange, whether or not these measures (or any other future enhancements such as natural regeneration) are factored in. I have also concluded, that given the values of the Smedley land, it is worthy of being included in the Ruahine Forest Park with status of "conservation park" under Section 16A(3) of the Act.

#### **Site visit**

12. On 28 August 2015 I conducted a site visit to assist with my understanding of the areas in question and the conservation values present on each parcel of land. Although I did not walk over or view the entire areas subject to the proposed exchange, what I saw on the ground enabled me to better understand the values of the RFP land and the Smedley land; and the issues canvassed by submitters on the proposal.
13. As a result of the site visit, I identified a number of potential issues on which I sought clarification from HBRIC through Departmental staff. These were the possibility of boundary rationalisation, fencing, wilding pine control work on the Smedley land and adjacent land, and work that had earlier been proposed through the Board of Inquiry process on Whio habitat enhancement in the Upper Makaroro River.
14. HBRIC confirmed by letter on 21 May 2015 that it is willing to contribute to Whio habitat enhancement work and wilding pine eradication on the Smedley land, and that it was also willing to rationalise the boundaries of the Smedley land by including an additional approximately 30ha of land between the northern and southern sides of the original 146 ha block, including Donovan Gully. Since then HBRIC has prepared an updated plan, which is attached to this letter. It shows that the additional area is approximately 23.4ha, rather

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than the 30ha as originally calculated, and which is referred to in the Departmental Submission. The plan also clarifies that the larger part of the Smedley land to the south is linked by a strip of land around the western boundary of land to be retained by HBRIC, rather than being separate parcels. This was not clear from the plans which had been prepared previously due to the larger scale used for those plans.

### Decisions and reasons

15. After careful consideration of all the information before me I am satisfied that the proposed exchange will enhance the conservation values of land managed by the Department and promote the purposes of the Act. In reaching this view I have accepted the conclusions in the Department's Science Report and the further work its authors have undertaken as discussed in the Departmental Submission that, comparatively, the conservation values present in the Smedley land are better (and in some cases different) than those in the RFP land and will enhance the conservation values of land managed by the Department and promote the purposes of the Act.
16. I have also accepted the Department's view that redesigning the boundaries of the Smedley land to include additional areas (including Donovan's Gully) will increase the degree of enhancement and further promote the Act's purpose.
17. I recognise that the RFP land contains some significant conservation values. The Makaroro river parcel, for instance, is located on an alluvial plain that is rare in the landscape and there is an acutely threatened land environment of 3.3ha. Against this is the fact that it has been heavily logged in the past, and while it has black beech and broadleaf forests, they are not substantial. As for the acutely threatened land environment it is reasonably well represented on 92ha of public conservation land elsewhere in the district. The Dutch Creek parcel comprises black beech forest and secondary scrub. The area of black beech has lost emergent podocarps to logging. It also has a small but significant oxbow wetland.
18. The Smedley land contains 2 significant wetlands and an underlying geology that differs from the rest of the Ruahine ranges; it also supports ecosystems not present on the RFP land. While it, too, has been logged, it has retained scattered emergent podocarps through a black beech forest that is almost 3 times more extensive than that on the RFP land. Even though it is interspersed with 24 ha of pasture I am confident that the proposal to remove that land from grazing will, over time, lead to regeneration.
19. I have considered the Department's Science team's further analysis of the terrestrial, wetland and stream components of the RFP land and Smedley land (as referred to above) and accept its conclusion that whether the exchange proposal is assessed under a "with dam" (i.e. future state) or "without dam" (i.e. current state) scenario, the Smedley land will

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enhance the conservation values of land managed by the Department and promote the purposes of the Act.

