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TUKITUKI WATER SECURITY LIMITED

LAND EXCHANGE

Invited Comments Response Package

3 June 2026

Tukituki Water Security Limited – Tukituki Water Security Project – Land Exchange Application (FTA207)

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PART 1

Legal Submission on behalf of TWSL
(James Winchester Barrister)

BEFORE THE DIRECTOR-GENERAL OF CONSERVATION

UNDER THE

Fast-track Approvals Act 2024 (**Act**)

IN THE MATTER

of an application by **TUKITUKI WATER SECURITY LIMITED** for a land exchange in accordance with the Act in respect of the Tukituki Water Security Project (**TWSP** or **Project**)

**LEGAL RESPONSE TO WRITTEN COMMENTS RECEIVED ON
LAND EXCHANGE APPLICATION**

Dated: 3 JUNE 2026

Counsel acting:
JAMES WINCHESTER
BARRISTER

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INTRODUCTION

1. These submissions address a range of legal issues arising from the written comments made by invited persons on the land exchange application (**application**) by Tukituki Water Security Limited (**applicant**) and lodged with the Department of Conservation (**DOC**) on 16 March 2026.
2. The purpose of these submissions is to assist the Director-General of Conservation (**D-G**) in their preparation of a report to the applicant on its application in accordance with sections 35 and clause 26 of Schedule 6 to the Act.

GENERAL ISSUES - SCOPE

3. Based on the applicant's review of the various written comments made on the application, it is apparent that a significant proportion of the comments and issues raised are irrelevant to the application and address matters unrelated to the land exchange.
4. On 20 March 2026, the application was determined by DOC to be complete for the purposes of section 33 and 34 of the Act. This meant that the application was judged to have provided sufficient mandatory information for the purposes of section 33; in particular the information identified in clause 24 of Schedule 6 to the Act.
5. It is the applicant's position that the scope of relevant matters to be considered for the purposes of this application is confined by the Act to the relevant pieces of land which the land exchange proposal relates to. This is submitted to be apparent from:
 - (a) the definition of land exchange in clause 22 of Schedule 6;
 - (b) the information requirements in clause 23(1) of Schedule 6 which refer to:
 - (i) a description of *both land areas* proposed for exchange¹; and
 - (ii) a brief description of the conservation values of *both pieces of land*²;
 - (c) the need for applicant to provide an assessment of the conservation values of *both pieces of land*³;
 - (d) the need for applicant to identify any proposals to address impacts on existing *users of the land to be disposed of by the Crown* and information about financial

¹ Clause 23(1)(a) of Schedule 6

² Clause 23(1)(b) of Schedule 6

³ Clause 24(a)

and legal liabilities and obligations associated with *the land to be acquired by the Crown*⁴;

- (e) the requirement for the D-G's report to address the conservation values *of the land concerned*, and a comparative assessment of the values that relate to *each area of land concerned*⁵; and
- (f) ultimately, for the Panel on a substantive application to take into account the conservation values *of the land concerned*, and a comparative assessment of the values that relate to *each area of land concerned*⁶.

6. Accordingly, to the extent that written comments relate to areas outside the relevant land included within the application, they are submitted to be out of scope.

7. Similarly, issues raised by written comments that introduce matters outside the relevant statutory considerations for land exchange (for example, the overall merits of the project issues that would be covered in a substantive application for approvals under the Act, or issues that are already addressed and managed by the existing package of resource consents) are also submitted to be out of scope.

8. In some instances, due to the lack of clarity around issues raised there is a possibility that comments address the land exchange application in part. It is submitted that such comments should be approached by the D-G on the basis of the clarity of that comment and/or specificity of the evidence furnished in support of it to make a judgment on both its relevance and the weight to be given to it.

RESPONSE TO COMMENTS MADE BY VARIOUS PARTIES

9. I set out below, by reference to comments made by various parties, responses which address legal or jurisdictional issues which arise.

Tamatea Pōkai Whenua

10. A significant focus of the comments from Tamatea Pōkai Whenua (**TPW**) is on the status of former Crown Forest Licensed land held by the Kaweka Gwavas Forestry Company Limited (**KGFC**) in which TPW has an interest. This land was formerly Crown Forest Licensed

⁴ Clause 24(c) and (d)

⁵ Clause 26(1)(a)

⁶ Clause 29(1)(a)(ii)

land and was transferred to KGFC as part of the Treaty of Waitangi settlement with Heretaunga Tamatea.

11. The primary response for the applicant is that, irrespective of the status of the KGFC land, it is not land which is subject to the present land exchange application. Furthermore, while the purchase or exchange of the KGFC land which is proposed to be inundated is required⁷, that is a matter for negotiation outside the Act and does not itself involve nor require a statutory approval for the purposes of the Act.
12. Accordingly, the TPW comments on the status of the KGFC land are submitted to be out of scope and are not relevant to the land exchange application. In addition, while TPW states that the KGFC land falls within the definition of “identified Maori land” (addressed in further detail below) for the purposes of the Act and therefore involves an ineligible activity⁸, that is not the case for the land exchange application and nor is it necessarily the case in respect of a substantive application for the wider project in the future.
13. In that regard, while it has been assumed by TPW that activities on the KGFC land (unless agreed in writing by the owners) will be ineligible activities under the Act, the question of whether the KGFC land raises this issue for a substantive FTAA application will depend upon the approvals sought in a substantive application. The existing package of resource consents for the former Ruataniwha Water Storage Scheme (**RWSS**) have recently had their expiry dates extended and it is possible that the applicant will rely on all or some of those consents rather than apply for new or replacement approvals under the Act. Accordingly, it is not yet known whether the KGFC land will be the subject of a substantive application under the Act.
14. Dealing with the substance of the issue regarding land status, the information submitted with the application identified that the KGFC land was still classified as Crown Forest land, and was not therefore understood to be Māori land, by reference to Te Ture Whenua Māori Act 1993 (**TTWMA**). It is accepted that this position was incorrect insofar as the Crown Forest land status is concerned (noting paragraphs 4.1-4.4 of the TPW comments) and that the application did not identify this land as “identified Māori land” for the purposes of the Act and should have. While these matters are not legally material for the reasons identified above, it is accepted by the applicant that this error is regrettable.

⁷ An exchange of the KGFC land with some additional Smedley land is proposed and has been the subject of discussion. This would not require a land exchange or other statutory approval for the purposes of the Act.

⁸ See section 5(1)(a) of the Act

15. In terms of other issues raised by the TPW comments, it is noted that TPW remains open to working through issues of concern⁹ with the applicant and that is also very much the applicant's intention. It will obviously need to do so in respect of the KGFC land, whether it is subject to the Act or not.
16. Dealing with heritage and cultural impacts, it is not accepted that the application has dismissed such impacts. Rather, no such impacts as they relate to the *specific land* that is subject to the application have been identified and nor do any such impacts on the relevant land appear to be identified in TPW's comments. The applicant accepts that the potential for identification and management of broader cultural and heritage impacts beyond the land exchange application will require further engagement with entities such as TPW and remains committed to that. It has not assumed that engagement with the Mana Whenua Working Party convened by TPW means that such issues have been fully addressed and removed for the wider project.
17. For completeness, it is noted that TPW provided a conditional letter of support for the extension of the lapse date of the RWSS resource consents, which apply to activities that take place on DOC and other land. The applicant is well aware of the "bottom line" requirements required with this conditional support and is working with TPW on these matters as well the recommendations of the CIA.

Ngāti Kahungunu Iwi Incorporated

18. A number of the issues raised by Ngāti Kahungunu Iwi Incorporated (NKII) have been raised by TPW and are addressed above.
19. It is accepted that NKII is *an* iwi authority representing tangata whenua interests across Te Matau-a-Māui, but is not the only iwi authority. The applicant has engaged with NKII extensively for the purposes of the broader TWSP and has discussed the land exchange proposal and need for this application with NKII and its Tumuaki.
20. It is accepted that the entities referred to on page 2 of the NKII letter have not formally endorsed the land exchange proposal. In principle support for the broader project by other tangata whenua entities such as TPW, and the qualifications on that position, have

⁹ Paragraphs 1.9, 3.8 and 6.5 of the TPW comments

been understood by the applicant and it does not accept that it has sought to misrepresent the position. As noted in the NKII comments, a Cultural Impact Assessment (**CIA**) was commissioned by the applicant and has recently been received from TPW. The applicant has responded as to how cultural issues and concerns might be managed and dealt with through ongoing engagement.

- 21.** A similar position applies with regard to the concerns outlined on page 3 of the NKII comments regarding the position of affected Marae and Taiwhenua. The comments of those entities are noted and respected.
- 22.** To the extent that comments are made by NKII on conservation values, many of these appear to relate to broader project considerations (including the construction of the proposed dam) and are not specific to the land which is the subject of this application. This includes the letters from Marae attached to the NKII comments. In addition, the 2013 evidence of Dr Lloyd which is referred to is not specific to the land subject to this application, and nor does it address the recent assessment included in this application.
- 23.** With regard to the matters identified on pages 4-5 of the NKII comments, the applicant is concerned that the suggested breadth of matters that should be considered would involve a considerable expansion of the statutory considerations for this application provided for in the Act and involve land and resources which are beyond the scope of this application. Accordingly, it agrees with NKII that care should be exercised by the D-G in identifying relevant considerations relating to this specific proposal.
- 24.** Dealing with broader public interest considerations (page 5), the Supreme Court decision referred to involved the application of different statutory provisions and is primarily relevant as factual context to the present proposal. In this instance, the applicant considers that the D-G must apply particular scrutiny to the relevant provisions of the Act rather than the history relating to this matter.

Mana Ahuriri Trust

- 25.** To the extent that Mana Ahuriri Trust supports the comments made by TPW and the KGFC, these have been addressed elsewhere and need not be repeated.
- 26.** It is also noted that the matters raised under the headings “Purpose of Mana Ahuriri Response” and “Mana Ahuriri Position” largely deal with matters outside the scope of the

land exchange proposal. These matters are all noted, but no specific issues have been identified and therefore no specific response is required from the applicant.

Kaweka Gwavas Forestry Company Limited

- 27.** The KGFC comments query whether the application is complete. It is clear that the land exchange application covers all land which is subject to that proposal and does not need to cover all land that is proposed to be inundated. Marginal strips and Crown riverbed land are not within the scope of this application.
- 28.** Similarly, the impacts on existing users that are referred to in the KGFC comments do not relate to the land within this application. These matters are out of scope. In addition, the reference to clause 34(c) of Schedule 6 to the Act appears to be an error (the correct reference is clause 24(c), but is not relevant to this application in any event).
- 29.** It is not clear whether the concerns expressed in 4.1 of the KGFC comments will result from the land exchange or the broader project, but it appears to be the latter. In any event, it is not clear that the concerns relate to conservation values.
- 30.** With regard to marginal strips, these matters are not within the scope of the present application and clause 38 of Schedule 6 to the Act disapplies the marginal strips provisions for the purposes of a land exchange. Any issues relating to marginal strips will be dealt with separately outside the fast-track legislation under the provisions of the Conservation Act 1987. There is no legal basis for the D-G to recommend reduction of a marginal strip around the reservoir on KGFC land to 3 metres as part of this application.
- 31.** In terms of ownership of the exchange land (item 5 of KGFC comments), it is understood that the exchange land must be held for conservation purposes. It is understood that this land will adjoin and form part of existing conservation land over which there is existing public and practical legal access. The ownership ambitions of KGFC are noted but the applicant doubts that they are achievable under this application or the Act more generally.

Minister for the Environment

- 32.** The Minister's comments are noted. The comments appear to misunderstand what is proposed in this application in terms of the various improvement measures advanced which will occur *prior* to the land exchange occurring (eg. stock proof fencing, pest control,

and restoration planting). It is submitted that this will ensure that there is no gap between the effects of the land exchange and the enhancement measures. There will therefore be both clarity and certainty about the benefits.

33. In terms of recreational values, there are no DOC access routes or huts within the DOC land to be exchanged and nor does the land provide access to any private land or significant sites that might require easements. Existing recreational access to the DOC land is informal from the adjoining river beds and related to activities such as bird-watching and hunting. The access benefits proposed as part of the land exchange need to be seen against that context.

New Zealand Conservation Authority

34. As a general observation, the comments from the New Zealand Conservation Authority (**NZCA**) appear to rely upon and support positions advanced by other entities (such as TPW and NKII, as well as the entities represented by NKII). As such, NZCA's various comments recording the positions of such entities are noted but do not require any response. This includes all of the matters in Section 3 of NZCA's comments, as it is understood that NZCA does not speak for those entities. Quite apart from that, the NZCA raises a number of matters related to the interests of those other entities that are clearly beyond the scope of the land exchange application.
35. As far as the comments in section 4 of the NZCA DOCUMENT are concerned, most of the within scope comments relate to ecological and conservation merits issues. I would observe however that the suggestion on page 11 that *"the proposed exchange land is dependent on a number of remedies including fencing to exclude all stock, riparian planting and long-term pest control"* and that *"the long-term costs would ultimately fall to the department, which is already under significant financial pressure"* appears to misunderstand that this work will occur prior to exchange.

Hawke's Bay/East Coast Conservation Board

36. The Hawke's Bay/East Coast Conservation Board (**Board**) comments are noted. In terms of legal issues, section 4.2 of the Board's comments suggest that the proposed land exchange must deliver a like-for like replacement of conservation values. This is legally incorrect.

- 37.** The matters required to be addressed by the D-G's report under clause 26 of Schedule 6 to the Act do not involve the application or consideration of such a test with regard to conservation values. For a subsequent substantive application, clause 29 of Schedule 6 similarly does not require a panel to be satisfied that the exchange must deliver a like-for-like replacement for conservation values. Rather clause 29(2) states that:

The panel must not grant the approval unless the panel is satisfied that the land exchange (including any money that may be received under clause 30 and any conditions that the panel may impose in accordance with clause 32) will enhance the conservation values of conservation areas and Crown-owned reserves considered as a whole.

- 38.** The Board's comments about responsibility for future mitigation and management have been addressed with regard to other similar comments (eg. Minister for the Environment, NZCA) and are not repeated here. If the improvements are fully implemented (an outcome which is covered by proposed conditions), what is required is that the outcome will be a net conservation benefit as a whole. The replication of specific ecological and landscape characteristics of the affected site on the land to be exchanged is not the correct legal test.
- 39.** The matters identified in 4.5 of the Board's comments do not appear to relate directly to the land exchange proposal, but rather address broader consequences of the dam and reservoir. It is therefore not clear that these matters are within scope.
- 40.** Precedent and integrity considerations (sections 4.6 and 4.7) are not relevant to a land exchange application. In any event, the correct application of the process in the Act to the present facts and circumstances will ensure that such concerns do not arise.
- 41.** The comments in section 4.9 environmental outcomes (eg. creation of the reservoir, changes in land use enabled by irrigation) appear to go beyond the scope of the land exchange proposal to consider broader effects of concern. These matters are largely beyond the scope of the present application and/or expressed at such a level of generality that no response is required.
- 42.** The risk considerations in the Board's comments at section 5 have largely been addressed by earlier responses and/or involve matters that are beyond the scope of this application. Funding and financing considerations relating to the broader project are submitted to be irrelevant to this process. Accordingly, no additional response is required.

- 43.** The comments for the Parliamentary Commissioner for the Environment (**PCE**) usefully identify the correct legal test to be applied to the land exchange application at page 1.
- 44.** It is however submitted to be less helpful for the PCE in the comments on page 2 to raise somewhat speculative issues about how the test would be applied to a different set of facts and circumstances and what ratios should apply with regard to different measures of relevant values. On the latter point, there appears to be a statutory discretion available to the D-G which can be applied on both a qualitative and quantitative basis to reach a conclusion on comparative values (informed of course by expert assessment and evidence), which is submitted to be appropriate given the very different facts and circumstances that will likely arise from case to case. Prescribing minima or thresholds that should be achieved would likely be outside the provisions of the Act, and little weight should be given to those comments.
- 45.** With regard to the PCE's comments as to the time at which values should be assessed, this is a matter which is again not prescribed by the Act and enables the exercise of an informed judgment and discretion by the D-G. In terms of questions raised about ongoing management, once the exchange is completed, then future management issues will largely be a matter for DOC and therefore some element of prediction is required. Nevertheless, the applicant's assessment appropriately identifies that, in terms of the measures proposed to be undertaken prior to the exchange occurring, there will be a net conservation benefit as whole on the basis that actions will be secured by conditions.
- 46.** If recreational values were required to be assessed at the present day when there is an absence of certainty as to whether the broader project will be approved or implemented, then it would potentially be difficult for areas of private land proposed to be exchanged to demonstrate those values, in the absence of significant "up front investment" that could ultimately be wasted. Given however that the PCL land in this instance has low recreational values, the question is perhaps moot in this instance. It is also noted that the PCE speculates about the future of the adjoining Gwavas Conservation Area land and how this might influence an assessment of a land exchange. While this is interesting from a theoretical perspective, it is beyond the scope of this application and is hypothetical. This comment should be disregarded.

47. Finally, the question around the duration of time that enhancement and pest control work will need to be undertaken on the exchange land before it is transferred to DOC is a merits issue, but the ability of the D-G to recommend conditions is noted.

Royal Forest and Bird Protection Society Inc

48. The comments from the Royal Forest and Bird Protection Society (**RFBPS**) are extensive.
49. In terms of legal issues, RFBPS asserts a legal test for the land exchange application on pages 2-4 of its primary comments. The logic of the test that RFBPS asserts is difficult to follow but is submitted to be legally unsound.
50. If the asserted requirement under the Act for each conservation value needing to be enhanced by a land exchange in order for it to be approved was correct, the Act would have said this explicitly. It does not. Rather clause 29 (2) of Schedule 6 to the Act provides:

The panel must not grant the approval unless the panel is satisfied that the land exchange (including any money that may be received under clause 30 and any *conditions that the panel may impose in accordance with clause 32*) will enhance the *conservation values* of conservation areas and Crown-owned reserves considered as *a whole*. (*emphasis is mine*)

51. The statutory language used in the Act is submitted to enable all relevant values to be considered both individually and together to inform a judgment as to the outcome as a whole (ie. on a collective basis). This is submitted to be entirely consistent with the concept of a net conservation benefit and is also consistent with the apparent intention of the Act to give a statutory discretion to the D-G to be applied on both a qualitative and quantitative basis to reach an overall conclusion on comparative values (informed by expert assessment and evidence relating to the specific facts and circumstances). In that respect, it is submitted that an “unders and overs” approach to relevant values is permissible under the Act.
52. The suggestion at paragraph 8d of the RFBPS comments, that the test requires consideration of the wider conservation estate and whether the exchange would result in a gain to the conservation estate as a whole, cannot be correct. The statutory language identified earlier quite clearly confines the scope of the considerations to the values of the land which is the subject of the proposed land exchange. Adoption of a test which requires a gain to the conservation estate as a whole, apart from being very difficult to measure or

establish given the breadth a diversity of resources within the conservation estate, would be an error of law.

- 53.** Reference to the syntax and legislative history does not assist with supporting the RFBPS interpretation. Had the interpretation preferred by RFBPS been intended, it would have been straightforward for Parliament to have included clear language to achieve that position. The legal position asserted by RFBPS requires a significant leap from the statutory language in the Act and a somewhat strained and artificial approach to interpretation.
- 54.** There is no dispute as to the meaning of the word “satisfy” as outlined in paragraph 10 of the RFBPS comments, but the test which needs to be satisfied is not that advanced by RFBPS. It follows therefore that the discussion at paragraphs 11-17 of the RFBPS comments, to the extent that it relies on an incorrect legal interpretation, is likely to be unreliable.
- 55.** This is apparent with regard to paragraphs 12e and j, which incorrectly suggest that a broader conservation estate assessment beyond the areas of land concerned is necessary.
- 56.** The comments on an alleged lack of certainty based on ongoing management actions¹⁰ have largely been addressed earlier in response to other comments and need not be repeated. To the extent that the RFBPS comments suggest that the applicant is proposing a double counting approach¹¹ by referring to the Integrated Mitigation and Offsetting Approach, it is submitted that this is misleading in that a package of measures are proposed for the purposes of the land exchange proposal and are specifically relevant to the land concerned¹². In that respect, it is submitted that the proposed measures required to improve the values of the SEB land will be secured, resourced, and stand independently.
- 57.** The RFBPS comments assert at paragraph 14 that the application fails to address landscape and natural character values. It is accepted that there is no separate assessment of these matters, and that they are potentially a subset of cultural and heritage values. The completeness check¹³ made by DOC notes on page 4 that there is a gap in terms of scenic

¹⁰ RFBPS comments paragraphs 12f - j

¹¹ Ibid, paragraphs 12k - l

¹² Section 5.3.2 of the applicant’s overview report – March 2026. These measures can be required, by conditions, to be implemented prior to the land exchange occurring

¹³ Which is [here](#)

heritage, but that it was not an issue identified in pre-lodgement discussions and will be addressed in any event by a DOC-commissioned landscape assessment. From the applicant's perspective, this will ensure sufficient information on these matters is available for the purposes of the D-G report and a panel decision in due course. In any event, section 34 of the Act does not prescribe the need for specific assessments of information in terms of completeness, so this is not a threshold issue for the application.

- 58.** The RFBPS comments regarding historical conservation values at paragraph 16 are not accepted. There are no relevant archaeological features identified on the land subject to the exchange and it is not a requirement that historical conservation matters are enhanced in any event. It is not possible to provide an enhanced historical conservation outcome if such matters do not arise for consideration, which demonstrates the unreasonableness of the incorrect RFBPS interpretation that every potentially relevant conservation value must be enhanced by a land exchange proposal in order for it to be approved.
- 59.** The RFBPS comments on conditions and management plans at paragraphs 18-20 are noted. Offers to prepare management plans are submitted to be relevant given that they can be the subject of conditions should the D-G consider them to be necessary and appropriate. Management plans are a well-established mechanism and there is sufficient detail as to both the purpose of and matters to be addressed by possible management plans to enable consideration of their relevance and merits in addressing any identified issues or concerns¹⁴. The applicant would be willing to provide detailed management plans if required by conditions or in response to the D-G's draft report under section 35(6) of the Act, if that was a matter identified in the draft report.
- 60.** The comments at paragraph 21 state that the application has not referred to statements of general policy, such as the Conservation General Policy. It is noted that, to the extent relevant, the applicant's overview report addresses provisions of Conservation Management Plans that are more directly relevant to the relevant land and are assumed to give effect to higher order statements of conservation policy. This is not however a completeness or threshold issue in terms of section 33 of the Act, in that such information is not prescribed as mandatory for the application and rather is relevant to a merits assessment (hence DOC's acceptance of the application as complete).

¹⁴ Noting that the law has moved on considerably from the case of *Turner v Allison* referred to in the RFBPS comments at footnote 11

- 61.** Section 35(3) of the Act does however identify that the D-G's report must include the matters specific in clause 26 of Schedule 6, which includes information to address the mandatory considerations for the panel for a land exchange decision under clause 29. This includes information on statements of general policy approved under section 17B or 17C of the Conservation Act 1987, so is appropriately a matter for the D-G to address in this instance given that DOC administers these policy statements.
- 62.** The RFBPS comments state at paragraphs 23 – 26 that the application has not addressed conservation management strategies and plans co-authored, authored or approved by a Treaty settlement entity. Based on the applicant's understanding of the definition of Treaty settlement entity, it is not aware that any relevant strategy or plan exists in relation to this land exchange. This comment appears to be a placeholder and lacks substance.
- 63.** The RFBPS comments on marginal strips appear to misunderstand the legal position in this instance. Marginal strip requirements are disapplied in respect of the land exchange provisions, but this does not mean that existing marginal strips will cease to exist (they are likely to move with the creation of a reservoir in future) and the applicant will address further marginal strip requirements under the Conservation Act outside the fast-track process under the Act.
- 64.** Finally, the RFBPS comments on ineligible activities have been addressed in response to the TPW comments.

Federated Mountain Clubs of NZ Inc

- 65.** Considerable out-of-scope matters are apparent from the comments by Federated Mountain Clubs of NZ Inc (**FMC**). In particular, the FMC comments explicitly approach the dam and land exchange proposals on an interchangeable basis. As such, almost all of the comments appear to relate to broader project impacts rather than any identified direct impacts of the land exchange proposal.
- 66.** Issues such as the economic feasibility of the broader proposal and the gravel load washing down the Makaroro River (page 3 of the FMC comments) are not relevant to the present application.

Gerard Pain

- 67.** Large parts of Mr Pain's comments are out of scope (ie. related to concerns about the broader project) or irrelevant (eg. the need for wiser water use in rivers and aquifers, project funding matters).

Sharleen Baird

- 68.** A number of matters that are irrelevant to the application and the D-G's report are raised in Ms Baird's comments (eg. addressing current water allocation consents). The comments are in error to the extent that they claim that the Smedley Station land which is proposed to be exchanged is stewardship land.
- 69.** As noted earlier, the Supreme Court decision on land exchange issues is relevant only as factual context to the present application, given that it is the provisions of the Act that are relevant to the land exchange proposal rather than those considered by the Supreme Court.

Kathryn Bayliss

- 70.** Some matters in Ms Bayliss' comments require a response. The first is the asserted relevance of the ownership of resource consents for the former RWSS by the Hawke's Bay Community Water Trust, at pages 7-8. The consents continue to be in the name of Water Holdings Hawkes Bay Limited, which is owned by the Trust. Aside from the accuracy of Ms Bayliss' assertions, these matters are irrelevant to the land exchange application. Similarly, the outcome of a complaint to the Broadcasting Standards Authority referred to at page 10 of the comments is irrelevant to this process, as is the ownership of Smedley Station (page 11-12).
- 71.** Concerns about the establishment, composition and purpose of the Hawkes Bay Community Water Trust (page 12-13) are also irrelevant to the land exchange proposal and should be disregarded, as should a comment about the acquisition history of the Makaroro River bed from Māori at page 17. If the inference is that the inclusion of such land involves an ineligible activity for the purposes of the Act, this is legally incorrect.

- 72.** The suggestion at page 16-17 of the Bayliss comments that the applicant should be required to carry out planting and pest control for 30 years on the exchange land is unreasonable and well beyond what has been proposed in the application.

Dr Amelia McQueen/Te Taiao Environmental Forum

- 73.** Many of the comments and the supplementary evidence submitted are out of scope and relate to the wider project, for which consents already exist.
- 74.** The comments relating to land exchange insufficiencies misunderstand that the additional area of DOC land now included is not a new or different area for the purposes of the entire project. The only difference is its legal status, hence its inclusion in this application. The applicant has clearly identified this issue in its application and this matter does not affect the reliability of the applicant's assessments or conclusions regarding the merits of the land exchange.

DATED this 3rd day of June 2026



James Winchester
Counsel for Tukituki Water Security Limited Partnership



2



PART 2

Technical Memorandums



APPENDIX A

Ecology Memorandum (RMA Ecology)

Memo

To:	Mike Scott, Tukituki Water Security Limited	Job No:	2622
From:	Graham Ussher, RMA Ecology Limited	Date:	3 June 2026
cc:	Philip McKay, Mitchell Daysh Limited		
Subject:	Tukituki Water Security Project: response relating to comments on ecology regarding proposed land exchange application		

Dear Mike,

Tukituki Water Security Ltd (**TWSP**) is seeking approval under the Fast Track Approvals Act 2024 (**FTAA**) to exchange land within the consented Tukituki dam and reservoir area (**Project**) that is managed by the Department of Conservation (**DOC**), with nearby land that is under private ownership (the Smedley Exchange Block (**SEB**)).

RMA Ecology has not been involved in the land exchange process to date¹. All of the Applicant's ecology work on the proposed land exchange has been undertaken by SRL Consulting NZ, updating previous assessments undertaken by Kessels Ecology and Cawthron (2010-2015).

At TWSP's request, and noting the unforeseen absence of the Applicant's ecologists, RMA Ecology Ltd has been engaged to independently review and comment on both the responses from the invited parties and the Applicant's submission.

I have prepared this response in my capacity as an appropriately qualified and experienced ecologist². However, this response was peer reviewed by Gerry Kessels, who was involved in the terrestrial ecology reporting for the original Ruataniwha Water Storage Scheme project, and the November 2025 land Exchange Assessment by SLR.

The information that I have reviewed in preparing this response is laid out below, and includes the original surveys undertaken of the sites in 2013-2015, as well as further work undertaken by the Applicant in 2025, and the submission received from invited parties that reference ecology matters:

- Kessels Ecology. 2013. Hawke's Bay Regional Investment Company Limited. Ruataniwha Water Storage Scheme. Terrestrial Ecology Study. Assessment of Ecological Effects. FINAL. Volume I.
- Kessels Ecology 2013. Hawke's Bay Regional Investment Company Limited Ruataniwha Water Storage Scheme. Smedley Exchange Block Ecological Survey.
- Le Cock G, Rogers G, Gerbeaux P, and Scrimgeour J. 2015. Assessment of proposed land exchange between Ruahine Forest Park revocation land and proposed Smedley Exchange Block in relation to Ruataniwha Water Storage Scheme. Department of Conservation.
- SLR. 28 November 2025. Land exchange assessment: Tukituki Water Security – Fast Track. 84 pp
- Maseyk F 2026. Tukituki Water Security Project– Terrestrial ecology review of Land Exchange Assessment report. The Catalyst Group Contract Report No. 2026/225. Prepared for the Royal Forest and Bird Society. 28 pp

¹ RMA Ecology has been involved in work on the Zone N portions of the water delivery scheme, and in the preparation of management plans for fish, lizards and bats from the consented dam and reservoir footprint.

² See Attachment A for the qualifications and experience of Dr Graham Ussher.

- McArthur K 2026. Review of application for land exchange report: Tukituki Water Security Project FTAA. Prepared for the Royal Forest and Bird Society. 32 pp
- Conservation Board submission. 23 May 2026. Tukituki Water Security Project: Assessment and position on proposed land exchange. Report prepared by Hawke's Bay/ east Coast Conservation Board.
- Parliamentary Commissioner for the environment. 26 May 2026. Re: Comments on Tukituki Water Storage Project Land Exchange Application. 4 pp
- McQueen AAM. Undated. Comments on Tukituki water storage land exchange application. 9 pp
- McQueen AAM. Undated. Supplementary evidence TWSP. 120 pp

I have focused my response on the issues I consider most material. The absence of comment on other matters should not be taken as agreement or acceptance.

The matters that I respond to in this memorandum are:

1. Adequacy of ecological surveys;
2. Out of scope items;
3. Specific values;
4. Scoring system;
5. Enhancements offered and guaranteed;
6. Benefits not double counted; and
7. Equitable land exchange for ecology values.

1 Adequacy of Ecological Surveys

This ecological reporting has been undertaken by qualified and experienced ecologists based on field work undertaken in September and October 2025 (as documented in the SLR Report, page 1) and was overseen, reviewed by Gerry Kessels, the author of the 2013 terrestrial ecology reporting for the original Ruataniwha Water Storage Scheme project.

The in-depth survey data collected in 2013 was augmented with additional information in 2025. As part of the 2025 additional work, the SEB block was surveyed through walkover vegetation classification and mapping, habitat assessment for fauna and stream assessment.

The level of ecology information for the DOC land and the SEB site provides a comparable base foundation from which to compare biodiversity values. The additional information collected on the DOC land lends itself to a more in-depth explanation of values, and in most cases transferrable to the SEB block as well.

While the information gathered for the DOC land by the Applicant has been more detailed, there is sufficient information that has been obtained for both sites to provide a satisfactory level of comparability of known species or environments, and those assumed to be present given known presence locally, or habitat availability. For example, fauna surveys in 2013 included parts of SEB block, and results from the 2013 surveys are relevant because SEB block contains similar habitats and is adjoining.

I note that the independent assessment of both the DOC land and the SEB land by DOC biodiversity specialists in 2015 did not dispute the findings of the Applicant from their 2013 surveys (and arrived at the same conclusion regarding the SEB land that: *'from an ecological and biological point of view, exchanging the 146 ha Smedley Exchange Block ... would enhance the conservation values of land managed by the Department'*).

2 Out of Scope Items

Many of the submissions refer to the DOC land including the river, margins, seeps, river bed, and gravel banks.

It is my understanding that these features are not within land managed by DOC and are excluded from the land exchange comparison.

Watercourses that are on DOC land are relevant features to compare between the sites, and that has been included in the assessment by SLR in its November 2025 land exchange report for the Applicant.

I understand that the approach taken by SLR in its comparative values report for the land exchange is the correct approach (by excluding land not managed by DOC), and I have also proceeded on that basis.

3 Specific Values

Blue Duck

F&B submit that whio habitat will be lost from the DOC land and there is no equivalent habitat in the SEB land. I understand from the Applicant that the whio records for this project were from upstream of the DOC land that will be affected by the dam, and so are not a value that is necessary to address in the land exchange.

In the Kessels Ecology report dated 2013 (page 25), Kessels states that although surveyed for, blue duck were not found within the dam or reservoir footprint, and therefore are not a feature potentially affected: *"Other species that were potentially present, such as kiwi and blue duck (whio), were not detected within the reservoir area. However, blue duck were sighted upstream from Upper Makaroro Hut in November 2012 (P Stewart, pers. comm.)."*

Rare River Margin Plants

McQueen notes that river margin rare plants will be impacted and may not be present within the SEB land because of the differing environments in the SEB land. I note that the rare plant environments cited by McQueen are all environment types that are not within DOC land to be exchanged, and so are not within the consideration of this land exchange.

Swamp Forest

McQueen states that several areas of riparian forest have been misclassified in the Applicant's ecology report and should be afforded the classification of swamp remnant, which is Critically Threatened, and has no comparable exchange within the SEB block.

The land exchange assessment report prepared by the Department of Conservation in 2015 identified wetlands on both the DOC land and the SEB block and made the comment that, *'We found additional wetland habitats on Smedley Exchange Block that were not included in the applicant's and submitters' reports and submissions. The wetlands on Smedley Exchange Block and the oxbow wetland on Ruahine Forest Park revocation land were all considered significant in terms of the second National Priority for Protecting Rare and Threatened Biodiversity on Private Land'.*

This suggests that the DOC specialist biodiversity staff who made this assessment were satisfied that there was a comparable exchange in relation to wetlands.

Freshwater Values

It is acknowledged and accepted that the freshwater values of the SEB block score medium to high against ecological significance criteria whereas the DOC land comparatively scores high and medium/high. Only small parts of Dutch Creek (1.2 ha) and Makaroro Riverbed are within the DOC land and therefore have been given appropriate weighting. The freshwater values of the DOC land form a

relatively minor contribution to overall conservation values, albeit a 0.236 ha oxbow wetland on the DOC land adjacent Dutch Creek has high representativeness values based on the SLR assessment.

Care needs to be taken however when considering the contribution of the Dutch Creek and Makaroro River systems in terms of aquatic values as these are generally in separate hydro land parcels (aside from the cadastral boundaries including a margin of the Dutch Creek river bed) and not part of the DOC land to be exchanged and are rather relevant matters to the existing Ruataniwha Water Storage Scheme consents and the substantive FTAA application.

This is most relevant to the interpretation given to the report by McArthur (Forest & Bird) where multiple references are made to braided river, the Makaroro catchment and River, and river morphology and habitats when comparing against the SEB land values. I have thoroughly read the McArthur report and conclude that McArthur's assessment mixes the DOC land with surrounding non-DOC land, which makes an assessment of comparative values difficult. I am unsure of how much of the discussion in the McArthur report is relevant (in scope) for this land exchange application.

Should the Water Storage Scheme proceed, fish within the SEB will have smaller, but still functional, available and un-inundated reaches to live in, equating to some 2.03 km over four streams. Table 8 in the SLR report lists freshwater fish (and kōura) recorded from Makaroro catchment, and their threat classification and migratory status. These species will likely utilise the approximately 1.2 km of Dutch Creek habitat within the inundated DOC land. But as the SLR eDNA results and habitat profiles show in the same report, there is available habitat for all of these species within the streams found in the SEB, not only those recorded by the eDNA sampling (Table 9 of the SLR report), but also other species, such as the bully species and torrent fish.

For the SEB land, eDNA testing has been undertaken in two of the four rivers to assess the riverine community health via the Taxon-Independent Community Index (**TICI**). The TICI is a similar assessment methodology to the Macroinvertebrate Community Index. While limited samples have been undertaken due to survey constraints, the samples taken indicate good-excellent ecological health within the Donovan and Middle Streams. It is noted freshwater values will improve further with the proposed restoration, pest control and stock exclusion.

Significantly, the SLR report notes (page 44) that the aquatic values of the SEB land *“are still considered to be of moderate to high ecological value because of the presence of three At Risk fish species. In addition, with restoration work in Donovan Gully the Donovan Stream and the wetlands there will improve. Exclusion of livestock from all waterways on the SEB will also significantly improve aquatic values.”*

Ecological Function and Connectivity

In terms of catchment position and ecological function, the SEB is positioned to enhance continuous ecological corridors (including direct connection to the Gwavas Conservation Area to the north) and provide substantial buffering of waterways (with connection to the proposed indigenously planted Reservoir Restoration Buffer (IMO A Project A) connecting in the west to the Ruahine Forest Park boundary.

The formation of a wide buffer (minimum width of 20 m) will link representative vegetation types creating linkages across altitudinal and habitat gradients for a range of representative vegetation types extending into the Gwavas Conservation Area to the east.

These movements will facilitate movement and genetic exchange for At-risk and Threatened species, supporting ecological processes and deliver a net gain in landscape connectivity and functional resilience at a catchment level.

4 Scoring System

The Parliamentary Commissioner for the Environment queries what an appropriate exchange ratio is between DOC land and the SEB block. The DOC Guidance has no requirements for greater than a 1:1 exchange ratio, and instead requires '*enhancement of conservation values*' as a whole. That suggests that an equivalent exchange (as a whole) is not supported, but a more than an equivalent exchange is.

The SLR provides a comparative assessment of the DOC and SEB blocks using several different metrics, including:

- Absolute area of separably classified vegetation communities;
- Presence or presence reasonably expected for fauna;
- Stream length and quality;
- Native freshwater fish diversity; and
- Overall ecological significance.

On almost all accounts the SEB block provides a greater or equal area of native vegetation, length of stream, and known or expected fauna diversity than the DOC block.

Where the scoring of the DOC land and the SEB land differ is regarding the existing state of streams, where the SEB block likely supports a less diverse native fish community than on the DOC land, and the range of stream hydraulic environments, and stream bed habitat on the SEB land is likely less than is present on the DOC land (I say 'likely' because it is not clear to me that the report presented by McArthur for Forest & Bird separates out the DOC land from the river parcels (non DOC land) in its discussion of comparative aquatic values).

As SLR notes in its assessment, the proffered requirement for the Applicant to plant up streams in the SEB block will improve the already quality of these streams over time and result in conditions that are more favourable for supporting a wider range of freshwater fauna than is currently present.

In perpetuity protection of the SEB block will be conferred by association with its change to public conservation land.

Forest & Bird (Pg 7, Bullet e) also raises issues regarding scoring, in relation to whether the Applicant's assessment of the conservation values applies the current values or proposed future values. The scoring provided in the SLR report applies the current values of the site with regard to the state and extent of vegetation communities, streams and wildlife, and this is communicated through the Sections 4-10 of the SLR report. The predicted future state of ecology is only discussed in relation to the additional benefits that will arise from stock fencing, pest control, planting and weed control. While these are communicated as additional benefits for terrestrial ecology on the SEB site, they are communicated as important outcomes for aquatic resources (habitat, fish) to help balance the generally lower scoring aquatic features on the SEB land in its current state.

5 Enhancements Offered and Guaranteed

TWSP is offering a range of management actions for the SEB block which will result in improvements to the health of individual vegetation communities, species populations, and the SEB block as a whole.

The management actions are guaranteed to be delivered as they are conditions associated with the land exchange, and will be embedded in the management plan also required by the conditions.

The outcomes of the management actions in terms of exact benefits for wildlife, indigenous vegetation, and species population cannot be predicted with certainty; however, given that the actions – fencing, pest plant and animal control, and riparian planting – are undertaken across New Zealand and are

widely accepted as being beneficial for wildlife and ecosystems, I have no doubt that these actions will produce benefits that will 'lift' the conservation values of the SEB site.

The weed and animal pest managing proposed for the SEB block by the applicant is for a period of 2 years. I agree with the Parliamentary Commissioner for the Environment³ that this is unlikely to be a sufficiently long period to effectively control weeds on the site, and may not be sufficient to provide a boost to fauna populations.

In situations such as this where effective control is desired, and a 'boost' to local wildlife is desired, it is more usual to commit to a minimum duration of 5 years or so. I would support the weed and animal pest control programme being implemented for a minimum of 5 years at the SEB site. Because the land exchange does not depend upon long-term management of animal pests, there is no imperative to secure animal pest control for a long time or in perpetuity.

I do not regard it as necessary for many of these management actions to provide an equitable exchange for terrestrial biodiversity values, because there are greater areas of indigenous forest of similar types on the SEB land than the DOC land (see Table 3 of the SLR 2025 report). In my opinion, the management actions that are most important are the planting of riparian margins of streams in the Dutch Creek catchment on the SEB land, to provide for greater habitat quality of freshwater fish, and to improve overall stream health above the existing state, and the exclusion of stock from the SEB land overall.

6 Benefits not Double Counted

Dr Maseyk (Forest & Bird) notes that enhancements offered as part of the land exchange should not form part of the resource consent package regarding offsets and compensation.

I agree, and I understand that the Applicant is aware of this, and has ensured that the management actions proposed for the and exchange do not form part of the Integrated Mitigation and Offset Approach (IMOA).

7 Equitable Land Exchange for Ecology Values

In my opinion, the information provided by the Applicant is thorough and robust, and supports the case that the SEB block provides mostly the same or better areas of habitat and vegetation communities as are proposed to be exchanged on the DOC land.

Where those values are not the same – as may be the case for freshwater fish and aquatic habitat, although I consider it to be close to equivalence - specific management actions are proposed by the applicant to bring about enhancement of streams and instream habitat for freshwater fauna, including native fish species, so that over time, the structural features of habitat will be enhanced to provide more-or-less similar habitat conditions and opportunities for the full range of species presently found within the inundated Dutch Creek reach running through the DOC land.

In assessing overall conservation values and whether there has been a net enhancement of such values, biodiversity values form a significantly greater area component of both the DOC land to be exchanged and the SEB land in comparison to freshwater values, and therefore should be accorded greater weight.

The SEB block includes additional values in the form of large areas of less developed native and exotic vegetation, which will benefit from the animal and plant pest control proposed and accelerate their development into native shrubland, and eventual indigenous forest, that will provide substantial additional benefits to the existing biodiversity values of the SEB block.

³ PCE. Page 4

Overall, my opinion is that that the proposed SEB block land exchange area, and the proposed management actions that will be secured by conditions of consent and a management plan, will provide for a more than equitable exchange, and result in an overall far greater biodiversity value of the SEB land compared to the DOC land, over time.

Yours sincerely,



Dr Graham Ussher

Principal Ecologist ⁴

RMA Ecology Ltd

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Attachment A: Qualifications and experience of Dr Graham Ussher

⁴ This report has been prepared for the benefit of our Client with respect to the particular brief given to us and it may not be relied upon in other contexts or for any other purpose without our prior review and agreement. Any use or reliance by a third party is at that party's own risk. Where information has been supplied by the Client or obtained from other external sources, it has been assumed that it is accurate, without independent verification, unless otherwise indicated. No liability or responsibility is accepted by RMA Ecology Limited for any errors or omissions to the extent that they arise from inaccurate information provided by the Client or any external source.

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Dr Graham Ussher – Principal Ecologist/ Director

Graham has more than 33 years experience with government agencies and the commercial sector assessing biodiversity and biosecurity issues. He brings a multi-disciplinary approach to ecological monitoring and assessment, strategy development and implementation, and project design and management.

Through his involvement with resource developers, local government and government agencies, he is a recognised leader in New Zealand in the field of ecological effects management – including offsetting and ecological compensation - incorporating ecological risk assessment with detailed project engineering design. Graham regularly presents expert evidence on these matters to local hearings, Boards of Inquiry and the Environment Court.



Qualifications

- PhD (Environmental Management), University of Auckland, NZ.
- MSc (Conservation Ecology) and BSc, UoA, NZ.

Statutory hearing / Court experience

- Council hearings: 35
- Environment Court: 4 (plus 6 mediations)
- Fast Track (COVID & FTAA)
 - For Applicant 18
 - Advising Panel 5
 - On Panel 1

Employment History

- 2016 – Principal Ecologist, RMA Ecology Ltd.
- 2007 – 2016 Principal Ecologist; Tonkin & Taylor Ltd, Auckland.
- 2004 – 2007 Regional Ecologist; Auckland Council.
- 2001 – 2004 Lecturer in Environmental Management; University of Auckland.
- 1995 – 2004 Independent ecological consultant.

Expertise

Core competencies include:

- Ecological survey and effects assessment.
- Stream ecological assessments (incl. SEV).
- Specialist lizard survey and salvage/ relocation.
- Project design ecological risk and cost estimation.

- Mitigation and offset compensation development, including brokering packages with regulators.
- Science advisor for biodiversity offset programmes in industry and government (nationally recognised expert in offset brokering).

Over his 30 years in industry, Graham has focused on work where development is most likely – greenfields areas, lowland shrublands and forests, coastal environments, and environments already modified in terms of wildlife habitat. His past experience in wildlife research, Council parklands management and wildlife programmes with the Department of Conservation required work in wilderness and offshore island locations, providing a robust benchmark against which to assess effects in more modified land proposed for active development.

A common thread running his project experience is a deep involvement with the RMA, particularly in the areas of significance assessments, effects assessments (s88) and more recently, s104 assessments involving ecological offsetting. Over the last 19 years Graham has worked increasingly closer with planners and lawyers so that project-specific designs accurately reflect up-front ecological risk, potential offsetting or compensation needs (and costs), and so that consentable solutions provide ecological benefits as well as achieving desired development outcomes.

Graham has worked for many years with multi-disciplinary teams on projects across New Zealand. From this he has a robust understanding of civil construction processes and engineering design for flood, stormwater, and wastewater management, and a base understanding of issues involved with land development, mining and quarrying sectors, resource management planning, civil engineering, renewables (wind, solar, hydro) and contaminated land management.

E: [REDACTED]
P: [REDACTED]

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BETTER ECOLOGICAL OUTCOMES

In recent years, Graham has been sought out for his experience in effects management theory, processes and practical application. He has presented on matters of the effects management hierarchy and offsetting to professional bodies including the Planning Institute, Law societies, and to the Environment Court. He has written or co-written national guidance on ecological effects assessment in New Zealand, as well as national guidance on biodiversity offsetting and compensation frameworks as applied under the RMA.