20. It is not clear to me whether fencing of the Smedley land from the remainder of Smedley Station which will be retained by HBRIC will be necessary. I consider that fencing should be required if there is to be grazing on the adjoining Smedley Station, and have included a condition requiring this.
21. I consider that the costs of boundary surveys of the RFP land and the Smedley land including the additional 23.4h which will in particular be required for the Gazette notices should be borne by HBRIC. I have included a condition to this effect.
22. I also consider that the values of the Smedley land warrant special protection and it should be held as conservation park, and that it would be desirable to include it in the Ruahine Forest Park.
23. In summary I am of the view that the proposed exchange will well and truly meet the Act's test for exchanges. Moreover I consider that the conditions I am imposing (and which I set out below) together with HBRIC's offers to undertake conservation work will further promote the purposes of the Act.
24. As a result, and acting under delegation from the Minister of Conservation, I have decided:
  - (a) To declare the RFP land to be held for conservation purposes, as this is necessary to enable me to progress the proposed exchange;
  - (b) To agree, subject to a Gazette notice giving effect to that declaration, to revoke the purpose of the RFP land as a conservation park on the basis that I wish to progress the proposed exchange of the RFP land for the Smedley land;
  - (c) Subject to a Gazette notice giving effect to my decision to revoke the conservation park status of the RFP land:
    - (i) To authorise the proposed land exchange under s 16A(1) of the Act on the basis that I am satisfied on the information before me that the proposed exchange will enhance the conservation values of land managed by the Department and promote the purposes of the Act as required by s 16A(2);
    - (ii) To agree, in accordance with s 16A(3) to hold the Smedley land for the purpose of a conservation park and include it in the Ruahine Forest Park; and
    - (iii) To give notice of these last two decisions in consequential order by notice in the Gazette after gazettal of the earlier decisions set out above.

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### Conditions

25. My decision to revoke the conservation park status of the RFP land is conditional on HBRIC taking title to the Smedley land and the additional approximately 23.4ha of land referred to in paragraph 24(a) below, and the execution of an agreement on terms satisfactory to me in relation to the exchange.
26. My decisions on the revocation and proposed exchange are subject to the following conditions:
  - (a) HBRIC is to add an additional 23.4ha to the Smedley land which additional land sits broadly between the original northern and southern sides of the Smedley land. The additional 23.4 ha is to incorporate Donovan Gully;
  - (b) HBRIC is to fence the boundaries between the Smedley land (including the 23.4 ha referred to above if relevant) and the residual area of Smedley Station adjoining the Smedley area if HBRIC intends to make the residual area of Smedley Station available for grazing.
27. HBRIC is to bear the costs of boundary surveys of the RFP land and the Smedley land including the additional 23.4ha.
28. Two further conditions result from my acceptance of offers from HBRIC to carry out conservation work. These are that:
  - (a) HBRIC is to assist the Department in managing the potential habitat of Whio in the Upper Makaroro catchment comprising contributions of \$25,000 to the initial set up of the predator control work and annual monitoring and trapping contributions of \$11,000 for the duration of the RWSS resource consents' period, subject to the RWSS project proceeding.
  - (c) HBRIC is to contribute to a wilding pine eradication on the Smedley land with a minimum annual contribution of \$20,000 over Year One and Two followed by a monitoring and maintenance programme from Year Three at a level of \$5000 per annum until it can be demonstrated that the wilding pines have been eradicated.
29. The decisions are each subject to Gazette notices giving effect to each decision in the order in which they need to be made.

### Valuation

30. Under s 16A(4) of the Act I may authorise the payment or receipt of money by way of equality of exchange. This is relevant where the two areas of land proposed for exchange have different values. The Department agrees with HBRIC that there is no equality of

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exchange to address. I see no reason to disagree with this assessment and accordingly accept that no payment by either party is necessary.