Experience

Examples of relevant projects:

- Lee River Dam, Nelson, Waimea Water Augmentation Committee/Tasman District Council/ Waimea Water, 2008-ongoing**
 Ecological effects project manager/ ecological specialist for the ecological AEE, including consultation, sub-contractor management, effects assessment, development of mitigation and offset design with key stakeholders (DOC, iwi, public groups), expert at Council hearing and mediation for the Environment Court appeal. Preparation of biodiversity mitigation management plans as required by consent conditions. Ecology technical advisor to TDC on matters post-consent. Undertook cost analysis and costing for environmental components of the dam for Waimea Water (2017). Prepared Vegetation Clearance Plan for consent holders. Senior ecologist advising the consent holder and construction contractor during the 4-year build phase for the dam (2019 onwards).
- National guidance on biodiversity offsetting; NZ Transport Agency; 2016-2017.** Lead author and researcher for the development of national guidance to the Agency on the application of biodiversity offsetting to roading projects in New Zealand.
- Local Government guidance on biodiversity offsetting; 2017.** Ecology technical advisor as part of 5-specialist, multi-disciplinary team that prepared national guidance on biodiversity offsetting and ecological compensation for the Regional Bio-managers Group. Co-presenter on 14-city national road show to socialise Guidance amongst regulators and practitioners.
- Expert advisor to NZ Transport Agency (2014-ongoing)** on biodiversity matters during Auckland Unitary Plan hearings, including SEAs and significance criteria for assessing site values.
- Auranga Housing development, South Auckland. Karaka and Drury Consultant Ltd. 2015 – ongoing.** Assessment of ecological values and potential effects for a 160 ha, 3,000 lot Special Housing Area/ Plan Change subdivision in rural/ residential land in Papakura, South Auckland. Work includes the mapping of streams & wetlands, vegetation, and coastal values, and development of mitigation and ecological compensation plans where potential effects cannot be avoided. Expert at hearings. Project ecologist dealing with all matters raised by Council through the development administrative process. Project ecologist implementing construction management, wildlife salvage/ relocation, and ecological restoration arising from consents.
- Milldale Housing development (Auckland). 2018-ongoing.** Lead ecologist for this 200 ha / 2,500-lot subdivision, dealing with values and effects assessment, offsetting requirements, expert for consenting process, and implementation of ecological parts of granted consents (staged development).
- Auckland housing development projects. 2015 – present.** Lead ecologist for baseline ecological values assessments, assessments of effects, mitigation and compensation programme development, expert representation for clients at Council hearings and development of site ecological management and planting plans (where necessary). Project involvement includes substantial subdivisions such as:
 - Auranga A (Drury), Auranga B (Drury), Orara Rd SHA, Bollard Av SHA (Mt Albert), Oakland Road (Hingaia), McRobbie Road (Kingseat), Stables Retirement Village (Drury), Mangere HNZ/HCL State Housing Redevelopment Project.*
- Hunua Quarry, Winstone Aggregates, 2007 - ongoing**
 Project manager for mitigation programme development and implementation, expert witness, and project manager for ecological monitoring projects of the \$70M Symonds Hill pit development project. Includes substantial annual lead for ecological programmes to salvage wildlife, monitor planting success, report on KPIs and manage consent deliverables on behalf of GBC Winstone for Hunua Quarry.
- Ecological assessments, AEEs, technical reporting, input into conditions of consent – for at least 250 projects.**
- Various revegetation and biodiversity management plans as part of consented land development and infrastructure works (at least 150 projects),** including revegetation of shrubland and forest communities, rare species, managing site risks and constraints for plant community persistence, lizard relocation, fish salvage, fish passage and stream diversion design. Sectors include Auckland coastal property rehabilitations, commercial developments, subdivisions, infrastructure and industrial site rehabilitations. Outside Auckland projects include major hydro and irrigation/ water supply dams, national highways, wind farms, port development, quarries and mines, and landfills (new and rehabilitation).

Relevant project involvement (2016 to present)

Large scale projects

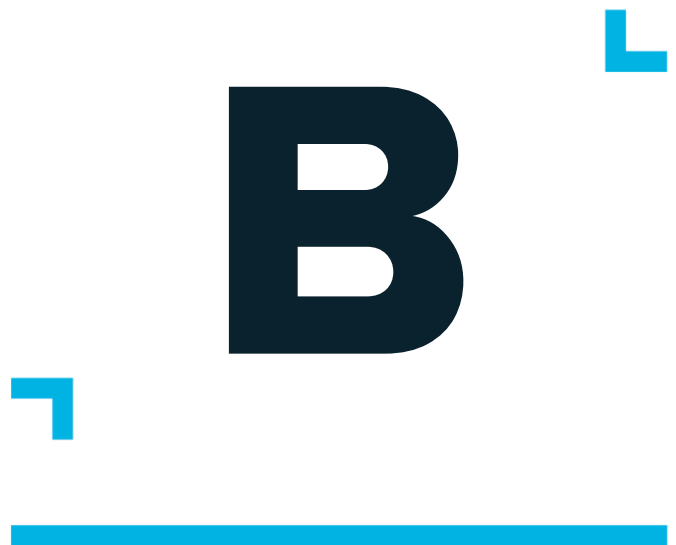
- Matakanui Gold mine in Bendigo, Otago - lizard, vegetation, rare plant and birds assessors (RMA Ecology Ltd)
- Ida Valley Solar Farm, Alexandra - lizard and wetland advisor
- Waitaha Hydro project, West Coast - lizard specialist
- Kaimai Wind Farm project, Waikato - overall ecology advisory and effects management expert
- Southland Wind Farm under the COVID-19 Fast Track process - panel expert advisor on ecological effects management
- Oceana Gold Waihi North mine expansion project (including underground mine in southern Coromandel Forest Park), Coromandel - overall ecological effects assessor and management advisor/ technical lead
- Ecological effects advisor to Oceana Gold (NZ) for Macrae's Gold Mine expansion (Deepdell North III)
- Auranga Housing Development – ecological assessment, expert witness, construction contractor
- Milldale Housing Development – ecological assessment, expert witness, construction contractor
- Hunua Quarry Symonds Hill Pit – ecological assessment, expert witness, construction salvage/ monitoring
- Waimea Community Dam - ecological assessment, expert witness, offset design, salvage/ monitoring
- Te Kuha Coal Mine – expert reviewer on behalf of Council; expert for Env Court appeal
- Mt Cass Wind Farm (Christchurch) – project ecologist managing construction monitoring & regulator liaison, lizard and rare plant salvage (extensive), monitoring, reporting, ecological offset modelling, science advisory
- Wongan Farms, Kaitorete Spit. Project ecologist for 1,000 ha farm development for selected irrigation & rare plant/ ecosystem restoration and preservation, effects assessments, monitoring designs, compliance reporting
- Kapiti Coast Airport site re-development – lead ecologist.
- Genesis Energy – Tekapo Power Scheme Re-consenting. Project herpetologist.
- Stevenson Quarries – Clevedon Quarry consenting; expert advisor to Env Court cases regarding AUP zoning
- Wellington region – 200 ha confidential subdivision with considerable ecological issues

Small scale projects

- Lyttelton Port Company – ecological assessment for Gollan's Bay Quarry reactivation & lizard salvage
- Land development projects (effects assessment, management plans, specialist offset, or inputs into consenting)
 - Auckland - approximately 100 projects
 - Wellington - approximately 60 projects
 - Elsewhere North Island – approximately 40 projects
 - Elsewhere South Island - approximately 35 projects

Technical advice only

- Nelson Plan – policy analysis and advice regarding Esplanade Reserve setbacks
- NZTA – lead for preparation of national guidance on biodiversity offsetting
- LGNZ – senior author on national guidance on offsetting under the RMA
- Department of Conservation – 18-month secondment to biodiversity offsetting research programme
- Auckland Council – expert advisor on offsetting for Watercare Services Huia Water Treatment Plan consent
- Wellington Regional Council – technical advice via workshop to across-Council team (legal, policy, planning, ecology, consenting) regarding biodiversity offsetting in practice relative to regional plan provisions.



APPENDIX B

Planning Memorandum (Mitchell
Daysh)

Memorandum

To: The Director General of Conservation

From: Philip McKay¹ on behalf of Tukituki Water Security Limited

Date: 3 June 2026

Re: Tukituki Water Security Limited – Response to Comments Received on Land Exchange – Planning Matters

1. INTRODUCTION

This memorandum is prepared to address planning matters arising from the written comments made by invited persons on the land exchange application (**application**) by Tukituki Water Security Limited (**applicant**) and lodged with the Department of Conservation (**DOC**) on 16 March 2026.

The purpose of this memo is to assist the Director-General of Conservation (**D-G**) in their preparation of a report to the applicant on its application in accordance with sections 35 and clause 26 of Schedule 6 to the Fast Track Approvals Act 2024 (**FTAA**).

2. MATTERS TO BE ADDRESSED

At a general level various comments² have queried the Conservation Values arising from the application related to both Recreation and Culture and Heritage. These matters have been addressed in Attachment 01 of the application, the Overview Report, however the comments received have prompted the following additional information.

¹ Philip McKay, has the qualifications of BRP (Hons), is a full Member of the New Zealand Planning Institute, has a Chairs endorsement as a qualified hearings commissioner under the Making Good Decisions programme, and has some 33 years' experience as a practicing planner.

² Sharleen Baird, Kathryn Baylis, Tamatea Pōkai Whenua, New Zealand Conservation Authority, Parliamentary Commissioner for the Environment, Fish & Game New Zealand, Forest & Bird, Ngati Kahungunu Iwi Incorporated, Mana Ahuriri Trust.



Additional planning issues arising from the comments on access³ both related to recreation values and more generally are also addressed. These matters are addressed under the corresponding headings below.

3. RESPONSE TO MATTERS ARISING FROM COMMENTS

3.1 RECREATION VALUES

The recreation values of both the Public Conservation Land to be exchanged (the **PCL**) and the proposed Smedley Exchange Block (**SEB**) are assessed in section 5.2.3 of the Overview Report (pages 19 – 31).

3.1.1 Correction of Typographical Errors

References to Crown Marginal Strips (CMS)⁴

The application originally lodged in November 2025 by TWSL was subsequently withdrawn in January 2026 to await the Order in Council signalled by the Government to be made to amend the listing of the Tukituki Water Security Project in Schedule 2 of the FTAA. The current application was relodged in March 2026, and in addition to explaining how the application is within the scope of the amended FTAA Schedule 2, the component of the November 2025 application relating to Crown Marginal Strips was withdrawn for the reasons explained in the Overview Report (pages 4 & 5).

Given the above background, there are typographical errors in the following two paragraphs on page 20 of the Overview Report which are corrected below, showing deleted text (references to Crown Marginal Strips) in strike through font.

For the purposes of this Land Exchange Assessment of the TWSL project, it is the recreational values and effects on those values relevant to the area of the proposed dam and reservoir that are relevant given that the 29.7ha of PCL and ~~12.3ha of CMS~~ subject to the exchange would be inundated by the reservoir.

The Opus Recreation Assessment does not specifically consider the recreational values of the 29.7ha of PCL ~~nor 12.3ha of CMS~~ that are subject to this application, as that report was prepared for the BOI applications lodged under the RMA in 2013, prior to the previous land exchange process being agreed with DOC. The following assessment is therefore

³ Hastings District Council, Central Hawke's Bay District Council, Fish & Game New Zealand, Kaweka Gwavas Forestry Company Limited, Minister for Hunting & Fishing, Federated Mountain Clubs of New Zealand, Mana Ahuriri Trust.

⁴ Comments on the issue of Crown Marginal Strips have been received from: Amelia McQueen – Te Tau Environmental Forum, Kaweka Gwavas Forestry Company Limited, and Forest and Bird.

structured by firstly considering the recreation values and effects on the wider area proposed to be inundated by the water storage reservoir and then considering the specific recreation values and effects of the 29.7ha area and the recreational potential of the SEB land.

Table 2 Assessment of Recreation Values – Bottom Row

Table 2 of the Overview Report (pages 27 – 30) provides a comparative assessment of the recreation values of the PCL and SEB land based on the format provided in Attachment 3 of the DOC conservation values assessment guidelines (**DOC Guidelines**).⁵ There is an error in the bottom row of the Table (page 30 of the Overview Report), where two criteria from the DOC Guidelines have been entered on the same row. Accordingly, Table 2 in the Overview Report does not include assessment of the following DOC Guidelines criteria:

How do any heritage or biodiversity values affect the visitor experience (for land offered, how might heritage or biodiversity values affect the visitor experience?)

The following Table provides an assessment of the above criteria as an addendum to Table 2 of the Overview Report:

	PCL	Land offered
How do any heritage or biodiversity values affect the visitor experience (for land offered, how might heritage or biodiversity values affect the visitor experience?)	The high biodiversity values would make the PCL land attractive for bird watching. There are no known historic heritage or archaeological values specifically associated with the PCL land (noting that heritage values, in the wider sense are commended on in section 3.2 of this memorandum below) that may affect the visitor experience.	The biodiversity values identified in the SLR Assessment (Attachment 04 to the application) have the potential to make the SEB land attractive to the visitor experience, with that Assessment identifying the following potential for visitors to experience the SEB land: <i>“...there are a number of opportunities for public access, with many flat areas and glades found in the beech treeland habitats adjacent to streams in the northern portion, as well as viewpoints along the western ridge.”</i> There are no known historic heritage or archaeological values specifically associated with the SEB land that may affect the visitor experience.

⁵ ‘External Guideline for conservation values assessments for land exchanges under the Fast-track Approvals Act 2024 – Current 18 August 2025’, Department of Conservation.

The above addition to the Recreation Values Assessment Table from the Overview Report, supports the conclusion of the recreation values assessment set out in the Overview Report (page 31), which for convenience is quoted as follows:

Given the above assessment, notwithstanding that the wider project has adverse effects on recreational values⁶, there is considered to be a significant net positive benefit in the recreational values of the proposed SEB land (if it were to become part of the conservation estate) compared to the 29.7ha of PCL land.

3.2 ACCESS THROUGH KAWEKA GWAVAS FORESTRY TO THE TRUE LEFT BANK OF THE MAKARORO RIVER

Information on public access through the Kaweka Gwavas Forestry Company (**KGFC**) land that is relevant to both the PCL land and the SEB land in terms of recreation values has been obtained from land and property experts, The Property Group, and is set out as follows. This information assists in responding to various comments that raised concern regarding public access to the SEB land, and public access through the KGFC land in general (albeit that some of those comments are not within the scope of the land exchange application).

Access Easement

The KGFC forestry land is located between the 'Ruahine Forest Park' and 'Gwavas Conservation Areas'. This land is subject to a public access easement registered as Instrument 623332.2 against Record of Title 1075329 and is shown marked 'H' on DP 21614. This easement is identified in Figure 1 below of DP 21614 with 'H' marked orange.

⁶ That is, prior to the mitigation measures in the IMO A package being implemented.

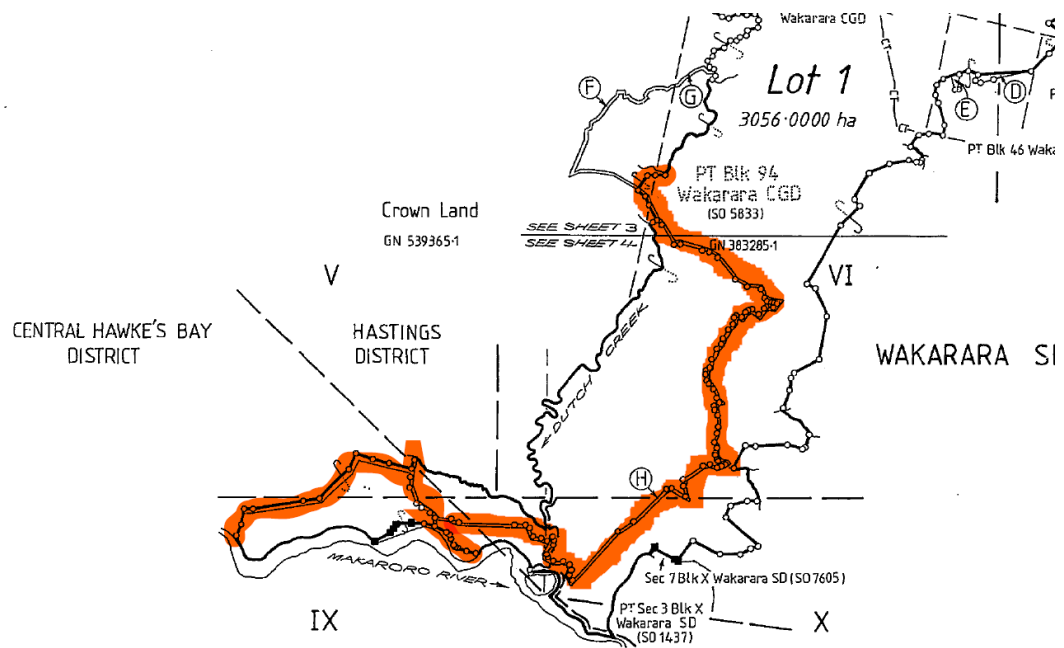


Figure 1: Location of Public Access Easement (H) through KGFC land

The surveyed easement generally follows existing well marked forestry roads which are clearly visible on aerial plans, as shown on the plan (existing IMO plan⁷) marked yellow, in Figure 2 below.

⁷ See Attachment 06 of Application – Schedule 9 of Ruataniwha Water Storage Scheme (RWSS) consents package.

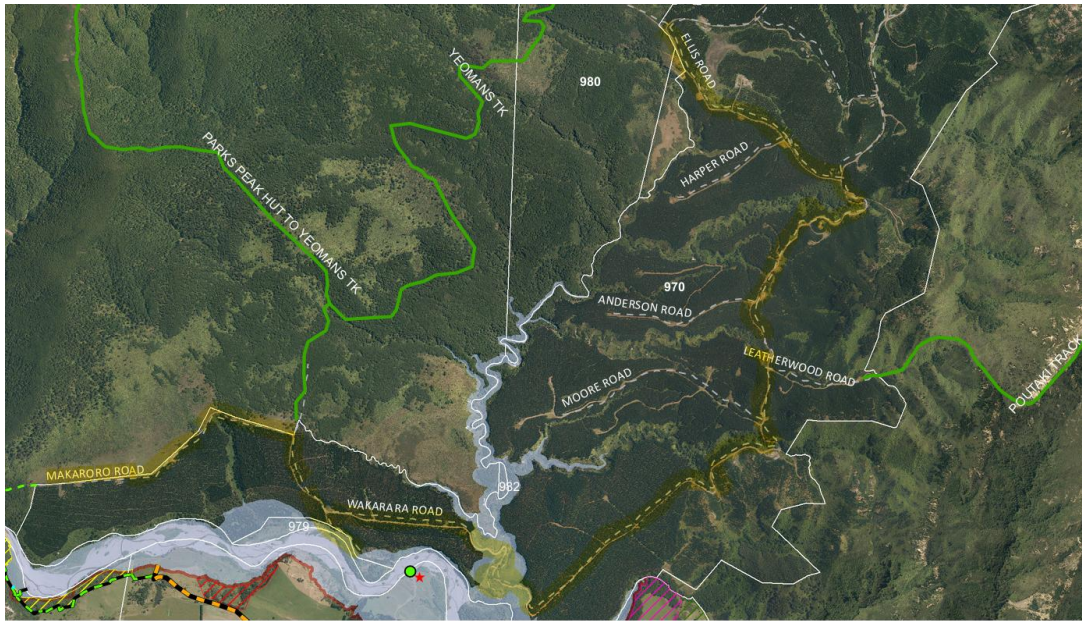


Figure 2: Extract from Plan in Schedule 9 of RWSS Consents Package

The public access easement is not affected by the land exchange application but will be affected by the requirement for the project over KGFC (which is private commercial forestry land), in part where the public easement marked 'H' crosses the area referred to as Dutch Creek and is subject to inundation by the reservoir. Refer to Figure 2 above, where the inundation of part of Dutch Creek affects the existing forestry track and public access.

That part impacted on KGFC is proposed to be 'reinstated' as part of Gwavas Forest forestry access. This is subject to negotiation and agreement with KGFC. Back at the time of the RWSS consenting project, new access options were discussed with the then owner and forest licensee of Gwavas Forest, and DOC. This matter is to be progressed as part of the substantive project but is not considered relevant to this land exchange application.

It is noted that the part of the ROW marked 'H' on the western part of Gwavas Forest (see Figures 1 & 2) will continue to provide public access to the proposed reservoir and the adjoining Ruahine Forest Park.

Access to Smedley Exchange Block

As is explained in the application Overview Report, access will be available to the SEB land from the true right bank of the proposed water storage reservoir by boat, directly across the reservoir from the proposed boat ramp. In terms of access to SEB land from the north, and overland, the SEB immediately adjoins the existing DOC land parcels that make up the 'Gwavas Conservation Areas'. The DOC Online Maps show existing public access track sections into this area. Existing access to the Gwavas Conservation Area is not affected by the SEB, but access to the SEB is

enabled by virtue of the adjoining boundary with the existing public conservation estate. Refer to Figure 3 below.

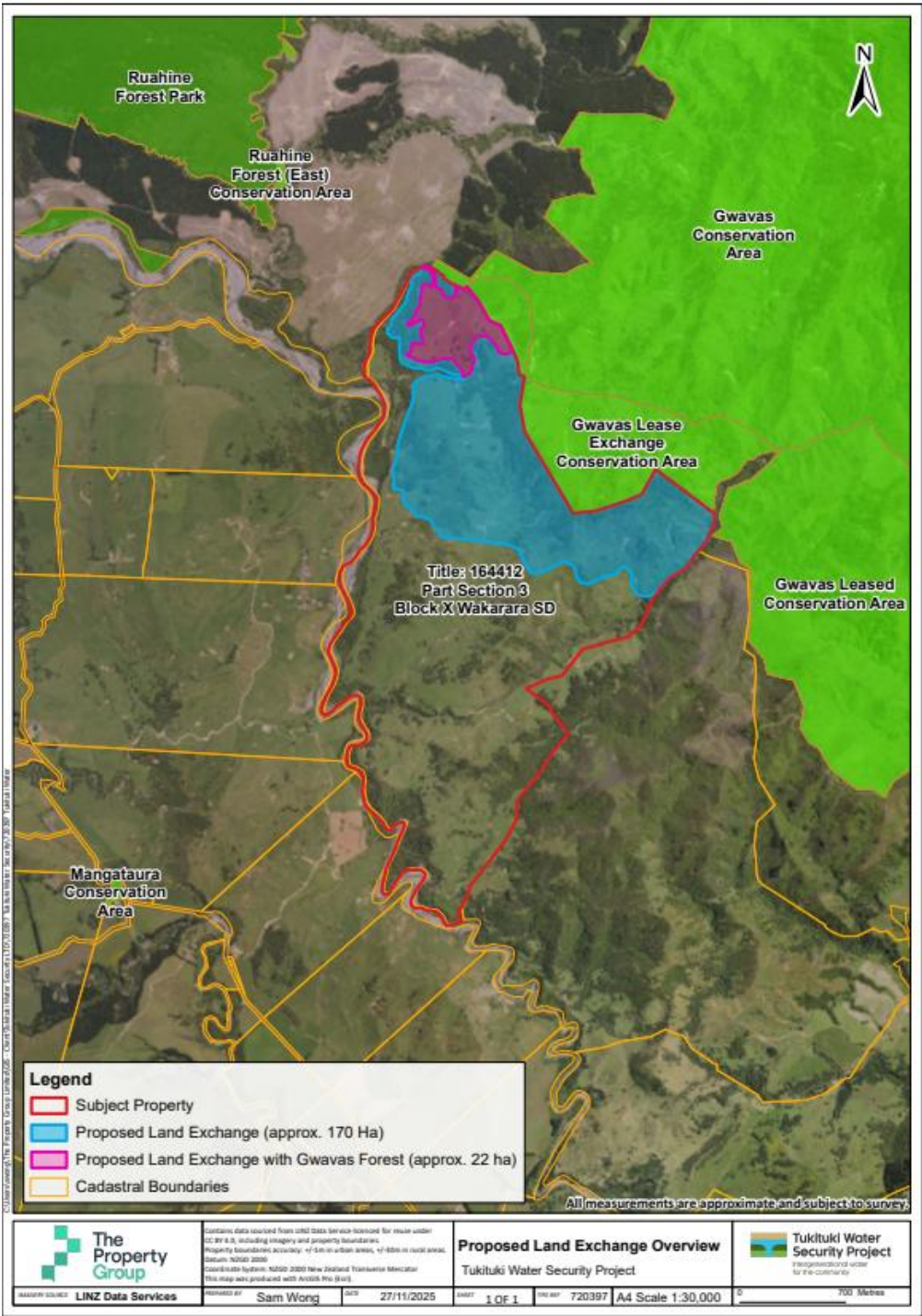


Figure 3: Relationship of SEB – Proposed Land Exchange with adjoining Gwavas Conservation Area shown in Bright Green (Source: The Property Group)

The public access easement shown in Figure 1 (as H on DP 21614) generally follows what is called ‘Wakarara Road’ track on the topographic plan in Figure 4 below. While not a road, this is what the track is called. The DOC map shows the Gwavas Conservation Area track (Poutaki Track) as meeting a track called ‘Leatherwood Road’ (circled red in Figure 4) which is a short section before it intersects with ‘Wakarara Road’ and the public access easement.

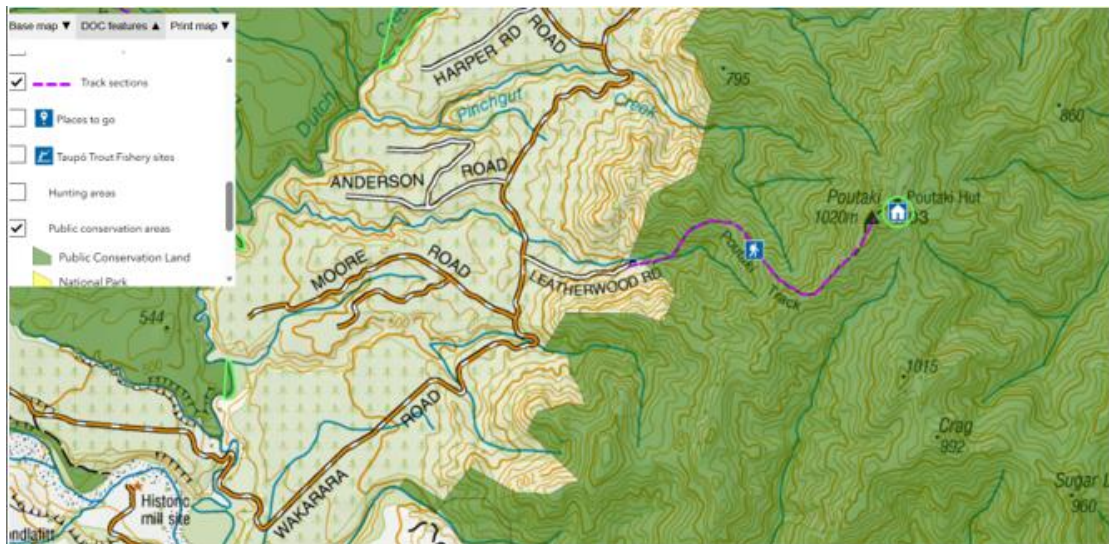


Figure 4: DOC Online Maps showing Gwavas Conservation Area and Access (Source: [DOC maps: Discover the outdoors](#))

As the public access easement through the KGFC land (see Figures 1 and 2 above) will provide access to the edge of the reservoir on the true left bank, walking access will be possible from that point along the reservoir margin to the SEB land. TWSL offer as part of the enhancement work for the SEB land to establish a gate or stile in association with the fencing at an access point agreed with DOC.

Access to Public Conservation Land Subject to the Exchange

Those parcels that comprise of PCL affected by the project are not shown by DOC as having any publicly advertised tracks on their online maps. However, the public access easement through Gwavas Forest (refer below) does connect to the area of PCL shown as ‘A’ on the plan of DOC land affected (see Figure 2 of the Application Overview Report) shown in Figure 5 below, while Figure 6 below identifies the access easement in relation to the PCL parcel.

It is relevant to point this out as the recreation assessment in the application Overview Report referred to the PCL areas being able to be accessed from the Makaroro River or Dutch Creek. It is now identified that the PCL land identified as Area A can also be accessed from an overland track that runs adjacent to its boundary connecting the Makaroro River to Yeoman’s Track. As

stated in the Overview Report however, there are no access tracks or recreation facilities within any of the PCL areas.

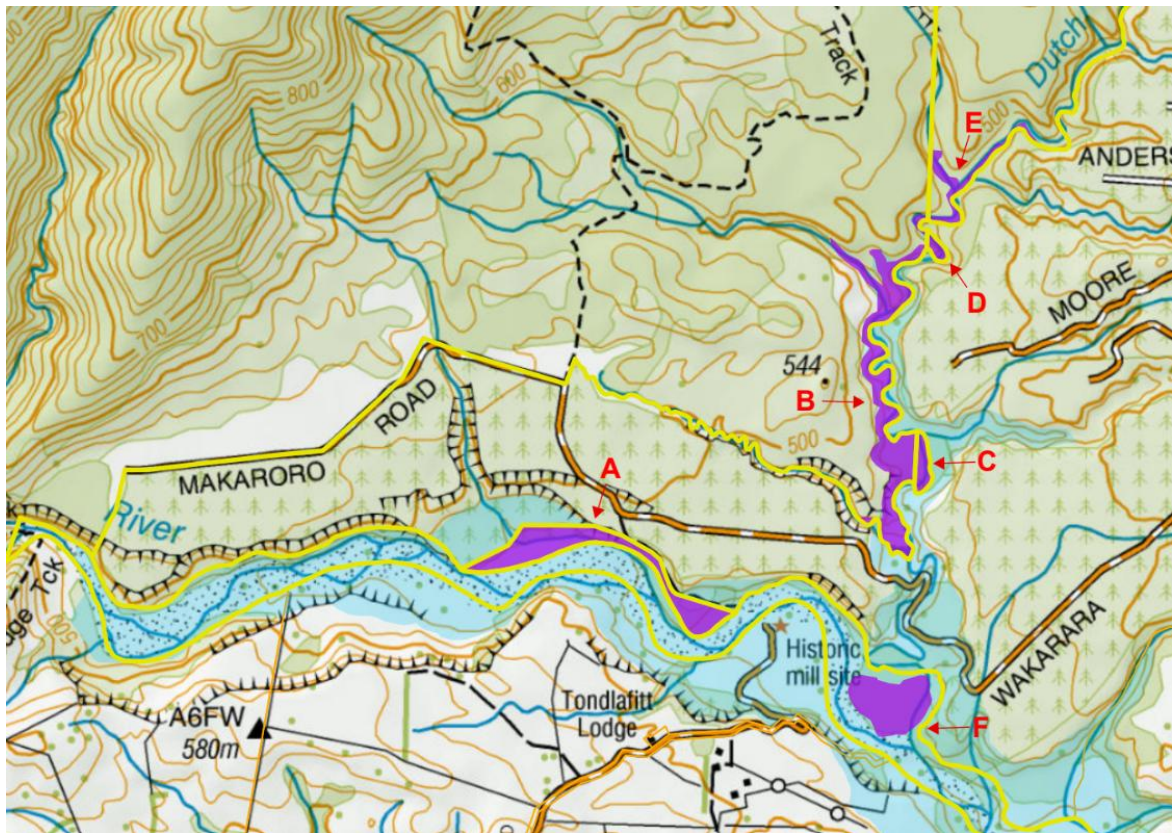


Figure 5: Extract from Figure 2 of Application Overview Report identifying the affected PCL Land and showing access track from the Makaroro River, adjacent to Area A and on to the Ruahine Forest Park

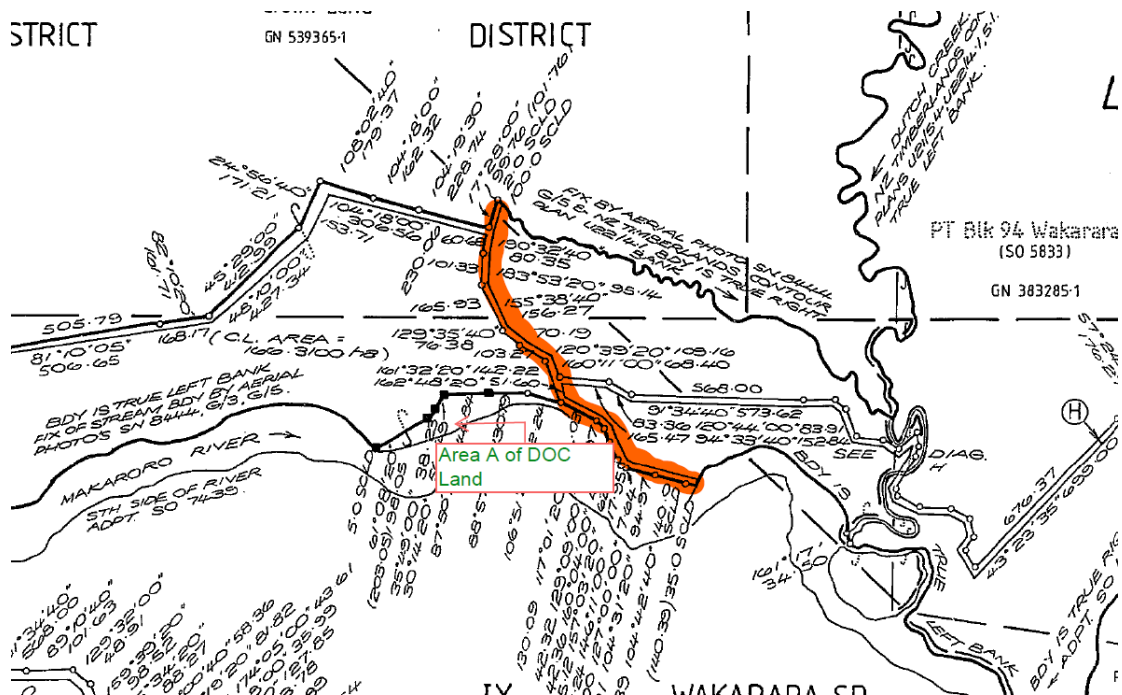


Figure 6: Access Easement from River adjacent to Area A and to the Ruahine Forest Park

3.3 CULTURAL AND HERITAGE VALUES

The Cultural and Heritage Values assessment in the application Overview Report focused on Māori cultural and archaeological values and established that no specific archaeological or sites of significance to Māori have been identified on either the PCL or SEB land.⁸

3.3.1 Cultural Impact Assessment April 2026

Since the TWSL land exchange application was lodged in March 2026 an additional cultural impact assessment has been prepared in relation to the substantive TWSL FTAA project.⁹ That CIA was commissioned by TWSL and prepared by Brian Morris who was engaged with input from Tamatea Pōkai Whenua (TPW), who also reviewed the report. This CIA was not specific to the land exchange application but does refer to wāhi tapu within the vicinity of the proposed reservoir, however the specific location is stated as confidential cultural information and is not disclosed. In regard to the substantive project, the CIA identifies effects on various cultural principles that must be upheld to achieve culturally acceptable outcomes. TWSL has

⁸ Noting that in the absence of any identified archaeological sites, a focus of the Archaeological Effects Assessment prepared by Clough & Associates for the RWSS application in 2013 was the significance of the former Gardner and Yeoman's Sawmill site and its remains, which is not within either the PCL or SEB land subject to the exchange.

⁹ 'Cultural Impact Assessment, Tukituki Water Security Project, Brian Morris, April 2026.

undertaken to engage with TPW to understand how the project can be best managed to achieve such culturally acceptable outcomes.

3.3.2 Wider Cultural and Heritage Values Assessment

The DOC Guidelines on page 2 refer to Cultural and heritage values as including “natural, scenic, archaeological, historical, biological, geological, scientific, educational, or community values that contribute to these.” Attachment 4 of the Guidelines, ‘Criteria for cultural and heritage values assessment’ states:

For sites having a particular heritage or cultural scientific or educational value, a description of the value and its significance is required (e.g. geological / landform).

In regard to geological importance the Geopreservation inventory is referred to. A map of the wider land exchange area from the Geopreservation inventory maps is included in Figure 7 below



Figure 7: Geopreservation Inventory Map – Significant sites shown in purple (Source: Geopreservation Society On-line Maps)

As can be seen in Figure 7 above, neither the PCL areas, nor the SEB land are identified within the Geopreservation Inventory as significant geological sites.

Regarding scenic values, the Central Hawke’s Bay District Plan (**CHBDP**) identifies Outstanding Natural Landscapes and Significant Amenity Features. As mentioned in the comments from Central Hawke’s Bay District Council, and shown on the map in those comments, there are landscape overlays within the vicinity of the land exchange areas. Figure 8 below identifies the



land parcel on which the SEB occupies the northern extent in black and white outline. The northern extent of the SEB is within ONF-1 Wakarara Range. The southern portion of the Smedley land parcel is within ONF-4 Makaroro George, which is proposed to be inundated by the water storage reservoir associated with the substantive project, although is not relevant to this land exchange application.

Of the areas subject to the land exchange application, it is noted that portions of the PCL areas and the north western corner of the SEB are within the Hastings District and therefore not within the jurisdiction of the CHBDP. As can be seen in Figure 8 there are no Outstanding Natural Feature Overlays in the location of the PCL land.¹⁰

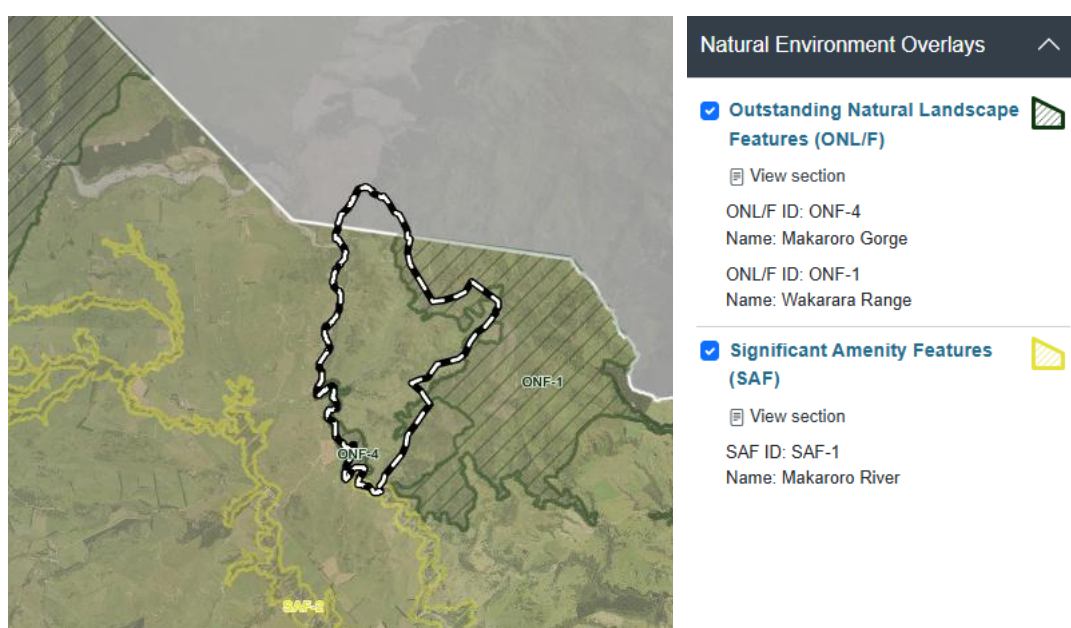


Figure 8: Central Hawke's Bay District Plan Map Extract – Landscape Overlays

The Hastings District Plan does not identify either the PCL land or SEB land within its jurisdiction as outstanding or significant landscape areas. Regarding scenic values then, it is only the higher elevations of the SEB land within the Central Hawke's Bay District, that has District Plan recognition as an outstanding landscape (ONF-1). The description of ONF-1 from the CHBDP is extracted in Figure 9 below.

¹⁰ Using the references for the PCL areas in Figure 5 above, all of Area A and a portion of Area F are within the Central Hawke's Bay District jurisdiction.

Unique Identifier	Site Identifier	Description of Feature	Site Type (Summary Description of Landscape Values)	Map Reference
ONF-1	W(h)akarara Range	The W(h)akarara Range ONF comprises the southern extension of the Whakarara Range and south of the Gwavas Conservation Area, most of which lies in Hastings District to the north. It is characterised by rolling to steep hills with regenerating native vegetation.	- High landscape and visual values derived from the regenerating indigenous vegetation cover over the eroded landform pattern. - Contrast with the surrounding areas of pasture and pine forest increases the value of such remnant areas of regeneration.	5

Figure 9: Extract from CHBDP Schedule of Outstanding Natural Features

The proposed land exchange would result in the SEB becoming part of the conservation estate which can only be positive for retaining and enhancing its recognised scenic qualities that contribute to its conservation values.

As mentioned above, the DOC guidelines also reference biological values as contributing to cultural and heritage values. For those portions of PCL and SEB land subject to the CHBDP, they are within Significant Natural Area (SNA) overlays, as shown in Figure 10 below.

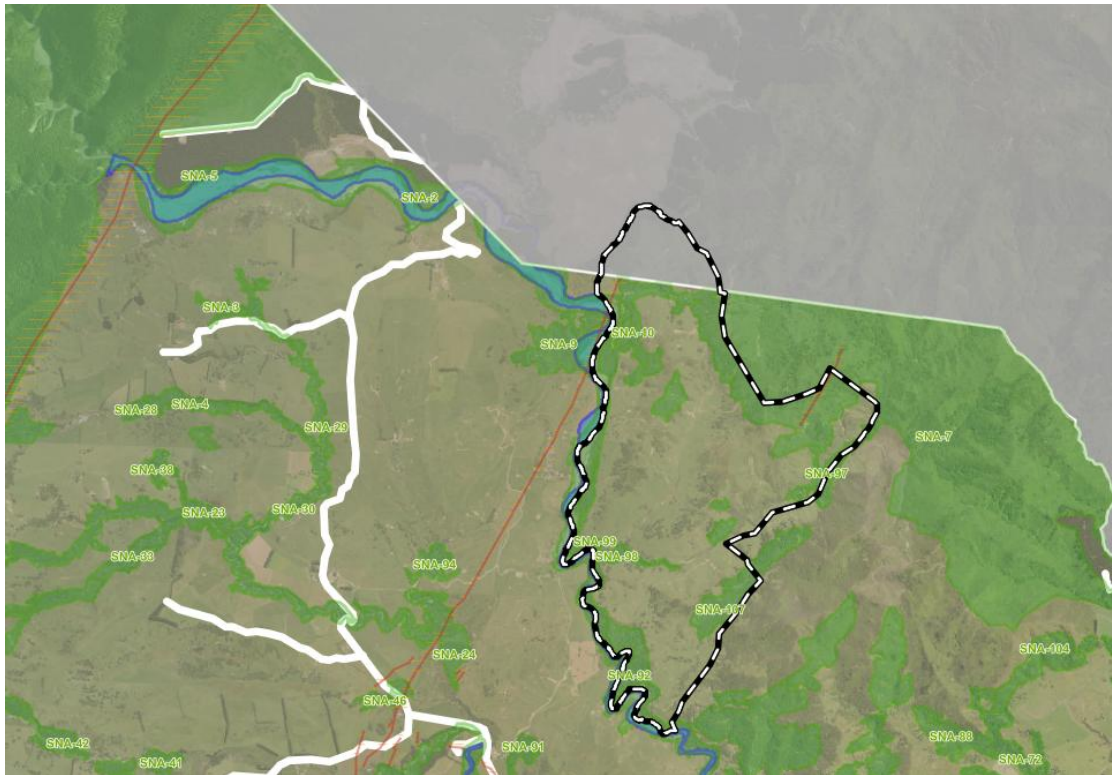


Figure 10: Extract from CHBDP Maps identifying Significant Natural Areas (SNAs)

The PCL identified as Area A in Figure 5 above is within SNA-2, while the SEB (the northern extent of the land parcel highlighted in Figure 10 above) includes portions of SNA-10, SNA-97 and SNA-7. The descriptions of each of those SNAs from the CHBDP are extracted below as Figure 11.

SNA-2	Broadleaved - Kanuka treeland	Indigenous dominated vegetation present on land of high Threatened Environment Class.
SNA-7	Beech-Podocarp-Kanuka-Manuka	Site remains significant due to vegetation types present, and the size of the area. Confidence high, site visit required to determine correct vegetation type.
SNA-10	Rimu-Tawa-Kamahi forest	Underrepresented vegetation type in varied LENZ threatened land (threat class 1 and 2)
SNA-97	Rimu-Tawa-Kamahi forest	Underrepresented vegetation type some of which is land classed as 2 in LENZ threatened environment

Figure 11: Extract from CHBDP – SNA Descriptions

Again, the Hastings District Plan does not identify any SNA overlays (or in its case Recommended Areas for Protection) within either the PCL or SEB land within its jurisdiction.

Accordingly, both the PCL land to be exchanged and the SEB land, include biological values that are acknowledged as significant by the SNA overlays of the CHBDP. The indigenous vegetation types subject to the TWSL application are documented in the SLR Report (attachment 04 to the application) and need not be discussed further here.

In summary then, using publicly available information in assessing the wider cultural and heritage values of both the PCL and SEB land subject to the application, the following information has been established:

- > Geopreservation sites of significance – neither the PCL land nor the SEB land includes identified geopreservation sites.
- > Scenic values, in the form of Outstanding Natural Features & Landscapes – the higher elevations of the SEB land are within ONF-1 as identified in the CHBDP. These scenic values and landscape qualities would be protected and enhanced by the SEB becoming part of the conservation estate and following the proposed management actions prior to the transfer, which will result in enhancement of the quality and extent of the indigenous vegetation present.
- > Biological Values – both the PCL and SEB land include SNAs as identified in the CHBDP.

3.3.3 Cultural and Heritage Values Conclusion

As set out in a number of comments including those from Ngati Kahungunu Iwi Incorporated and the New Zealand Conservation Authority oppose the application with concerns expressed regarding cultural values, while other comments also raise concerns with effects on cultural values including from TPW, Mana Ahuriri Trust or request ongoing engagement with relevant

Māori groups (Minister for Māori Crown Relations: Te Arawhiti). As set out above, TWSL is currently seeking to engage with TPW to discuss and address the cultural effects of the wider project identified in the April 2026 CIA, and in progressing the preparation of the substantive FTAA application will seek to engage with relevant Māori groups. Cultural effects raised in regard to the wider project are acknowledged, however the comments received refer to the presence of wāhi tapu in the area of the reservoir but do not identify specific effects relating to the PCL or SEB land subject to the land exchange application.

Given the additional assessment undertaken on cultural and heritage values above, and the assessment of all the previous and recent cultural impact and heritage reporting set out in the Overview Report, the conclusion set out in the Overview Report (page 35) remains, that there are not considered to be any heritage of cultural reasons,¹¹ against the proposed land exchange.



Philip McKay
Partner, Mitchell Daysh Limited

[Redacted]
[Redacted]

¹¹ Related specifically to either the PCL or SEB land subject to the exchange



3



PART 3

Response Tables

3-1 – Comments from Local Authorities s53(2)(a)

Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence	Response
9. Hawkes Bay Regional Council				
9.1	<i>Pg. 1, Para 3</i> The proposal indicates that aquatic values within the Smedley Exchange Block (SEB) are generally lower than those when compared to the DOC land proposed to be inundated. Waterways within the SEB are generally smaller, more modified systems with moderate ecological values and reliance on future restoration to enhance condition. While the SEB contains freshwater habitats that are capable of supporting indigenous species (including At Risk fish), there are differences in scale, representativeness, and ecological function between the areas.	Ecology/Planning	Part 2–1 – Appendix A - Ecology Memorandum - Graham Ussher (RMA Ecology) - pg 3, section 3. Land Exchange Overview Report - Section 5.2.2.3, pg. 17. Appendix 3 – Ecological Values Land Exchange Report - Section 13, pgs. 42 & 52.	It is acknowledged and accepted that the freshwater values of the Smedley Exchange Block (“SEB”) score medium against ecological significance criteria whereas the Public Conservation Land (“PCL”) comparatively scores high and medium/high. Only small parts of Dutch Creek (1.2 ha) and Makaroro Riverbed are within the PCL and therefore have been given appropriate weighting. The freshwater values of the PCL form a relatively minor contribution to overall conservation values, albeit a 0.236ha oxbow wetland on the PCL land adjacent Dutch Creek has high representativeness values based on the SLR assessment. Care needs to be taken when considering the contribution of the Dutch Creek and Makaroro river systems in terms of aquatic values as these are in separate hydro land parcels (aside from the cadastral boundaries including a margin of the Dutch Creek riverbed) and not part of the PCL to be exchanged. For completeness it is noted that the consent conditions of the Ruataniwha Water Storage Scheme (in which these consents have not lapsed) require an Integrated Mitigation and Offsetting Approach (“IMOA” – refer to Schedule 6 and Project A-C) ensuring that, prior to the land exchange, the Smedley



Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence	Response
				Block's freshwater values are actively enhanced via targeted mitigation and offsetting actions. In addition, further restoration planting of 97,000 plants across approximately 3.5 hectares over 10 years in Donovan's Gully (including within Donovan Stream and adjacent wetlands) within the SEB area in conjunction with pest control and stock proof fencing (within all SEB waterways) will significantly enhance aquatic values. These measures are guaranteed to be delivered as they are proposed improvement conditions as part of the land exchange and will be embedded into the Smedley Exchange Block Management Plan (required by the RWSS conditions).
9.2	<i>Pg 1, Para 4</i> DOC land in the upper catchments and riparian environments contribute to sediment retention, shading, erosion control, and play an important role in maintaining downstream water quality and ecological health. These functions are important considerations when assessing land exchange outcomes (and may not be directly transferable, depending on location within the catchment).	Ecology/Planning	Appendix 3 – Ecological Values Land Exchange Report - Section 16.1, pg. 47. Land Exchange Overview Report - Section 3, pg. 11 & 12.	Firstly, the land exchange will only occur if the substantive project gains FTAA approval and proceeds. In that event, the DOC land in question will be inundated to form the reservoir and will no longer be riparian land. Importantly however, the loss of riparian environments of the PCL land will be mitigated and offset through the Integrated Mitigation and Offset Approach (Schedule 6). The IMOA specifically includes within Project A planted reservoir restoration buffer, and within Project B, protection and enhancement of riparian habitats alongside the Makaroro and Waipawa Rivers. In addition, a Smedley Block Management Plan will be prepared within 1 year of



Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence	Response
				construction commencement guiding key actions such as pest animal and plant control and providing for additional planting in Donovan's Gully, Donovan's Stream and adjacent wetlands. These actions will increase riparian vegetation cover, provide shading, reduce erosion processes and link areas of existing vegetation. These management actions will commence within one year of dam construction and continue for at least two years after which transition of management responsibility to DOC will occur. This staged approach ensures ecological functions that are lost from inundation are replaced and enhanced prior to the land exchange.
9.3	<i>Pg 1, Para 4</i> The SEB is described as including areas of grazed and modified indigenous vegetation, with ecological condition likely to rely on future management interventions such as stock exclusion, pest control, and restoration.	Ecology	Appendix 3 – Ecological Values Land Exchange Report Section 16.1, pg. 47. Part 2–1 – Appendix A - Ecology Memorandum - Graham Ussher (RMA Ecology) - Section 5, pg. 5.	It is agreed that the SEB currently includes area of grazed and modified indigenous vegetation and ecological condition is indeed reliant on future management interventions. A comprehensive suite of improvement measures including stock proof fencing, pest animal and plant control and indigenous restoration planting will be implemented prior to the land exchange occurring in conjunction with the SEB Management Plan. By the time of the land exchange, the SEB will be at least as ecologically diverse and functionally intact as the PCL ensuring a robust and enduring conservation outcome.



Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence	Response
				Importantly, the SEB contains 4.2 times greater indigenous vegetation cover than the PCL to be lost, with the quality of biodiversity anticipated to improve as soon as the above improvement measures are commenced. Clause 32 of Schedule 6 FTAA recognises that conservation outcomes arising from land exchange may depend on future land improvements (or management actions), and this clause would be largely redundant if future conservation measures could not be taken into account.
9.4	<i>Pg. 1, Para 5</i> Regional Council notes that consideration should be given to: • The ability of the exchange land to support functioning freshwater ecosystems. • The contribution of those systems to downstream catchment processes. • The degree to which ecological condition is currently realised versus reliant on future restoration. • How freshwater values associated with the land exchange will be maintained or enhanced over time and the long-term effectiveness of these actions.	Ecology	Appendix 3 – Ecological Values Land Exchange Report - Section 16.0, pg. 45. Part 2-1 – Appendix A - Ecology Memorandum - Graham Ussher (RMA Ecology) - pg 3, section 3.	Refer to response to Comment 9.1 and Comment 9.2 Above.
9.5	<i>Pg 2, Para 6</i> Regional Council acknowledges that the SEB has a greater total area of ecologically significant vegetation and wider range of	Ecology	Appendix 3 – Ecological Values Land Exchange Report - Section 16.1, pg. 46.	It is recognised that some vegetation and habitat types within the SEB cannot replicate what is currently found within the PCL land, but similar vegetation types do exist that



Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence	Response
	habitats compared with the DOC land proposed to be inundated. The SEB is also noted as providing potential habitat for a range of At Risk and Threatened species. However, the potentially affected DOC land also includes habitats within threatened environments and existing upper catchment systems, and the SEB includes areas that are modified or dependent on restoration to achieve their ecological potential.		Part 2-1 – Appendix A - Ecology Memorandum - Graham Ussher (RMA Ecology) - Section 3 and Section 5.	could provide equivalent habitat type or structure. For example, the SEB will support a wide range of habitats including mature and regenerating beech and podocarp forests, extensive scrub, shrublands, wetlands and riparian corridors providing high quality, connected environments for virtually all at risk and threatened species. Restoration actions enhancing riparian and wetland habitats, improving water quality and increase ecological connectivity with the Gwavas Conservation Area will result in an outcome where the SEB is at least ecologically diverse and functionally intact as the DOC land to be lost, and will deliver a net gain in conservation value, particularly for threatened environments and species dependant on ongoing management and restoration.
9.6	<i>Pg 2, Para 7</i> The proposal indicates that the SEB has potential to provide improved landscape connectivity, including linkages between indigenous vegetation types and adjacent conservation areas. Regional Council considers that connectivity outcomes should be evaluated in terms of catchment position and ecological function and the extent to which the proposal enhances continuous ecological corridors and buffering of waterways.	Ecology	Appendix 4 – Schedule 6a Integrated Mitigation and Offset Approach of RWSS Resource Consents Package Project A, pg ii. Appendix 3 – Ecological Values Land Exchange Report Section 16.1, pg. 46. Part 2-1 – Appendix A - Ecology Memorandum - Graham Ussher (RMA Ecology) - Section 3, pg. 3-4.	Refer to response to Comment 9.1 and Comment 9.2 Above. In terms of catchment position and ecological function, the SEB is positioned to enhance continuous ecological corridors (including direct connection to the Gwavas Conservation Area to the north) and provide substantial buffering of waterways (with connection to the proposed indigenously planted Reservoir Restoration Buffer (IMOA Project A) connecting in the west to the Ruahine Forest Park boundary . The formation of a wide buffer (minimum 20 m – providing 46 hectares of ecological corridor)



Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence	Response
				will link representative vegetation types creating linkages across altitudinal and habitat gradients for a range of representative vegetation types extending into the Gwavas Conservation Area to the east. These movements will facilitate movement and genetic exchange for At-Risk and Threatened species, supporting ecological processes and deliver a net gain in landscape connectivity and functional resilience at a catchment level.
9.7	<i>Pg. 2, Para 8</i> HBRC note that consideration should be given to: • Conservation value equivalence with regard to ecological function, not solely area or vegetation extent. • The extent to which biodiversity gains are likely to be robust and durable over time and • Ecological functions are adequately maintained or enhanced. • The role of the exchange land in supporting catchment-scale ecological processes and that connectivity benefits are influenced by how well the exchange land integrates with existing environments	Ecology	Appendix 3 – Ecological Values Land Exchange Report Section 16.1, pg. 46. Ruataniwha Water Storage Scheme -Schedule 2a – General Conditions – Operations & Maintenance cl 5-9. Part 2–1 – Appendix A - Ecology Memorandum - Graham Ussher (RMA Ecology) - Section 3, pg. 3-4.	Application of the ‘current value’ approach undertaken by SLR compares the ecological integrity, diversity, rarity and ecological context of both PCL and SEB land. The SEB will result in an indigenous area 4.2 times larger with greater diversity and pattern containing potential indigenous lizard habitat and a different underlying geology and greater altitudinal range than the conservation estate. The actions (stock exclusion, pest animal and plant control, indigenous restoration planting) to be implemented prior to the exchange and guided by a Management Plan will result in active management for a minimum of 2 years prior to transfer to DOC ensuring enhancement and realisation of ecological functions before the land is transferred into the Conservation Estate. The improvements are designed to be enduring and robust with several mechanisms to ensure long-term gains. For



Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence	Response
				example, restoration planting will be monitored for successful establishment, stock proof fencing will be permanent and a commitment to long-term pest control (in order to achieve successful establishment and intended outcomes) (focussing on possums, but also including other species such as ungulates (particularly deer), mustelids, rats and feral cats) and plant pest control (wilding pines). It is noted that the independent peer review by Graham Ussher includes a recommendation to increase the term of pest control from 2 to 5 years to ensure ecological enhancements are achieved. The applicant adopts this recommendation, and the pest control is now proposed to be carried out over a term of 5 years (to ensure greater certainty around achieving its intended outcome). The proposed management actions that will be secured by conditions of consent and the SEB Management Plan will provide a greater biodiversity value compared to the DOC land over time. As above, the formation of a wide buffer (minimum 20 m – providing 46 hectares of ecological corridor) will link representative vegetation types creating linkages across altitudinal and habitat gradients.



Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence	Response
9.8	<i>Pg 2, Para 9</i> <i>Regional Council recognises that the proposal has potential to enhance indigenous vegetation extent, habitat diversity, and ecological connectivity, but notes differences in freshwater values, ecological function, and current condition between the sites, and therefore considers that careful evaluation is appropriate to confirm that the exchange achieves enduring outcomes aligned with regional priorities for water security, land and water health, and resilient ecosystems and communities.</i>	Ecology	Part 2-1 – Appendix A - Ecology Memorandum - Graham Ussher (RMA Ecology) - Section 7, pg. 6. Ruataniwha Water Storage Scheme -Schedule 2a – General Conditions – Operations & Maintenance cl 5-9.	TWSL acknowledges and agrees that the land exchange proposal will enhance indigenous vegetation extent, habitat diversity and ecological connectivity and also accepts the differences in actual freshwater values, ecological functioning and current condition prior to the proposed enhancement works. Clause 29(2) of Schedule 6 of the FTAA however enables conditions imposed to be taken into account.
16. Central Hawkes Bay District Council				
16.1	<i>Pg 3-5, Para 4-10</i> CHBDC comments outline the zoning and overlays that apply to the parcels of land involved in the land exchange and the sections of the District Plan. There are no interests or encumbrances on the title of SEB in favour of CHBDC and no paper roads on either exchange land.	Planning	N/A	TWSL notes and agrees with the overview of zoning, overlays and review of title instruments for interests in favour of CHBDC.
16.2	<i>Pg 5, Para 11</i> CHBDC is unclear whether all areas of land will have access following the exchange.	Planning	Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) - Section 6, pg 5-9.	The land exchange areas will have access as detailed and illustrated on page 5-9 of the Planning Memorandum.
16.3	<i>Pg 5, Para 12</i> As part of this application, Council supports a condition that makes the land	Planning	N/A	This matter will be considered further through the substantive application under the FTAA.



Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence	Response
	exchange conditional on the consents being varied through the fast-track process.			The existing package of resource consents approved under the RWSS have recently been granted s125 extensions to extend the lapse dates. At this stage, it is unclear what consents will be relied on unchanged and what consents will be sought under the FTAA process and this will be confirmed following further consultation with CHBDC.
16.4	<i>Pg 5, Para 13</i> There may be a of loss of rates revenue to Council if the land exchange proceeds, which is expected to be no more than minor.	Planning	N/A	This comment is noted by the Applicant – a reduction in rates will be outweighed by the public benefits of the proposal including the protection of a larger area of conservation estate, biodiversity enhancement (from the land exchange), new recreational opportunities and the long-term improvement in freshwater quality and values (from the substantive application).
15. Hastings District Council (“HDC”)				
15.1	<i>Pg. 1-2, Para 2-7</i> HDC comments outline the zoning and overlays that apply to the parcels of land involved in the land exchange and the applicable sections of the District Plan. There are no interests or encumbrances on the title of SEB in favour of HDC and no paper roads on either the PCL or exchange land.	Planning	N/A	TWSL notes and agrees with the overview of zoning, overlays and review of title instruments for interests in favour of HDC.
15.2	<i>Pg. 2, Para 8</i> HDC is unclear whether all areas of land will have access following the exchange.	Planning	Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) - Section 6 pg. 5-8.	The land exchange areas will have access as detailed and illustrated on page 5-9 of the Planning Memorandum.



3-2 - Comments from Iwi Authorities, Hapū, and Treaty Settlement Entities s53(2)(b)-(c)

Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence / Conditions	Response
13. Tamatea Pōkai Whenua				
13.1	Pg 1, Para 2 We are concerned that the land exchange application, the supporting information provided as part of this, and the substantive Project itself, include a number of significant errors in how TPW's interests are impacted.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 2-4, para. 10-15.	Dealing with the substance of the issue regarding land status, the information submitted with the application identified that the KGFC land was still classified as Crown Forest land, and was not therefore understood to be Māori land, by reference to Te Ture Whenua Māori Act 1993 (TTWMA). It is accepted that this position was incorrect insofar as the Crown Forest land status is concerned and that the application did not identify this land as “identified Māori land” for the purposes of the Act and should have.
13.2	<i>Pg. 1, Para 1.3</i> Both the application, and supporting information, note that the Project will impact on former Crown Forest Licensed land [the licensed land] held by the Kaweka Gwavas Forestry Company Limited [KGFC] in which TPW has an interest. The Property Group wrongly sees this land as not being ‘identified Māori land’ for the purposes of the FTAA Act. Assessment appears to wrongly view this land as continuing to have the status of Crown Forest Licensed Land and therefore able to be subject of a statutory land exchange.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 2-4, para. 10-15.	Refer to 13.1 above. The status of the KGFC land is out of scope and not relevant to the land exchange application.



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13.3	<i>Pg. 2, Para 1.6</i> The assessment of the land exchange, and potentially the substantive proposal itself, is also framed on the basis that there are no heritage or cultural values that are impacted. This is also not correct.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 4, para. 16. Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) - Section 3.3.3, pg 14-15.	With respect to heritage and cultural impacts, it is not accepted that the application has dismissed such impacts. Rather, no such impacts as they relate to the specific land that is subject to the land exchange application (within the PCL) have been identified nor have any specific impacts been identified in the comments from Tamatea Pōkai Whenua (“TPW”), Heritage New Zealand Pouhere Taonga or any other entity that has made comments on the land exchange. It is accepted that broader cultural and heritage impacts relevant to the substantive project require further engagement with TPW. TWSL remains committed to this and do not assume that engagement with the Mana Whenua Working Party in 2025 mean that such issues have been addressed and removed for the wider Project. The additional assessment undertaken in the Part 2-2 – Appendix B Planning Memorandum maintains the position in the land exchange overview that there are not considered to be any cultural or heritage reasons against the proposed land exchange, while acknowledging that further engagement is required with TPW to address the cultural effects associated with the wider project as identified in the April 2016 CIA.



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13.4	<i>Pg 2, Para 1.7</i> While TPW support economic growth in our takiwā and so has expressed some in-principle support for aspects of the re-scoped Tukituki Water Security Project, this should not be interpreted as blanket endorsement of the proposed public conservation land swap or the Project. TPW has not endorsed the proposed land swap, the Project itself, or agreed to the use of Treaty settlement redress lands within the Project. Any limited support has always been conditional on the potential impacts to TPW and mana whenua being adequately addressed, by way of an acceptable plan to avoid, mitigate or offset the identified risks, amongst other things. We note our understanding that Ngāti Kahungunu Iwi Incorporated, Heretaunga Taiwhenua and Tamatea Taiwhenua have not been formally engaged, nor have they explicitly expressed support for the land swap.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 4, para. 15. Land Exchange Overview Report Section 5.2.4.2, pg. 35. Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) - Section 3.3.3, pg 14-15.	It is accepted that TPW has not formally endorsed the land exchange proposal nor for the use of KGFC land for the water storage reservoir. In principle support for the broader project and the qualifications on that position have been understood by TWSL and it is not accepted that this has been misrepresented in the land exchange application (see Overview Report, page 35 documents ‘in principle conditional support’ for the wider project). TWSL acknowledge and appreciates that TPW remain open to work through issues of concern, which is very much intended and TWSL is currently seeking to reengage with TPW. It is also seeking to work through the issues identified in a recent Cultural Impact Assessment (“CIA”) for the wider project commissioned by TWSL, prepared by Brian Morris and reviewed by TPW (dated April 2026). Accordingly, concerns around cultural values with respect to the wider Project are intended to be appropriately addressed through on-going engagement with TPW in preparation of the substantive application.
13.5	<i>Pg 2, Para 1.9</i> We remain open to working through issues of concern with the applicants and other interested parties to ensure that TPW’s concerns are appropriately addressed.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester	TPW indicate that it remains open to working through issues of concern, and this willingness to engage is reciprocated by TWSL.



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			(James Winchester Barrister) – pg. 4, para. 15. Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) - Section 3.3.3, pg 14-15.	As mentioned above, the recent CIA documents cultural effects relating to the wider project and TWSL is seeking to engage with TPW to establish appropriate means to avoid and mitigate such effects.
13.7	<i>Pg 2-3, Para 2.1-2.6</i> The assertion that this land was not Treaty settlement redress, or had been ‘purchased’, is simply wrong.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 2-4, para. 10-15.	Refer to Comment 13.1 response (above).
13.8	<i>Pg 3, Para 3.5-3.7</i> It is clear that the Deed of Settlement and Settlement Act that the licensed land has been transferred ‘as part of the redress’ in our Treaty settlement. That transfer of redress was to KGFC, who continue to own the land. KGFC clearly falls within the definition of a ‘Treaty settlement entity’. The licensed land meets the definition of ‘identified Māori land’ under s4 of the FTA Act. It is redress that was transferred to, and is held by, an entity recognised for this purpose in our Treaty settlement. Unfortunately, neither the application, nor its review, have correctly identified this. As the Project includes activities which would occur on this identified Māori land, the Project would appear to include	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 2-4, para. 10-15.	Refer to Comment 13.1 response (above). The issue of land status and ‘ineligible activities’ is beyond the scope of this land exchange application (as the land exchange is not occurring on identified Māori land), although it is accepted that this mischaracterization is regrettable and will be dealt with appropriately before lodgement of any future Substantive Application.



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	'ineligible activities' as defined by s5 of the FTA Act.			
13.9	<i>Pg 4, Para 3.8</i> We remain open to discussing these errors, and the impact that this may have on the Project, with the applicant to ensure that any impacts on our interests, and our Treaty settlement redress, is appropriately addressed.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 4, para. 15.	Refer to Comment 13.4 Response (above).
13.10	<i>Pg 4, Para 4.1-4.4</i> It is assumed that the licensed land impacted by this Project continues to have the status of 'Crown Forest Land' and is subject to the Crown Forests Assets Act 1989. This is not the case. Section 87 of the Settlement Act provides that this land has ceased to be Crown forest land, and the Crown Forest Assets Act 1989 no longer applies. Instead, this land is simply commercial forest land held in fee simple by KGFC, and subject to a Shareholders Agreement and Trust Deed. It is not clear to us how a statutory land exchange under the Crown Forest Assets Act 1989, or in fact any exchange, can occur without the consent of the landowner or its ultimate shareholder and beneficiary of the trust arrangement under which KGFC holds this land.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 2-4, para. 10-15.	Refer to Comment 13.1 Response (above).
13.11	<i>Pg 4, Para 5.2-5.3</i>	Legal	Part 1 – Legal Submission Response to Written Comments	Refer to Comment Response 13.4 and Comment Response 13.5.



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	Cultural values continue to exist and are not removed simply because there may have been past consultation with the MWWP that has identified these issues. The practical steps to protect them have yet to be agreed. We are disturbed with the approach that any engagement with a group such as the MWWP will be taken as cultural issues having been fully addressed and removed. We note that the connection of Heretaunga Tamatea with these areas remains as set out in the Statutory Acknowledgements and Deeds of Recognition which apply to these areas and as described in the various Cultural Impact Assessments [CIAs] that are referred to in the application and additional CIAs that have also been developed.		Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 4, para. 16.	TWSL agrees that cultural values continue to exist irrespective of any past consultation or engagement. The relevant statutory acknowledgement area and associated deeds of recognition reflecting the mana whenua relationship with the area and natural resources is respected. However, the practical measures that may be required to recognise cultural values and to avoid, remedy, or mitigate cultural effects are more appropriately considered through the substantive application process rather than through the land exchange application.
23. Ngāti Kahungunu Iwi Incorporated (“NKII”)				
23.1	<i>Pg. 1, Para 4 & Pg 5, Para 9-10</i> NKII opposes the land exchange application and submits that it should be declined as it fails to meet the statutory threshold to justify the exchange of public conservation land.	Ecological	Land Exchange Overview Report Section 5, pg. 15-44. Part 2-1 – Appendix A – Ecological Memorandum Graham Ussher (RMA Ecology) - Section 7, pg. 6, para. 4.	TWSL disagrees that the application fails to meet the statutory threshold to justify the exchange of public conservation land under the FTAA. The application has been prepared in accordance with the guidelines for assessment prepared by DOC including assessment against the FTAA purpose and Schedule 6 decision-making criteria. The Ecological Memorandum confirms the conclusions of the SLR Land Exchange Assessment that the SEB and proposed



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				management actions (that can be secured by conditions) will provide for a more than equitable exchange and result in an overall greater biodiversity value than the PCL over time.
23.2	<i>Pg. 2, Heading “Mischaracterisation of Mana Whenua Support”</i> The application has suggested broader mana whenua support for the land exchange than actually exists. Queries the accuracy and reliability of statements within the application relating to the level of mana whenua support for the Project, including with regard to specific iwi.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 4-5, para. 19-21. Part 2-2 – Appendix B - Planning Memorandum Philip McKay (Mitchell Daysh) - Section 3.3, pg. 15, para. 1.	The applicant has engaged with NKII extensively for the purposes of the broader TWSP, as well as other iwi authorities. It is accepted that the entities referred to by NKII have not formally endorsed the land exchange proposal. In principle support for the broader project by other tangata whenua entities such as Tamatea Pōkai Whenua, and the qualifications on that position, have been understood by TWSL and it does not accept that it has sought to misrepresent the position. TWSL is currently, and will continue to, seeking engagement with relevant Māori groups to address the wider effects of the wider project. To this end, TWSL is in the process of engaging with Tamatea Pōkai Whenua in relation to the commissioned CIA for the wider project that was received in April 2026 (post lodgement of this application).
23.3	<i>Pg 3, Heading “Position of Affected Marae and Taiwhenua”</i> Raises concerns regarding procedural integrity, representativeness and adequacy of cultural assessment undertaken.	Cultural	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 4-5, para. 19-21.	Refer to Comment Response 23.2 (above). TWSL accepts the position of affected marae and taiwhenua (Tapairu Marae, Te Rongo o Tahu, Rākautātahi Marae, Te Taiwhenua o Tamatea and Te Taiwhenua o Heretaunga as clarified through the



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				respective formal letters and the Applicant has not sought to misrepresent their position.
23.4	<i>Pg 4, Para 2</i> Ecological evidence prepared by Dr Kelvin Lloyd concludes the application terrestrial ecological assessment is deficient and understates the significance of the affected ecosystems and likely adverse effects of the proposal.	Ecology	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 5, para. 22. Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 1, pg. 2.	The ecological evidence prepared by Dr Kelvin Lloyd is not specific to the PCL nor does it address the more recent SLR ecological assessment accompanying this land exchange application, which has been prepared following considerable time on site in October 2025 and their report reflects this. The Ecological Memorandum submits that level of ecology information for the DOC land and the SEB site provides a comparable base foundation from which to compare biodiversity values. The additional information collected on the DOC land lends itself to a more in-depth explanation of values and in most cases transferrable to the SEB block as well.
23.5	<i>Pg 5, Para 2</i> The application is inconsistent with Te Mana o te Wai principles to the extent it risks further degradation, fragmentation or modification of the freshwater ecosystems and associated cultural landscapes.	Cultural	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7. Land Exchange Overview Report - Section 1.2, pg. 2.	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope. TWSL disagrees that the wider application is inconsistent with Te Mana o te Wai recognising through the rescoping process that utilisation of the Makaroro reservoir as developed through the RWSS is the only truly viable catchment scale options enabling a durable response to climate change and Te Mana o te Wai.