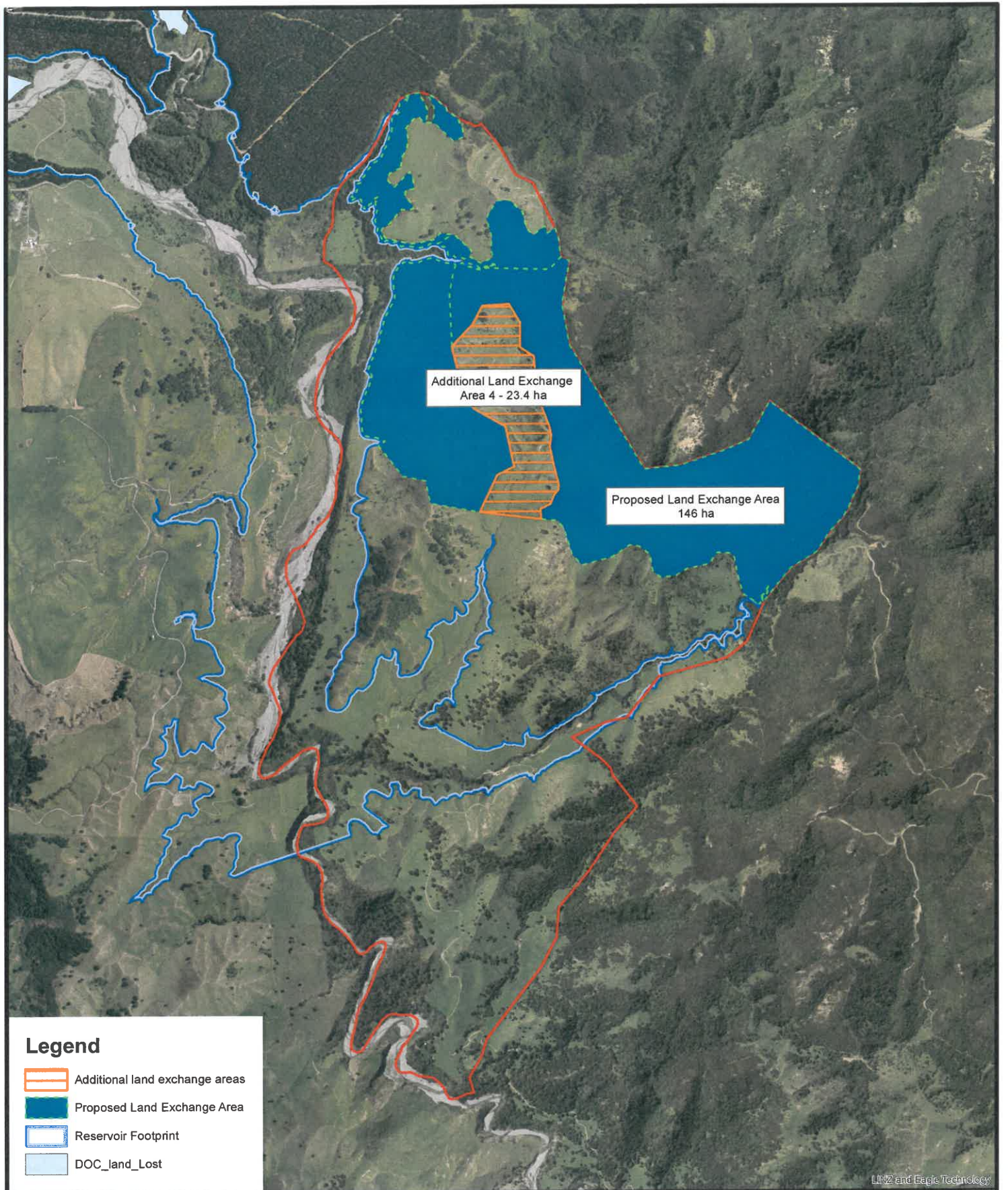
**Agreement**

31. An agreement between HBRIC and the Minister will need to be drawn up and executed to reflect the matters raised in this letter.

A handwritten signature in black ink, appearing to read 'Lou Sanson', with a long horizontal stroke extending to the right.





Lou Sanson  
Director-General of Conservation  
acting under delegation from the  
Minister of Conservation

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LINZ and Eagle Technology

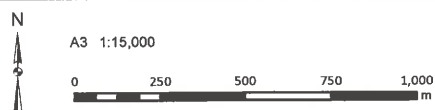
### Legend

-  Additional land exchange areas
-  Proposed Land Exchange Area
-  Reservoir Footprint
-  DOC\_land\_Lost

## Ruataniwha Dam - DOC Land Exchange



Created By: Wea van der Zwan  
 Date: 11/02/2015  
 Project: Ruataniwha Dam  
 PWF: HBR.00023  
 Client: Hawkes Bay Regional Council  
 File:  
 I:\GIS\data\Ruataniwha\_Plains\Ruataniwha\_DOC\_Exchange\_work\_2014\_Update.mxd



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