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23.6	<i>Pg 5, 7-8</i> DOC must apply <u>particular</u> scrutiny to this application due to the previous Supreme Court findings.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange - Application – James Winchester (James Winchester Barrister) – pg. 5, para. 24.	The Supreme Court decision (judicial review) involved the application of different statutory provisions and is primarily relevant as factual context to the present proposal. In this instance, the applicant considers that the D-G must apply particular scrutiny to the relevant provisions of the Act rather than the history relating to this matter.
23.7	<i>App. 1 (Rākoutātahi Comments), Pg 8, Para 2 & App. 2, Pg 9 (Tapairu Marae Comments), Para 2</i> Mana whenua perspectives have been misrepresented and insufficient meaningful consultation has occurred.	Legal / Planning	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 4-5, para. 19-21.	Refer to response to Comment 23.2 and Comment 23.3 above.
23.8	<i>App. 1 (Rākoutātahi Comments), Pg. 8, Para 3 & App. 2 (Tapairu Marae Comments), Pg. 9, Para 3</i> Irreversible cultural impacts may occur if flooding of the reservoir is undertaken before all wāhi tapu, pā sites, urupā and other taonga will be lost.	Cultural	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7.	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope of the application.
23.9	<i>App. 1 (Rākoutātahi Comments), Pg 8, Para 4 & App. 2 (Tapairu Marae Comments), Pg 9, Para 4</i> The land should be considered to be returned to mana whenua if considered surplus by the Crown.	Legal	N/A	The PCL to be exchanged does not involve any land that would trigger a right of first refusal, or a right of offer or return. The proposed transaction is a land exchange and is not a disposal of Crown Conservation Land. The exchange involves exchange of PCL for private land that must enhance conservation values of conservation areas (as a whole).



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23.10	<i>App.3 (Te Rongo o Tahu Marae Comments), Pg 10</i> The application has suggested broader mana whenua support for the land exchange than actually exists and is misleading as to the actual extent of mana whenua support.	Planning / Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 4-5, para. 19-21.	Refer to response to Comment 23.2 and Comment 23.3 (above).
23.11	<i>App 6 (Concise terrestrial ecological evidence of Kelvin Lloyd), Pg 15, Para 7-9</i> Significant gaps in survey coverage of braided river birds means effects assessment understates the effects on populations of river birds.	Terrestrial Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) Section 1, pg. 2. Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7 & pg 5, para. 22. Appendix 3 – Ecological Values Land Exchange Report - Section 8.1, Table 4, pg. 27.	The ecological evidence prepared by Dr Kelvin Lloyd is not specific to the PCL nor does it address the more recent SLR ecological assessment accompanying this land exchange application, which has been prepared following considerable time on site in October 2025 and their report reflects this. The Ecological Memorandum submits that level of ecology information for the DOC land and the SEB site provides a comparable base foundation from which to compare biodiversity values. The additional information collected on the DOC land lends itself to a more in-depth explanation of values and in most cases transferrable to the SEB block as well. An assessment of recorded bird species near the reservoir area and SEB is provided for in the SLR Assessment (only a small part of the braided Makaroro River is within the PCL). The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to



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				be out of scope of the land exchange application.
23.12	<i>App 6 (Concise terrestrial ecological evidence of Kelvin Lloyd), Pg 16, Para 12</i> Gaps in survey coverage of bats lizards and invertebrates means effects assessment understates effects on bats, lizards and invertebrates	Terrestrial Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 1, pg. 2. Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg.2, para 7 & pg 5, para. 22. Appendix 3 – Ecological Values Land Exchange Report - Section 3, Table 1, pg. 5.	The ecological evidence prepared by Dr Kelvin Lloyd is not specific to the PCL nor does it address the more recent SLR ecological assessment accompanying this land exchange application, which has been prepared following considerable time on site in October 2025 and their report reflects this. The Ecological Memorandum submits that level of ecology information for the DOC land and the SEB site provides a comparable base foundation from which to compare biodiversity values. The additional information collected on the DOC land lends itself to a more in-depth explanation of values and in most cases transferrable to the SEB block as well. The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope of the land exchange application. With respect to the contention that bats, lizards and invertebrates survey coverage, the SLR assessment specifically notes the following methodologies undertaken: • Bat surveys using ABM's were placed at multiple sites and adjacent to the SEB;



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				- Lizard surveys included the use of Artificial Cover Objects, hand searches and canopy searches within the reservoir footprint and adjacent to the SEB (during day and night) and additional field searches within kānuka scrub and native broadleaved species forest bordering pasture on the SEB; and - Terrestrial Invertebrate surveys involved hand searches in potential habitat wētā boxes, tracking tunnels, and malaise traps identifying a rich diversity of insects and land snails.
23.13	<i>App 6 (Concise terrestrial ecological evidence of Kelvin Lloyd), Pg 17, Para 13-14</i> Uncertainty over the value of the proposed mitigation and there is a heavy reliance on landholder consent.	Terrestrial Ecology / Legal	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 5, pg. 5. Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 5, para. 22.	The ecological evidence prepared by Dr Kelvin Lloyd is not specific to the PCL nor does it address the more recent SLR ecological assessment accompanying this land exchange application, which has been prepared following considerable time on site in October 2025 and their report reflects this. The Ecological Memorandum identifies that the range of offered management actions for the SEB block will result in improvements to the health of individual vegetation communities, species populations, and the SEB block as a whole. The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope of the land exchange application.



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26. Mana Ahuriri Trust / Ahuriri Hapū Claims Settlement Act 2021				
26.1	<i>Pg. 2, Para 1</i> Supports the matters raised by the Kaweka Gwavas Forestry Company Limited and the Tamatea Pōkai Whenua submissions.	N/A	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 5, para. 25.	The applicant has responded to the matters raised by the submissions from Kaweka Gwavas Forestry Company Limited and Tamatea Pōkai Whenua.
26.2	<i>Pg. 2, Para 6</i> Considers the following matters remain unresolved (without providing specifics): • The treatment of identified Māori land; • The implications for Treaty settlement redress; • Impacts on KGFC landholdings and access arrangements; • Cultural and heritage matters; and • Future governance and ownership implications associated with the proposed exchange.	N/A	Legal	The submission from Mana Ahuriri Trust has not identified specific concerns in relation to the matters they consider unresolved, and a number of these are largely deal with matters outside the scope of the land exchange proposal. In perpetuity protection of the SEB block will be conferred by association with its change to public conservation land to be owned and administered by DOC. Schedule 6, Cl 34(2) specifies that land acquired by the Crown under this clause must be held for any conservation purposes that the Minister of Conservation may specify.



3-3 – Comments from Adjacent Owners and Occupiers s52(2)(h)-(i)

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19. Kaweka Gwavas Forestry Company Limited				
19.1	<i>Pg. 2, Para 4</i> Existing users of land to be disposed of by the Crown include Kaweka Gwavas Forestry Company (KGFC) and our tenant Pan Pac Forest Products Limited (Pan Pac). Both KGFC and Pan Pac have commercial interests in access rights, roads, and bridges across marginal strips and riverbed acquired by Pan Pac from the Crown through acquisition of the Gwavas Crown Forestry Licence.	Legal/TWSL	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 6, para 27-28.	TWSL acknowledge this comment. The land exchange application covers all land which is subject to that proposal and does not need to cover all land that will be inundated. Marginal strips and Crown riverbed land are not within the scope of this application. Commercial and logistical considerations will be resolved with KGFC and Pan Pac once the land exchange has been approved as disclosed in previous meeting with KGFC.
19.2	<i>Pg. 3, Para 4.1</i> The Tukituki reservoir will cut off all vehicle access to the 160.5 hectares of land. Any option to reinstate access to this land, if practicable and feasible, will require an easement across Crown land administered by the Department of Conservation. A solution providing legal access to a river crossing at the western end of the reservoir will, in addition, require an easement across private land. The Tukituki Water	Legal/Planning	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 6, para 29. Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) - Section 3.2, pg 6.	The Legal Submission states that it is not clear whether the concerns of the KGFC comments will result from the land exchange or the broader project, but it appears to be the latter. In any event, it is not clear that the concerns relate to conservation values. It is acknowledged that engagement is required with KGFC to facilitate access solutions to the western portion of their property relating to the wider project.



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	Security Project has not yet addressed how access will be provided.			
19.3	<i>Pg. 3, Para 4.2</i> KGFC requests the Crown apply section 24A of the Conservation Act and reduce the marginal strip around the reservoir on KGFC land to 3 meters.	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 6, para 27.	Marginal strips and Crown riverbed land are not within the scope of this application.
19.4	<i>Pg 3-4, Para 5</i> It is submitted the Crown may not be the preferred owner for the 170 hectares of land intended for public ownership. Ownership by KGFC (representing the joint interests of the Trustees of Tamatea Pōkai Whenua and Trustees of Mana Ahuriri Trust) will however yield additional benefits, better access for recreation and for the ecological enhancement proposed by TWSP, enhanced access to adjoining Conservation land, and the opportunity to receive indigenous carbon income channelled back into conservation projects.	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 6, para 31.	It is understood that the exchange land (SEB) must be held for conservation purposes once notified in the <i>Gazette</i> notice of the exchange. It is understood that this land will adjoin and form part of existing conservation land over which there is existing public and practical legal access. The ownership ambitions of KGFC are noted but the applicant doubts that they are achievable under this application or the Act more generally.
7. Public Trust (as a trustee of Howard Estate) operating as Smedley Station				



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7.1	<i>Pg. 3 Para 1</i> The land swap is between Tukituki Water Security Limited and the Department of Conservation with Howard Estate not party to that. The swap is however dependant on agreement being reached with Smedley to acquire the land which is being negotiated in good faith. Smedley does not comment on the veracity or completeness of the information within the land exchange application.	TWSL	N/A	The Comment from the Public Trust is acknowledged and it is recognised that the land swap is dependent on agreement to purchase the SEB land which will continue to be negotiated in good faith and finalised should the land exchange application be approved.



3-4 – Comments from Minister for the Environment and Relevant Portfolio Ministers s53(2)(j)

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24. Minister for the Environment				
24.1	<i>Pg.1, Bullet i</i> The SEB land does not appear to offer clear ecological advantages over the DOC land. The assessment does not yet clearly demonstrate net ecological gain.	Ecology / Legal	Land Exchange Overview Report - Section 5.2-5.3, pg. 15-40. Part 2-1 – Appendix A – Ecological Memorandum Graham Ussher (RMA Ecology) - Section 7, pg. 7, para. 4	SLR have assessed that the land exchange will result in an exchange ratio of 1:4.2 for indigenous vegetation between the SEB and the PCL and includes additional direct improvement measures to ensure the SEB is at least as ecologically diverse and functionally intact as the PCL. The SLR provides a comparative assessment of the DOC and SEB land using the metrics of: • Absolute area of separably classified vegetation communities • Presence or presence reasonably expected for fauna • Stream length and quality • Native freshwater fish diversity • Overall ecological significance On almost all accounts the SEB block provides greater or equal area of native vegetation, length of stream and known or expected fauna diversity, than the DOC block (the only exception being the less diverse native fish community). The range of management actions proposed (to be delivered by conditions and management plan) will provide for a more than equitable exchange and result in a far greater biodiversity value over time.



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				The Ecological Memorandum confirms the conclusions of the SLR Land Exchange Assessment that the SEB and proposed management actions (that can be secured by conditions) will provide for a more than equitable exchange and result in an overall greater biodiversity value than the PCL over time.
24.2	<i>Pg. 1, Bullet ii</i> Enhancement measures appear to rely on future measures that may result in a gap between immediate project effects and later restoration gains	Legal	Land Exchange Overview Report - Section 5.3.2, pg. 38.	The direct improvement measures to the SEB proposed as part of the land exchange (stock proof fencing, pest control works and restoration planting) are proposed to occur <u>prior</u> to the land exchange occurring. This will ensure there is no gap between the land exchange and implementation of the enhancement measures. Schedule 6, Cl. 32 provides for granting of a land exchange and imposition of conditions where the applicant is required to undertake any improvements to ensuring the land exchange will enhance conservation values of conservation areas as a whole. TWSL anticipates improvements to be covered by conditions of the land exchange.
24.3	<i>Pg. 2, Bullet iv</i> The claimed gain in recreational conservation values is not clear. The project will reduce existing access and backcountry recreation while recreation benefits depend on mitigation	Recreation / Legal	Land Exchange Overview Report - Section 5.4, pg. 40 Appendix 4 – Schedule 6a Integrated Mitigation and Offset Approach of RWSS	There are no DOC access routes or huts within the 29.7ha of PCL nor does the PCL currently provide access to any private land or significant sites. Existing recreational access to the PCL is informal, by activities such as hunting or



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	measures with unclear timing, staging and certainty of delivery.		Resource Consents Package Project A, pg. iii Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) Section 3.2, pgs 4 - 8.	birdwatching, and the larger SEB will provide similar opportunity for informal access (accessible via the existing DOC track and easement (EI 623332.2) through Gwavas Conservation Area. In this regard avoiding the current river crossing which is only navigable during lower flow conditions. While not proposed as direct improvement measures as part of the land exchange, it is noted that the land exchange will enable the delivery of a suite of additional access and recreation infrastructure provided for in the existing RWSS consent conditions which provide for demonstrable recreation benefits: • Construction of a new historic interpretation/picnic/camp site ensuring Wakarara Road continues to be a visitor destination; • Access track around top end of reservoir; • Development of walking/cycling tracks around reservoir; • Construction of boat ramp; and • Construction of fisherman's hut shelter.
2. Minister for Infrastructure				
2.1	<i>Pg. 1, Para 3</i> <i>No comment on the land exchange application but encourages the engagement between the Department of Conservation, Tukituki Water</i>	N/A	N/A	The Minister's support for the significant regional and national benefits for the Tukituki Water Security Project is noted



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	<i>Security Limited and Water Holdings Hawkes Bay Limited to continue</i>			(although beyond the scope of this land exchange application).
8. Associate Minister of Agriculture				
8.1	<i>Pg. 1, Para 2</i> The Associate Minister is interested as to whether the consequences of the land exchange would be practical to manage on an ongoing basis, including consideration of whether the exchange would result in an enclave of private land within a conservation area.	Planning	N/A	The exchange will not result in an enclave of private land within a conservation area. The proposal is not expected to generate additional operational complexity for DOC, with the exchange land adjoining the Gwavas Conservation Area.
8.2	<i>Pg. 1, Para 2</i> The Associate Minister queries the legal and financial liabilities, health and safety risks for the Crown, associated with the land exchange.	Planning	Land Exchange Overview Report - Section 5.5, pg. 41.	TWSL directs the Associate Minister to the existing application material which covers the statutory criteria contained within Schedule 6, Clause 29(1)(v).
20. Minister for Hunting and Fishing				
20.1	<i>Pg. 1, Para 3</i> The Minister is pleased to see the proposed mitigation measures to address effects on recreational values through construction of a new access track around the upper end of the reservoir linking to existing tracks within the Ruahine Forest Park. The importance of this new track is emphasized as any loss of access for hunters would have result in negative conservation and recreational outcomes.	Planning	Appendix 4 – Schedule 6a Integrated Mitigation and Offset Approach of RWSS Resource Consents Package Project A, pg ii.	The Ministers support for the proposed mitigation measures as provided by the RWSS consents in providing a link along the margins to the boundary of the Ruahine Forest Park is acknowledged.
20.2	<i>Pg. 1, Para 4</i> The Minister notes that the mitigation measures relating to fishing include construction of a new fish shelter in consultation with Hawkes Bay	Planning	Appendix 4 – Schedule 6a Integrated Mitigation and Offset Approach of RWSS	Refer to Comment Response 24.3 (above).



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	Fish and Game, as well as a boat ramp within the reservoir to support an alternative fishing experience.		Resource Consents Package - Project A, pg. iii	
20.3	<i>Pg. 1, Para 6</i> The Minister notes the importance of ongoing engagement with recreational and fishing groups to minimise disruption to hunting and fishing on public lands and waters.	Planning	N/A	TWSL acknowledges the Ministers comments. Any ongoing conservation with recreational and fishing groups regarding the use and management of Conservation Land is a matter for DOC.
20.4	<i>Pg. 1, Para. 7</i> A good balance has been reached here on a very important project.	Planning	N/A	TWSL thanks the Minister for his comments and agrees that the exchange provides a significant increase in future Conservation Estate in excess of the 125-hectare DOC guidance and will achieve a strong net conservation benefit for the PCL exchange.
5. Minister for Regional Development (refer to Table 3-9 – Comments in Support)				
11. Minister for Māori Crown Relations: Te Arawhiti				
11.1	<i>Pg. 1, Para 3-4</i> I note that the land proposed for exchange is associated with the Makaroro River, a tributary of the Waipawa River, over which Heretaunga Tamatea has a statutory acknowledgement under the Heretaunga Tamatea Claims Settlement Act 2018. I encourage the applicant and the panel to have due regard to that statutory acknowledgement and to continue engaging with relevant Māori groups.	Planning/Legal	Land Exchange Overview Report - Section 5.7, Table 4, pg. 43. Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg.4, para 16.	The Land Exchange Overview Report sets out a record of Mana Whenua and General Consultation. As stated in the Legal Submission pg. 4, para 16, TWSL accepts that the potential for identification and management of broader cultural and heritage impacts beyond the land exchange application will require further engagement with entities such as TPW and remains committed to that.



3-5 – Relevant Administering Agencies s53(2)(k)

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1. Heritage New Zealand Pouhere Taonga (“HNZPT”)				
1.1	<i>Pg. 1, Para 2</i> <i>As there are no earthworks proposed as part of the land exchange application, there are no known archaeology impacts to consider</i>	N/A	N/A	TWSL acknowledges the comment and looks forward to engagement with HNZPT throughout in preparation of the Substantive Application.



3-6 – Statutory and Affected Stakeholders s35(1)(b)

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14. New Zealand Conservation Authority (“NZCA”)				
14.1	<i>Pg. 3, Para 2</i> NZCA are concerned that Tamatea Pōkai Whenua endorsement letter does not specifically refer to the DOC land exchange, and have been informed as of 27 April 26 to 25 May 2026, endorsement and support for the DOC land exchange were unanimously withdrawn by: • Tamatea Pōkai Whenua; • Te Taiwhenua o Heretaunga; • Te Taiwhenua o Tamatea; • Two Tamatea marae: Rākautātahi and Tapairu; • Ngāti Kahungunu Iwi Incorporated	Cultural/TWSL	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 7, para. 34.	The comments from the NZCA rely upon and support positioned advanced by other entities and do not require any response. Refer to Comment 13 Response addressing TPW concerns.
14.2	<i>Pg. 4, Para 1</i> Furthermore, it is misleading to imply that Tamatea Pōkai Whenua endorsed the DOC land exchange. A letter has been sent to the Tukituki Water Security Project FT Application Expert Consenting Panel dated 25 May 2026 to this effect.	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 7, para. 34.	Refer to Comment 14.1 Response (above).
14.3	<i>Pg. 4, Para 2</i> NZCA disagree with the conclusion that no heritage or cultural reasons have been identified that would weigh against the land exchange given the evidence of cultural values, customary history and whakapapa	Planning	Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) - Section 4.3.3, pg. 14-15.	TWSL acknowledge the heritage and cultural significance of areas affecting the entire Project identified within various archaeological assessments and CIAs prepared.



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	documented in legislation and Environment Court proceedings since 2013.		Land Exchange Overview Report - Section 5.2.5, Table 3, pg. 37.	No specific archaeological, heritage or Māori cultural values have been recorded or identified within the PLC and SEB land through review of databases or through either the CIAs, engagement with the authorised iwi or HNZPT.
14.4	<i>Pg. 5, Para 1</i> On May 5 2026, Te Taiwhenua o Heretaunga Te Taiao (representing 9 marae in the Tamatea district) CEO Mr Marei Apatu confirmed that this representative body does not support the TTWS Project and supports the opposition expressed by Ngāti Kahungunu Iwi Incorporated. This is reflected in Mr Apatu's statement of evidence on behalf of the group in relation to proposed Plan Change 5 to the Hawkes Bay Regional Resource Management Plan, and the Environment Court appeal under clause 14 of the RMA (EN-2013-WLG-000050). The submission notes Tukituki River as an awa tupuna with the whakapapa of the river and its tributaries, springs and aquifers reflected in the whakapapa and whanaungatanga of the people it provides for. Tukituki River awa was once a 'river of villages and 'highway' connecting to whanau, trade and prosperity. The river is sourced from the Ruahine Ranges, Te Atua Mahara, the sacred spring Te Wai o Konganga and the Makaretu, Makaroro River and Waipawa awa flowing over and into	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 7, para. 34.	The comments from the NZCA rely upon and support positioned advanced by other entities and do not require any response (and are beyond the scope of this land exchange). Tukituki River is not within the PCL or SEB.



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	interacting with the Ruataniwha Aquifer. Ngāti Te Upokoiri has many historical sites, ancient pa sites, waahi tapu and waahi tipuna throughout the headwaters of the Tukituki and Waipawa Rivers that recharge the Ruataniwha Aquifer.			
14.5	<i>Pg. 6, Para 1</i> Statutory authorities have a responsibility to take into account the principles of the Treaty of Waitangi, and recognise and protect the kaitiakitanga over the Ruataniwha Aquifer as part of the active protection principle.	Planning	N/A	It is agreed that statutory authorities have a responsibility to take into account the Treaty of Waitangi Principles. However, the Ruataniwha Aquifer (and its implied use and allocation) is beyond the scope of the land exchange.
14.6	<i>Pg. 6, Para 3</i> Te Taiwhenua o Tamatea state that wai is a living taonga and their kaitiaki responsibilities are to ensure that any activity in the Tukituki Catchment protects and strengthens the mauri of wai, awa, ecosystem and communities. They cannot support any proposal that risks degrading the water quality of the wai, the weakening of ecosystems or placing long term burdens on future generations. Any project must demonstrate lasting benefits for the Hauora of Awa, Wai and communities and acknowledge the authority of Mana Whenua.	Legal	N/A	The activities proposed through the wider Project and their relationship to water quality, ecosystems and inter-generational concerns are beyond the scope of this land exchange. The proffered requirement for TWSL to plant up streams in the SEB block will improve the high quality of the wai supporting a wider range of freshwater fauna than currently present, delivering lasting benefits through its change to conservation land (and legal protection this provides).
14.7	<i>Pg. 7, Para 2</i> <i>Two letters on May 21 2026 objecting the proposed land exchange were sent to Ngāti Kahungunu Incorporated from chair of the</i>	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James	The comments from the NZCA rely upon and support positioned advanced by other entities and do not require any response.



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	Rākautātahi Marae Reservation Trustees and chair of the Tapairu Marae formally objecting to the land swap. It is understood that wāhi tapu, pā sites, urupā and other Taonga Tuku Iho located in or near the proposed flooding area. Flooding the whenua without full identification, assessment and protection risks irreversible cultural loss.		Winchester (James Winchester Barrister) - pg. 7, para. 34.	Reference to the “proposed flooding area” (reservoir) appears to reference the much wider land use in the project than the DOC exchange land and SEB that is the scope of the application. Cultural values have and continue to be assessed through the various CIAs, engagement and resource consent conditions (with a Board of Inquiry). The consents (Schedule-8) contemplate managing cultural and archaeological sites with a protocol prepared by eminent iwi leaders Professor Roger Maaka and Martell Letica.
14.8	<i>Pg. 7, Para 6</i> The letter from Rākautātahi Marae and Tapairu Marae asserts that serious consideration should be given to the history of the whenua as former Māori Customary Land and whether it should firstly be returned to mana whenua if deemed surplus.	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 7, para. 34.	The comments from the NZCA rely upon and support positioned advanced by other entities and do not require any response.
14.9	<i>Pg. 8, Para 1</i> Rākautātahi Marae and Tapairu Marae objection is grounded in the absence of a cultural assessment, legal clarity and meaningful engagement with affected whānau, hapū and marae.	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 7, para. 34.	The comments from the NZCA rely upon and support positioned advanced by other entities and do not require any response.



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14.10	<i>Pg. 8, Para 2</i> Ngāti Kahungunu's submission for the Tukituki Catchment Proposal incorporating Plan Change 6 into the Hawkes Bay Regional Resource Management Plan and the Ruataniwha Water Storage Scheme in 2013, opposed the proposal for the following reasons: - Concerns regarding recognition of rights and interests in water, governance and Tiriti o Waitangi principles; - Concerns on cultural values, mauri, health of the Tukituki Awa; - Concerns around adequacy of consultation with tangata whenua, hapū and whanau; - Concerns around treaty claim interests and customary rights affecting land within the proposed dam; - Concerns regarding environmental effects relating to water quality, land-use, seismic risk and deterrence of sustainable land practices.	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 7, para. 34.	The comments from the NZCA rely upon and support positioned advanced by other entities and do not require any response. The comments also relate to the merits of the wider consented RWSS and Plan Change 6, rather than the DOC PCL and SEB exchange land.
14.11	<i>Pg.10, para 2</i> It is questioned why the section of land parcel between Smedley Exchange Block and the Ruahine Forest Park connecting them is not included as part of the land exchange as it would provide better connection.	Planning	N/A	The land in question is private land and not part of the land exchange under consideration. Accordingly, the merits of including other landholdings (which is currently commercial forestry operations to the



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				west of both the PCL and SEB) fall outside of the scope of this proposal.
14.12	<i>Pg. 11, para 3</i> The proposal includes a number of mitigation measures including replanting, natural regeneration management, provision of targeted enhancement, restoration, improvement of water quality, control of willows and lupins and predator management. The proposed planting areas to offset mitigation is only an areas equivalent to the area of public conservation land to be exchanged.	Ecology	Part 2-1 - Appendix A - Ecology Memorandum – Graham Ussher (RMA Ecology) - Section 4, pg. 5.	The proposed management actions (occurring prior to the exchange) are considered by a suitably qualified ecologist to provide for a more than equitable land exchange and result in an overall far greater biodiversity value of the SEB compared to the DOC land over time. On almost all accounts the SEB block provides a greater or equal area of native vegetation.
14.13	<i>Pg. 11, para 4</i> The Department of Conservation consider that the native forest would regenerate in the Smedley Exchange block once grazing was removed and could be a promising site for geckos and skinks. It is also noted that the diversity of ecosystems within this exchange land are less rich than the conservation land which also contains wetlands of greater value than Smedley Block.	Ecology	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 7, para. 35. Part 2-1 - Appendix A - Ecology Memorandum – Graham Ussher (RMA Ecology) - Section 3 and 4, pg. 3-5.	In almost all accounts, the SEB provides a greater or equal fauna diversity (with the exception of native fish communities). The land exchange assessment prepared by DOC in 2015 appeared satisfied that there was a comparable exchange in relation to wetlands.
14.14	<i>Pg. 11, para 5</i> <i>A number of native fish species will need to be trapped and transferred. It is unclear as to whether the ongoing quality of habitat for fish species has been addressed.</i>	Planning	Appendix 4 – Schedule 6a Integrated Mitigation and Offset Approach of RWSS Resource Consents Package Project C, pg. ix.	The trap and transfer programme is a consent condition as part of the RWSS consents (Schedule 6) and is beyond the scope of the land exchange.



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14.15	<i>Pg. 11, para 6</i> The SLR report on the Land Exchange Assessment notes that the conservation value is dependant on a number of remedies including stock fencing, riparian planting and long-term pest control. The long-term costs would ultimately fall to the Department which is already under significant financial pressure.	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 7, para. 35.	Refer to Comment Response 14.12 (above). The enhancement work will occur prior to the land exchange and will be undertaken or funded by TWSL (for a defined period – as set out within the SEB Management Plan). It is correct that once the land improvements (stock fencing, plant and pest control (plant and animal - 5 years) and riparian planting have been undertaken, the responsibility for ongoing management is the Department of Conservations responsibility as the administering authority of the new conservation land.
14.16	<i>Pg. 11 para 7</i> <i>A number of mitigations are proposed to offset the loss of recreation value lost, included providing facilities for a variety of recreation types. It is unclear if manmade recreation facilities, especially activities based on the planned reservoir, can compensate for natural habitat in term of recreation values.</i>	Planning	Land Exchange Overview Report Section 5.2.2.3, pg. 41.	The SEB is considered to provide significant net positive recreational values compared to the PCL land, while the effects of the reservoir and dam are beyond the scope of the land exchange application.
14.17	<i>Pg. 12 para 2</i> <i>NZCA note the Supreme Court ruled the Ruataniwha Water Storage Scheme unlawful in 2017 because it required trading protected conservation land for commercial</i>	Ecology	Part 2-1 - Appendix A - Ecology Memorandum – Graham Ussher (RMA Ecology) - Section 7, pg.6.	The current values of the SEB will be improved through the proposed management actions which will be implemented before the land exchange occurs (to ensure a net-conservation benefit).



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	gain, which is not permitted under the Conservation Act 1987. While the FTAA allows for the process to exchange conservation land, the land proposed for exchange must be of enhanced conservation value. It is not considered that the proposed area to be exchanged would benefit the conservation estate, due to its current condition (grazing) and does not abut the Forest Park.			The conclusion of the suitably qualified ecologist is that the proposed SEB block and proposed management actions that will be secured through conditions and management plan will provide for a more than equitable exchange and result in a far greater biodiversity value of SEB compared to DOC land over time
14.18	Pg. 12, para 5 The recreation values of a man-made lake do not outweigh the loss of natural habitat.	Ecology	Part 2-1 - Appendix A - Ecology Memorandum – Graham Ussher (RMA Ecology) - Section 7, pg.6.	As above, it has been determined by a SQEP ecologist that the management actions and management plan will provide for a more than equitable exchange.
14.19	Pg. 12, para 7 NZCA acknowledges a number of positive outcomes from the exchange such as the larger area for native forest to regenerate, pest and weed control and development of recreation facilities but do not endorse the land exchange and do not believe the conservation value is greater within the proposed exchange block.	Ecology	Part 2-1 – Appendix A - Ecology Memorandum – Graham Ussher (RMA Ecology) - Section 7, pg.6.	NZCA's comment and acknowledgement of the positive outcomes from the land exchange is noted. The assessment provided by the Land Exchange Application is thorough, robust and supports the case that the SEB block provides mostly the same or better areas of habitat and vegetation communities as the PCL.
10. Hawke's Bay/East Coast Conservation Board ("HBCB")				
10.1	Pg.1, Para 2 In accordance with its statutory role under the Conservation Act 1987, the Board has focused its assessment on the conservation values of the affected land and considers	Ecology/Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James)	The HBCB comments suggest that the proposed land exchange must deliver a like-for-like replacement of conservation values which is a legally incorrect interpretation.



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	the proposal results in a net loss of distinct and non-equivalent conservation values. The Board opposes the proposed land exchange.		Winchester Barrister) - pg. 7-8, para. 36-38. Part 2-1 – Appendix A - Ecology Memorandum – Graham Ussher (RMA Ecology) - Section 7, pg.6.	The matters to be addressed under the D-G's report do not involve such test. For a subsequent substantive application, Schedule 6, Cl. 29 does not require a panel to be satisfied that the exchange will deliver a like for like replacement but rather must enhance conservation values of land managed by DOC.
10.2	<i>Pg. 1, Para 3</i> The Board considers that the proposed exchange replaces river valley conservation land (including riparian and alluvial environments) with hill-country block of mixed pasture, regenerating vegetation and limited forest cover. This results in the permanent and enduring loss of distinct and non-equivalent ecological values that does not deliver a like for like replacement.	Ecology/Planning	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 7-8, para. 36-38.	As above (Response to Comment 10.1) – the specific ecological and landscape characteristics of the affected site on the land to be exchanged is not the correct legal test.
10.3	<i>Pg. 1, Para 4</i> Claimed benefits do not outweigh the scale and permanence of the adverse environmental effects and therefore do not support the proposed exchange.	Ecology/Planning	Part 2-1 – Appendix A - Ecology Memorandum – Graham Ussher (RMA Ecology) - Section 7, pg.6. Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 8, para. 39-41.	TWSL disagree and submit that the comment addresses broader consequences and effects of concern to the Project. The assessment provided by the Land Exchange Application is thorough, robust and supports the case that the SEB block provides mostly the same or better areas of habitat and vegetation communities as the PCL. The land exchange will provide for an area of indigenous vegetation that is 4.2 greater than the PCL land and is beyond the DOC guidance of a 1:4:2 ratio.



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10.4	<i>Pg. 3, Para 3</i> 100 hectares of the proposed exchange land is identified as indigenous vegetation. Much of this vegetation is in early to mid-successional condition, lacking the structural complexity and ecological function characteristic of mature native forest systems, with only limited areas of mature forest present.	Ecology/Planning	Appendix 3 – Ecological Values Land Exchange Report - Section 16.1, pg. 46.	While the SEB may not immediately replicate the complexity of mature forest lost from the DOC land, the scale of the area, diversity of habitats and management commitments will ensure that the exchange will deliver a significant net gain in indigenous habitat and ecological function achieving the enhancement test.
10.5	<i>Pg. 3, Para 5-7</i> The proposal relies on future ecological restoration, pest control and long-term management measures that are prospective and dependant on sustained resourcing and governance. Even if fully implemented, such measures would not replicate the specific ecological and landscape characteristics. Responsibility for ongoing management is likely to transfer in whole, or in part to the Department of Conservation and other public agencies and landowners in relation to catchment wide mitigation.	Legal/Ecology	Part 1 - Legal Submission , Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 8, para. 38.	Refer to Comment 10.1 (above). Replication of specific ecological and land characteristics are not the correct legal test. It is correctly cited that once the land improvements (stock fencing, plant and pest control (plant and animal - 5 years) and riparian planting have been undertaken, the responsibility for ongoing management is the Department of Conservations responsibility as the administering authority of the new conservation land.
10.6	<i>Pg. 3, Para 8-10</i> An increase in total land area within the conservation estate does not adequately compensate for the qualitative loss of conservation values (which is not determinate by area alone) associated with the inundated land.	Ecology/Planning	Part 2–1 – Appendix A - Ecology Memorandum – Graham Ussher (RMA Ecology) - Section 4, pg.5.	The SEB scores greater or equal area for native vegetation, length of stream and known or expected fauna diversity compensating for the qualitative loss of PCL conservation values.



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10.7	<i>Pg 4. Para 1-3</i> The creation of the reservoir will fundamentally alter the natural character Makaroro River valley and surrounding landscape resulting in the loss of existing public access routes and recreational opportunity. While new access arrangements are proposed, these are unlikely to replicate the location, character, experiential values and the new proposed recreational opportunities are different and do not replace the river based and back-country recreational experience.	Recreation/Planning	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 8, para. 41.	The environmental outcomes go beyond the scope of the land exchange to consider broader effects of concern. Access and recreational opportunities are enhanced by the project, including new access to public land that avoids the weather dependent river crossing.
10.8	<i>Pg. 4, Para 4-5</i> The proposal raises concerns regarding the integrity of the conservation estate, as conservation land may be able to be exchanged to enable development outcomes with implications for public confidence in long-term protection.	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 8, para. 40.	The Board's concern around broader precedent effect of Conservation land exchange is not a matter expressly identified in Schedule 6 of the FTAA. The FTAA provides an avenue for exchanges involving conservation land in connection with eligible projects (such as for this Schedule 2 listed project).
10.9	<i>Pg. 4, Para 6-7</i> The Board states that Conservation land contains cultural and place based specific values that are linked to location. Such values cannot be transferred or replaced through land exchange, and their loss remains a material and enduring consideration for local communities and mana whenua.	Planning/Cultural	Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) - Section 3.3.3, pg. 13-14.	There has been no identification of cultural and place values relating specifically to the PCL land as opposed to the wider extent of the reservoir area.



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10.10	<i>Pg. 5, Para 1-4</i> The Board notes the environmental effects of the proposal are significant. Comments on the creation of a large reservoir and the inundation of terrestrial and riverine environments including Conservation Land. The Board notes that changes in land-use enabled by irrigation may introduce additional uncertainty regarding long-term environmental outcomes.	Legal/Planning	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 8, para. 39.	The adverse environmental effects of the wider Project are beyond the scope of this land exchange application – and has been appropriately managed through the RWSS consents. To the extent the comment addresses the effects of the proposed reservoir and associated land-use changes enabled by irrigation are more appropriately considered through the substantive application process and is not directly relevant to the land-exchange.
10.11	<i>Pg. 6, para 3</i> The framework of mitigation measures intended to address the future effects of land use intensification including catchment-based management, riparian planting and restoration measures are programmatic and dependant on implementation, funding and compliance. The extent and nature of land use change enabled by irrigation remain uncertain and there is a risk that cumulative effects on water quality and ecosystem health will not be fully mitigated. Residual environmental risk is likely to remain, requiring intervention by public agencies.	Legal/Planning	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 8, para. 39.	Catchment-based management, IMO A commitments and irrigation are not relevant to the land exchange application and are considered and managed in the resource consents. These matters are expressed at such a level of generality that no response is required.
18. New Zealand Fish and Game Council				
18.1	<i>Pg. 2, Section 1.3, para 1-3</i> <i>Notes that the application will affect anglers and hunters through disturbances and</i>	Recreation	N/A	This comment appears to go beyond the scope of the land exchange to assess effects of the wider Project. The Tukituki



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	<i>discharges to habitat that supports fish and game populations.</i> <i>The Tukituki River as a trout angling river of regional significance, and in the lower reaches the river provides food gathering opportunities and a native fishery.</i> <i>The Makaroro River provides remote, scenic fishing. Fishing up to Barlow's Hut provides an excellent back-country experience.</i> <i>They are concerned that the proposed fluctuations in level and steep sides of the reservoir will not result in good habitat for trout and the fishery may be what it is presented in the application.</i>			River, Barlow Hut (upstream of the proposed reservoir) and steep sides of the reservoir are beyond the scope of this application. Fish transfer and land use are considered and managed by the existing resource consents.
18.2	<i>Pg. 3, Section 1.4 para 1-2</i> <i>A survey of license holders generally expressed a strong attachment to the Makaroro/Tukituki upper catchment valuing it for its back-country character, fishing quality and sense of remoteness. Many respondents state they use the area occasionally and public access is critical to their enjoyment. Anglers value low fishing pressure, remote water access and quality of the trout fishery. While some benefits are noted, there is a strong preference for protecting existing recreational and angling values over introducing new, more developed opportunities.</i>	Planning	N/A	This comment appears to go beyond the scope of the land exchange to assess effects of the wider Project (Makaroro and Tukituki upper catchment are outside of the PCL and SEB).



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18.3	<i>Pg. 4, Section 1.7, Para 1</i> Acknowledges hydrological effects on the fishery below the dam have been set by RMA consents and conditions. Any variation of consent application should include trout monitoring of the river below the dam and compensation set out for the loss of habitat of trout fisheries.	Planning	N/A	Comment is acknowledged but goes beyond the scope of the land exchange to assess effects of the wider Project.
18.4	<i>Pg. 4, Section 2.2, Para 1-2</i> <i>Under the Conservation Act 1987, DOC must manage land for the preservation and protection of intrinsic natural and historic resources, and for public access and enjoyment.</i> <i>The exchange of conservation land will result in the permanent loss and restriction of access corridors and roads (as the DOC Conservation Land already provides public access to Makaroro River and the upper Tukituki catchment – valued for angling).</i>	Planning	Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) - Section 3.2, pg 8.	The current PCL land is not shown by DOC as having any advertised tracks within their extent in their online maps. TWSL is providing improved access to public lands that is less weather dependent (on river flow conditions) through utilising existing access and easements through Gwavas Conservation Area. As stated in the Overview Report, there is no access tracks or recreation facilities within any of the PCL areas, albeit that Yeoman's track connects to the Makaroro River adjacent to the western most area of PCL land.
18.5	<i>Pg. 4-5, Section 2.3</i> <i>The land for exchange does not provide equivalent or improved legal public access to replacement land and is therefore inconsistent with the Conservation Act.</i>	Property/Legal	Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) - Section 3.2, pg. 5-8.	The SEB is accessible from the directly adjoining Gwavas Conservation Area, which has access from Wakarara Road in Gwavas Forest to Poutaki Track/Hut. The SEB land will also be accessible from the margins of the true left bank of the reservoir which will have public access via Wakarara Road through Gwavas



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				Forest. Portions of the PCL land are only accessible from either the Makaroro River or Dutch Creek which are impassable at times during high river flows.
18.6	<i>Pg. 5, Section 2.4</i> <i>Conservation land supports river systems that are important for sports fish. Damming of the river and modifying flow will fundamentally change habitat conditions. The Conservation Act requires protection of intrinsic values, yet the proposal prioritises infrastructure development over retention of natural river character. Big changes in levels both in the reservoir and in the river below will not provide good living conditions for trout or indigenous species. The land exchange is therefore inconsistent with the Conservation Act unless it clearly maintains or enhances both access and freshwater values.</i>	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, paras. 6 & 7.	Damming and modification of the river and modifying river flow is beyond the scope of this land exchange application.
18.7	<i>Pg. 5, Section 2.6</i> <i>The relevant CMS provisions (Hawke's Bay / East Coast region) emphasize protection of freshwater fisheries, the maintenance of public access to rivers and lakes and the preservation of natural character and flow regimes. The Makaroro River is a high-value backcountry fishery with strong recreational attributes, transformation into a reservoir environment will eliminate riverine angling</i>	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, paras. 6 & 7.	Issues regarding freshwater fisheries are for recreational angling are related to the wider project but are out of scope of this land exchange application.



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	<i>replaced with lake-based angling of uncertain quality.</i>			
18.8	<i>Pg. 6, Section 2.8 (a)</i> <i>There is no clear demonstration of net gain for freshwater or angling values. The proposal involves a loss of a natural river ecosystem, and the replacement land values are not established as equivalent for fisheries. The mitigation package in the consents is underbudgeted. It will not be possible to build a boat ramp or fishing hut for the dollar values assigned in the mitigation. It is also unknown as to what is proposed for the trap and transfer.</i>	Ecology/Legal	Part 2-1 – Appendix A - Ecology Memorandum – Graham Ussher (RMA Ecology) - Section 3, pg.3-4. Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, paras. 6 & 7.	It is acknowledged and accepted that the current freshwater values of the SEB score medium against ecological significance whereas DOC land comparatively scores high and medium high. These comments however appear more concerned with the values of the mainstream of the Makaroro River, which is not subject to this land exchange application and therefore out of scope. The mitigation package in the IMOA is budgeted in \$NZ 2014 to be converted to current NZ\$ under the consumer price index. The fishing hut, trap and transfer, loss of natural river are all beyond the scope of this land exchange and considered and managed by the existing RWSS resource consents.
18.9	<i>Pg. 6, Section 2.8 (b)</i> <i>To carry out trap and transfer for both trout and indigenous species, road access would be needed both below the dam and from those fish traps to the reservoir to release fish. Funding would need to be provided in perpetuity – the Consent only provides for 35 years of payments for trap and transfer work. As the land exchange is forever, the condition of the land exchange should also be that the trap and transfer scheme is paid</i>	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, paras. 6 & 7.	The trap and transfer around the dam is consented and budgeted, and beyond the scope of this proposed land exchange.



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	<i>for the duration of the scheme (beyond the 35-year consent period).</i>			
18.10	<i>Pg. 7, Section 2.8 (c)</i> <i>While the exchange increases land area to DOC, the Conservation Act requires equivalence, not just area. No evidence has been provided to demonstrate the replacement land provides equivalent freshwater fisheries or supports comparable recreational use.</i>	Ecology/Legal	Part 2-1 – Appendix A - Ecology Memorandum – Graham Ussher - (RMA Ecology) - Section 3, pg. 3-4. Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 7, para. 36.	As noted in earlier responses, the land exchange does not have to deliver a like-for-like replacement of conservation values just an enhancement of conservation values (overall). It is conceded that even with the specific management actions proposed by the applicant, the SEB land is likely to support less favourable habitat for the full range of freshwater fish. Despite this, the significant improvements in biodiversity value are afforded greater weight (as it forms a significantly greater area component than freshwater values. Further to this the recreational fishing values are on the rivers adjoining the DOC land to be exchanged and not within that land.
18.11	<i>Pg. 7, Section 2.8 (c)</i> <i>The applicant has not presented ideas for new recreational tracks and access to the exchanged land. If DOC does not require funding from the applicant to develop the exchanged land, they will be left to develop a track and signage network. At a minimum adequate funding should be provided to DOC to develop the 170 hectares.</i>	Ecology/Planning	Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) - Section 3.2, pg. 4 - 8.	As explained in the Overview Report, access will be available to the SEB from the true right bank of the proposed water storage reservoir, by boat directly across the reservoir from the boat ramp (to be funded by TWSL). In terms of access to the SEB land from the north, and overland, the SEB immediately adjoins the existing DOC Gwavas Conservation Area (containing existing tracks sections into this area) which will not be affected by the SEB.



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				Additionally, there is a public access easement on Wakarara Road through Gwavas Forest to the true left bank of the reservoir from which the SEB land will be able to be accessed (see Planning Memorandum).
18.12	<i>Pg. 7, Section 2.8 (c)</i> <i>Fish and Game would like to see new angling opportunities secured at the reservoir as well as game bird hunting provided for.</i>	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, paras. 6 & 7.	The RWSS consent contemplates angling at the reservoir (boat ramp and fishing hut). This matter is outside of the scope of the land exchange application.
18.13	<i>Pg. 7, Section 2.8(d)</i> <i>New access will need to be created to the reservoir, boat ramp and access is needed to be created to the upstream fishery to continue access to Barlow Hut. New access will also need to be created to the downstream fishery to enable the trap and transfer programmed (this element is not detailed in the RMA consents). A access plan should have been provided with the land exchange application to make it clear what vehicular and walking access was proposed.</i>	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, paras. 6 & 7.	This comment is beyond the scope of land exchange. The RWSS consents provides for access from a public road and carpark along the true-right bank to the top of the reservoir to access the Ruahine Forest Park and track infrastructure.
18.14	<i>Pg. 7. Section 2.8(d)</i> <i>Conditions of any land exchange approval need functional, physical and legal vehicular access to be provided for. The applicant should be responsible for ongoing</i>	Planning	Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) - Section 3.2, pg. 4 - 8.	These comments are correct regarding the access proposed on the southern side of the reservoir, while the Planning Memorandum explains the public access that will be available to the northern side of the reservoir. The access matters



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	<i>maintenance of the new vehicular access and walking tracks for the duration of consents (and renewals) so it does not fall to others to maintain roads to fishing spots.</i> <i>Northern access is critical to license holders (Gold Creek Track, Sparrowhawk track, Colenso Spur and Parks Peak).</i> <i>Access is proposed on the southern side of the reservoir via Wakarara Road – ideally this would be constructed as a public road and maintained as such.</i> <i>Boat Ramp access – a new access will be constructed to the boat ramp and fishing hut and this should be constructed and maintained as a public road and include public access easements.</i>		Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, paras. 6 & 7.	referred to are however related to the wider project and are generally covered by the RWSS consent package (through Schedules 6 & 9 and the IMOA package) but are beyond the scope of this land exchange application.
18.15	<i>Pg. 8-9 Section 3</i> <i>Notes the narrow and specific scope for land-exchange conditions. If land exchange application is going to be approved, it must be subject to conditions and covenants that provide for the access and ecological enhancements. As the Board of Inquiry RMA conditions underfunds access and ecological enhancements, the land exchange conditions have scope to better address issues of access and conservation outcomes.</i>	Legal	N/A	The ability of the D-G to recommend conditions on the land exchange is noted and expected in regard to the proposed enhancement of the SEB land. The RWSS consents and proposed access, ecological and recreation enhancements have been costed and funded appropriately and are subject to the consumer price index.
18.16	<i>Pg. 9 Section 3.1</i>	Legal	N/A	Refer to response to Comment 18.9 (above).



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	<i>Loss of a remote wild fishery cannot be minimised by conditions and by replacement of a different fishery, such as a reservoir fishery that may or may not be productive. Therefore, compensation must be included in the land exchange conditions to cover fish trap and transfer to include trout, along with indigenous species. The proposed \$20,000 per annum for 35 years is insufficient.</i>			
18.17	<i>Pg. 10, Section 3.5</i> <i>An assessment of potential game bird hunting (and other hunting) opportunities should be carried out to determine if the new DOC-exchanged land could provide opportunities. If there is, the land should be classified to allow for hunting and dog access.</i>	TWSL	N/A	TWSL is open to this recommendation if DOC wish to pursue this opportunity (as hunting is often a good form of pest control).



3-7 – Comments from section 35(2) Parties

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17. Parliamentary Commissioner for the Environment				
17.2	<i>Pg. 1, Para 6</i> The conservation values described in the overview report do not always align with those in other reports provided by the applicant. For example: • The overview report scores the PCL biodiversity as medium and the SEB land as high/medium, while the underlying ecological assessment report seems to score the two areas more similarly. • With respect to biodiversity values the ecological assessment report states that, "Overall the Smedley Exchange Block is of comparable value to the DOC land being lost." • The ecological assessment report also scores freshwater values higher for the PCL than the SEB land whereas, as noted above, the overview report scores them the same. It is unclear to me how the biodiversity and freshwater values described in the ecological assessment report have been converted into those cited in the overview report. It is therefore difficult to compare	Ecology/Legal	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) Section 7, pgs. 6 & 7. Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 9 & 10, para. 43 & 47.	Refer to the Ecological Memorandum which clarifies the overall conservation values assessment in regard to Biodiversity and Freshwater Values, and the TWSL Legal Submissions which provide further clarification of the correct legal test.



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	the qualities of the parcels of land being proposed for exchange. I also question how this test might be applied if the four different conservation values of the two parcels of land being evaluated for exchange were more different. More generally, is it the intention that the four conservation values should carry equal weight?			
17.3	<i>Pg 2, Para 9</i> What exchange ratio would be deemed necessary as a minimum and for what type of land or ecosystem? Knowing the quality of each area seems critical for this - but so too does having some guidance on what an appropriate ratio might be for each exchange.	Ecology/Legal	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology), pg. 5, section 4. Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg.9, para 44.	The Ecological Memorandum (pg 4, section 4) addresses what an appropriate exchange ratio is between DOC land and the SEB block. The DOC Guidance has no requirements for greater than a 1:1 exchange ratio, and instead requires ‘enhancement of conservation values’ as a whole. That suggests that an equivalent exchange (as a whole) is not supported, but a more than an equivalent exchange is.
17.4	<i>Pg 3, Para 10-11</i> The guidance published by DOC is unclear about exactly when conservation values must be enhanced by a land swap: now or at some point in the future? This matters because it will affect the sorts of swaps that are likely to meet the statutory test in the FTAA.	Legal/Ecology	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg.9, para 45. Part 2-1 – Appendix A - Ecological Memorandum	The approach to current versus future values is clarified in the Legal Submission and provides for the exercise of an informed judgement and discretion by the D-G.



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	There is lack of alignment on this point within this application.		Graham Ussher (RMA Ecology), pg 5, section 4.	
17.5	<i>Pg 3, Para 11</i> The ecological assessment report states that “a current value approach” must be used. However, the report also mentions the need for ongoing management to maintain ecological diversity and functionality. An important question is whether the management actions being suggested in the proposal are enough to ensure that the value is retained - or in fact enhanced?	Legal/Ecology	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg.9, para 46. Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology), pg 5, section 4	Refer to response to Comment 17.4 (above).
17.6	<i>Pg 3, Para 12</i> The current recreational value provided by the actual parcel of PCL land is scored as ‘low’ and it is pointed out that the land does not include any tracks or infrastructure to allow any recreational use. Applying the same logic, there would also appear to be very little current recreational value on the SEB land as well, as it also currently has no tracks or infrastructure.	Planning/Legal	Land Exchange Application Overview Report – 16 March 2026) pg. 25-31 Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg.9, para 46.	The Land Exchange Application Overview sets out the Assessment of Recreational Values of DOC and SEB land. As the SEB land is in private ownership, an assessment of recreation values can only be based on its proposed future enhancement and transfer to public ownership. The Legal Submission states that if recreational values were required to be assessed at the present day when there is an absence of certainty as to whether the broader project will be approved or implemented, then it would potentially be difficult for areas of private land proposed to be exchanged to demonstrate those values, in the absence of significant “upfront investment” that could



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				ultimately be wasted. Given however that the PCL land in this instance has low recreational values, the question is perhaps moot in this instance.
17.7	<i>Pg 3, Para 13</i> The recreational assessment focuses on potential future benefits that would be provided by the creation of the dam and its ancillary infrastructure such as roads, boat ramps and tracks (presumably being provided for under consent conditions for the dam itself). These may well be considerable, but it is unclear whether this is the correct comparison to make for the proposed land exchange if it is intended to be based on the current recreational value of the land in question. Furthermore, how do we know that people are going to use the dam and its surrounds for recreational purposes?	Planning/Legal	Land Exchange Overview Report Section 5.2.3.3, pg. 25-31. Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg.9, para 46.	Refer to response to 17.6 above. The relevance of setting out the proposed ancillary recreation infrastructure for the wider dam and water storage reservoir project in the Overview Report is to establish how public access will be available to the SEB land from the true right bank of the reservoir and the public road end.
17.8	<i>Pg 3, Para 14</i> While it is not mentioned in the application, the Gwavas Conservation Area (existing PCL) which is adjacent to the SEB land is classified as stewardship land. What would happen to the assumed benefits from the SEB land being adjacent to this PCL if this stewardship land were to be removed from the conservation estate in the future?	Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg.9-para 46.	While this is interesting from a theoretical perspective, it is beyond the scope of this application and is hypothetical. This comment should be disregarded.



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17.9	<i>Pg 3, Para 15</i> Some clarity on these points in DOC's guidance would be helpful: 1. How should uncertain future benefits - or costs - be treated as part of land exchange proposals? 2. Should some sort of discount be applied where there is uncertainty about the realisation of those benefits or costs? 3. In addition, what is DOC's long-term plan for the Gwavas Conservation Area?	Planning/Legal	Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg.9- para 46.	With respect to comments about the timing values should be assessed, this is not prescribed by the Act and enables the exercising of an informed judgement and discretion by the D-G. Once land improvement measures have been undertaken by the applicant, future management issues will be a matter for DOC, pertaining to long-term planning for Gwavas Conservation Area.
17.10	<i>Pg 4, Para 18</i> The ecological assessment report also suggests that the applicant will assume responsibility for this work in the short term, with pest plant and animal pest control to be “undertaken for a minimum of 2 years or until land transfer to DOC (whichever is longer).” In my view that is not long enough. Eradicating weeds on the SEB land will very likely take decades rather than years, and it should be the applicant – not DOC – that covers the cost of it. I would note here that the ability to include money in land exchanges under the FTAA provides a mechanism for achieving exactly that.	Legal/Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology), pgs 5 & 6, section 5. Part 1 - Legal Submission, Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg.10- para 47.	The question around the duration of time that enhancement and pest control work will need to be undertaken on the exchange land before it is transferred to DoC is a merits issue, but the ability of the Director General to recommend conditions is noted. It is also important to note that the TWSL proposed pest control on the SEB land is now increased from 2 years to 5 years in accordance with the recommendations of the Ecological Memorandum.



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17.11	<i>Pg 4, Para 19</i> I question how much surveying of the SEB land has taken place to support the application. The bulk of the information provided in the ecological assessment report appears to be based on a previous assessment of area for the Ruataniwha Water Storage Scheme proposal over a decade ago.	Ecology	Appendix 3 – Ecological Values Land Exchange Report - Section 3.2.2, pg. 6.	The assertion that the material relies solely on the 2013 RWSS material is not supported by the evidence. A substantial amount of additional ecological surveying of the SEB has been undertaken for the current land exchange application, building on the baseline information provided in the 2013 work. The Smedley Block Ecological Survey report and Terrestrial Ecology Report prepared in 2013 was reviewed and updated with information from the 2025 site visits to provide a comprehensive assessment of existing ecological values. Particular attention was given to the effects of Cyclone Gabrielle, eDNA sampling, natural inland wetland delineation was carried out in accordance with MFE (2022) protocols and updated habitat assessments. Aerial imagery was assessed and where appropriate vegetation and habitat were remapped.
17.12	<i>Pg 4, Para 20</i> I am interested to know if any suitably qualified DOC staff have recently visited both parcels of land to assess their current value as well as what might be needed to improve and maintain them. It is important to know whether DOC are making their assessment based on their own information or are relying on the information provided.	Planning	Appendix 3 – Ecological Values Land Exchange Report - Section 12, pg. 40.	The question whether DOC has undertaken a site visit is a matter for them to address. However, the application material records that DOC undertook a survey and assessment of the SEB in 2015 and we understand that they are planning a site visit in the near future.



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22. Royal Forest and Bird Protection Society				
22.1	<i>Pg. 2, Para 5</i> Application fails to pass the statutory criteria for land exchange under the FTAA, failing to demonstrate the exchange would enhance the conservation values of areas and Crown-owned reserves considered as a whole	Legal / Ecology	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 10-11, para. 49 – 55. Land Exchange Overview Report - Section 5, pg. 15-44. Part 2-1 – Appendix A – Ecological Memorandum Graham Ussher (RMA Ecology) Section 7, pg. 7, para. 4.	TWSL disagrees that the application fails to meet the statutory threshold to justify the exchange of public conservation land under the FTAA. The legal test asserted by RFBPS is submitted to be legally unsound. The application has been prepared in accordance with the guidelines for assessment prepared by DOC including assessment against the FTAA purpose and Schedule 6 decision-making criteria. The Ecological Memorandum confirms the conclusions of the SLR Land Exchange Assessment that the SEB and proposed management actions (that can be secured by conditions) will provide for a more than equitable exchange and result in an overall greater biodiversity value than the PCL over time.
22.2	<i>Pg. 3, Para 8-9</i> DOC's previously provided guidelines on the assessment of conservation values for land exchanges under the FTAA is incorrect. In particular: - The FTAA does not authorise 'exchange' of conservation values where some are enhanced and some are diminished i.e. the loss of biodiversity values for the gain of	Legal	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 10-11, para. 49 – 55. Land Exchange Overview Report - Section 5, pg. 15-44.	Refer to response to Comment 22.1 above.



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	recreational values cannot be undertaken - Consideration of the land exchange must be made in the context of the wider conservation estate, and not just the two land parcels to be exchanged - The panel must be satisfied the exchange will enhance all of the conservation values of conservation values and Crown-owned reserves to be approved			
22.3	<i>Pg. 4, Bullet a.</i> Terrestrial ecology survey effort is not sufficient and some of the relied upon data is over 10 years old preventing a full understanding of values present in the PCL and exchange land.	Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 1, pg. 2.	The age of data does not, in of itself, invalidate the validity or relevance of the data, and in any case the 2013 data has been supplemented by field work undertaken in September & October 2025. The Ecological Memorandum states that level of ecology information for the DOC land and the SEB site provides a comparable base foundation from which to compare biodiversity values. The additional information collected on the DOC land lends itself to a more in-depth explanation of values and in most cases transferrable to the SEB block as well.
22.3	<i>Pg. 4, Bullet b-c</i> There is a lack of detail on rational underpinning assumptions made in the TE	Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 7, pg. 6.	The Ecological Memorandum has reviewed the comparative assessment undertaken by the SLR Land Exchange Report and confirms the reporting is thorough and robust and supports the



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	report and its is unclear how scoring/value criteria have been calculated			case that the SEB block provides mostly the same or better areas of habitat and vegetation communities as are proposed to be exchanged on the DOC land.
22.4	<i>Pg. 5, Bullet e</i> Assessment has focussed on an assessment of, and direct comparison between, the two land blocks and does not undertake a more fulsome analysis of the exchange within the context of the wider public conservation land network.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 10-11, para. 49 – 55. Land Exchange Overview Report Section 5, pg. 15-44.	Refer to the Legal Submission prepared by James Winchester. The legal test asserted by RFBPS is submitted to be legally unsound. As per the Land Exchange Overview Report, the application is considered to pass the correctly interpreted statutory criteria of the Act.
22.5	<i>Pg. 5, Bullet f</i> The conclusion of comparability and enhanced conservation value appears to rely heavily on an assumption of ongoing management and removal of direct threats – however there is significant uncertainty in securing those outcomes	Legal / Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 5, pg. 5 & 6.	To ensure enhanced conservation values are achieved, TWSL is proposing direct improvement measures to the SEB. The Ecological Memorandum confirms the proposed enhancement measures are standard, undertaken across New Zealand and widely accepted as being beneficial for wildlife and ecosystems, and will produce benefits that will 'lift' the conservation values of the SEB site. Should the D-G consider it necessary and appropriate, they can specify conditions to resolve any uncertainty with regards to implementation of the direct improvement works. Imposing consent conditions is a primary and universally accepted method of effects management



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				to avoid 'significant uncertainty in securing outcomes'. TWSL is willing to assist the D-G with the drafting of potential conditions relating to the proposed direct improvement measures if it would assist the D-G. I is also noted that TWSL adopts the recommended 5 year pest control programme set out in the Ecological Memorandum (page 6).
22.6	<i>Pg. 5, Bullet g</i> Significant uncertainty on whether the exchange block will be enhanced to a comparable conservation values as the PCL	Legal / Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 7, pg. 7.	The Ecological Memorandum confirms the conclusions of the SLR Land Exchange Assessment that the SEB and proposed management actions (that can be secured by conditions) will provide for a more than equitable exchange and result in an overall greater biodiversity value than the PCL over time. Should the D-G consider it necessary and appropriate, they can specify conditions to resolve any uncertainty with regards to implementation of the proposed direct improvement works. Imposing consent conditions is a primary and universally accepted method of effects management to avoid 'significant uncertainty in securing outcomes'. TWSL is willing to assist the D-G with the drafting of potential conditions relating to the proposed direct improvement measures if it would assist the D-G.



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22.7	<i>Pg. 5, Bullet h</i> Lack of clarity of future land use within the SEB.	Legal / Ecology	N/A	The future management of the exchange land by DOC is not within the remit of TWSL or the land exchange application to dictate.
22.8	<i>Pg 6, Bullet k</i> The Integrated Mitigation and Offset Approach of the broader project has no bearing on the land exchange. Any mitigation and management measures proposed to uplift conservation values of the exchange land cannot be used/considered to address adverse effects of the Project itself.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 11, para. 56	To the extent that the RFBPS comments suggest that TWSL is proposing a double counting approach by referring to the Integrated Mitigation and Offsetting Approach, it is submitted that this is misleading in that a package of measures are proposed for the purposes of the land exchange proposal and are specifically relevant to the land concerned. Further to this the IMOA does enable access from the public road end and boat ramp across the reservoir to the SEB land and the planting of the reservoir margin provides ecological corridor linkages to the SEB land that is additional to the adjoining Gwavas Conservation Area.
22.9	<i>Pg 6, Bullet a</i> The freshwater assessment does not adequately reflect the significance of the freshwater values of the DOC land, and does not demonstrate that the exchange land has significant freshwater values	Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 1, pg. 2 & Section 3, pg. 3.	The Ecological Memorandum submits that level of ecology information for the DOC land and the SEB site provides a comparable base foundation from which to compare biodiversity values. The additional information collected on the DOC land lends itself to a more in-depth explanation of values and in most cases transferrable to the SEB block as well. The memorandum notes that, while the PCL comparatively scores high / medium-high for freshwater values, the small size



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				of the freshwater habitat within the PCL to be exchanged means that the associated freshwater values form a relatively minor contribution to the overall conservation values and therefore the SLR Land Exchange Assessment has given appropriate weighting to the freshwater values of the PCL in its comparative assessment. The memorandum also notes that care needs to be taken however when considering the contribution of the Dutch Creek and Makaroro river systems in terms of aquatic values as these are generally in separate hydro land parcels (aside from the cadastral boundaries including a margin of the Dutch Creek river bed) and not part of the DOC land to be exchanged.
22.10	<i>Pg 7, Bullet b</i> Trap and transfer programmes past dams are not viable for mitigating effects on fish or eels	Ecology	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7.	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope.
22.11	<i>Pg 7, Bullet d</i> As exchange land streams are not connected to the wider river network (they flow into the proposed reservoir) there will	Ecology	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope.



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	be no enhancement of migratory fish species by riparian planting.		Winchester Barrister) - pg. 2, para. 7.	
22.12	<i>Pg 7, Bullet e</i> It is unclear whether the Applicant's assessment of the conservation values applies the current values or proposed future values; statements and comparisons are often contradictory throughout the SLR report.	Ecology / Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 9, para. 45. Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 4, pg. 5.	With respect to whether current or future values should be assessed, this is not prescribed, and the improvement measures and mitigation to be undertaken prior to the exchange to result in realisation of enhancement in conservation values should appropriately be considered. The scoring provided in the SLR report applies the current values of the site with regard to the state and extent of vegetation communities, streams and wildlife, and this is communicated through the Sections 4-10 of the SLR report. The predicted future state of ecology is only discussed in relation to the additional benefits that will arise from stock fencing, pest control, planting and weed control. While these are communicated as <u>additional benefits</u> for terrestrial ecology on the SEB site, they are communicated as <u>important outcomes</u> for aquatic resources (habitat, fish) to help balance the generally lower scoring aquatic features on the SEB land in its current state.
22.13	<i>Pg 7, Bullet e</i>	Ecology / Legal	SLR Land Exchange Report - pg. 47, para. 1.	The SLR Land Exchange Report states the proposed management actions (stock proof fencing, long term pest animal and



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	Freshwater assessment is unclear which mitigation actions are to mitigate effects of the dam proposal vs enhancement of conservation values for the purposes of the land exchange			plant control, and indigenous planting which are proposed as direct improvement measures by the land exchange application) are “... <i>part of the land exchange and additional to any works undertaken to mitigate the adverse effects of the proposed dam and reservoir.</i> ”
22.14	<i>Pg 7, Bullet f</i> The extent of freshwater and riparian habitat that will be lost in the exchange has not been quantified	Ecology	SLR Land Exchange Report - pg. 22, Table 3. Part 2-1 – Appendix A – Ecological Memorandum - Graham Ussher (RMA Ecology) - Section 3, pgs. 3 & 4.	A quantification of the vegetation / habitat types involved in the land exchange is provided in Table 3 of the SLR Land Exchange Assessment Report. The scoring of freshwater values is also commented on in the Ecological Memorandum.
22.15	<i>Pg 8, Bullet g</i> The streams within the exchange land has limited habitat conditions in comparison to the DOC land, and the loss of extent and diversity of river habitat has not been accounted for in the freshwater assessment	Ecology	SLR Land Exchange Report - pg. 43, Table 12 Part 2-1 – Appendix A – Ecological Memorandum - Graham Ussher (RMA Ecology) - Section 3, pgs. 3 & 4.	The comparative assessment of the freshwater habitats of the PCL and SEB in Table 12 of the SLR Land Exchange Assessment Report addresses the ‘diversity and pattern’ and ‘ecological context’ of the freshwater habitats for each piece of land.
22.16	<i>Pg 8, Bullet h</i> The loss of endangered braided river habitat has not been accounted for in the freshwater comparative assessment	Ecology	Appendix 3 – Ecological Values Land Exchange Report - Section 13.2, Table 12, pg. 43. Part 2-1 – Appendix A – Ecological Memorandum - Graham Ussher (RMA	The comparative assessment of the freshwater habitats of the PCL and SEB in Table 12 of the SLR Land Exchange Assessment Report accounts for the loss of braided riverbeds under ‘Rarity and distinctiveness’. Also noting that the braided riverbed of the Makaroro River



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			Ecology) - Section 3, pgs. 3 & 4	falls outside the boundaries of the PCL land to be exchanged.
22.17	<i>Pg 8, Bullet i</i> No aquatic macroinvertebrate samples have been collected in the exchange land meaning a robust comparison has not been undertaken	Ecology	Appendix 3 – Ecological Values Land Exchange Report - Section 3.5.3, pg. 8, Section 9.1.2, pg. 33 and Section 9.2.2, pg. 35. Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 3, pg. 4.	For the SEB land, eDNA testing has been undertaken in two of the four rivers to assess the riverine community health via the Taxon-Independent Community Index (TICI). The TICI is a similar assessment methodology to the Macroinvertebrate Community Index. While limited samples have been undertaken due to survey constraints, the samples taken indicate good-excellent ecological health within the Donovan and Middle Streams. It is noted freshwater values will improve further with the proposed restoration, pest control and stock exclusion.
22.18	<i>Pg 8, Para 14</i> The application fails to address landscape and natural character values.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg 12, para.57 Part 2-2 – Appendix B - Planning Memorandum Philip McKay - Mitchell Daysh - Section 3.3.2, pg. 11 – 15.	Section 34 of the Act does not prescribe the need for specific assessments of information in terms of completeness, and a DoC-commissioned landscape assessment will ensure there is sufficient information on these matters available for the purposes of the D-G report and a panel decision in due course. The Planning Memorandum confirms only the SEB land is mapped as having outstanding landscape features (as an Outstanding Natural Feature under the Central Hawkes Bay District Plan) with both the SEB and PCL land having mapped Significant Natural Area overlays



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				over portions of the land. The proposed land exchange would therefore result in the SEB becoming part of the conservation estate which can only be positive for retaining and enhancing its recognised scenic qualities that contribute to its conservation values
22.19	<i>Pg 8, Para 15</i> The recreation assessment is from 2013 and does not reflect current recreational values.	Legal / Recreational	N/A	While the Opus Recreation Assessment dates from 2013, as in 2013, there remains no formalised public access, tracks or other specific recreational facilities within the PCL. Therefore, any change in recreational values from 2013 would be minimal and limited to increased use by informal access recreational users (such as hunters or bird watchers). The recreation assessment is therefore considered still sufficiently relevant to inform the recreational values of the PCL in addition to the assessment of recreation values specific to the land exchange in the TWSL Overview Report.
22.20	<i>Pg 9, Para 16</i> The archaeological assessment is an assessment of the water storage scheme, and not the land exchange., therefore it is not evidenced historical conservation values are enhanced.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 12, para.58.	There are no relevant archaeological features identified on the land subject to the exchange and it is not a requirement that historical conservation matters are enhanced in any event.



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22.21	<i>Pg 9, Para 18-20</i> Offers to prepare management plans are not a relevant consideration for the land exchange assessment. Further, matters being proposed to be managed by the management plans need to be assessed upfront rather than in management plans.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 12, para.59. Part 2-1 – Appendix A – Ecological Memorandum Graham Ussher (RMA Ecology) - Section 5, pg. 5 & 6.	Offers to prepare management plans are submitted to be relevant given that they can be the subject of conditions should the D-G consider them to be necessary and appropriate. Management plans are a well-established mechanism and include sufficient detail as to both the purpose of and matters to be addressed by possible management plans to enable consideration of their relevance and merits in addressing any identified issues or concerns. TWSL has committed to pay for the fencing, riparian planting and initial pest control, now extended to 5 years as per the recommendations in the Ecology Memorandum.
22.22	<i>Pg 10, Para 21 - 22</i> The application has not addressed the Conservation General Policy, and the proposed application is contrary to the CGP.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 12, para.60-61.	Section 33 of the Act does not prescribe the specific need for assessment against statements of general policy, such as the Conservation General Policy and therefore this is not a completeness or threshold issue. It is noted that TWSL's Overview Report addresses the provisions of the relevant Conservation Management Plan in its assessment of recreation values, which is assumed to give effect to higher order statements of conservation policy.
22.23	<i>Pg 11, Para 23</i>	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land	Refer to the Legal Submission prepared by James Winchester.



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	Application has not addressed other criteria relating to conservation management strategies and plans co-authored, authored or approved by a Treaty settlement entity		Exchange Application – James Winchester (James Winchester Barrister) – pg. 13, para.62.	Based on the applicant’s understanding of the definition of Treaty settlement entity, it is not aware that any relevant strategy or plan exists in relation to this land exchange.
22.24	<i>Pg 12, Para 28</i> No marginal strip will be reserved from the disposition and therefore any public access options that rely on ambulatory marginal strips created by the disposition of the forest park land must be discounted.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 13, para.63.	Refer to the Legal Submission prepared by James Winchester. Marginal strip requirements are disapplied in respect of the land exchange provisions, but this does not mean that existing marginal strips will cease to exist (they are likely to move with the creation of a reservoir in future) and the applicant will address further marginal strip requirements under the Conservation Act outside the fast-track process under the Act.
22.25	<i>Pg 13, Para 29-37</i> The application involves an ineligible activity as it involves land identified as Maori land and no agreement has been acquired from the owners of this land.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) – pg. 2-4, para. 10-14.	To the extent that written comments relate to areas outside of the relevant land included within the application, including the Māori land referred to – they are submitted to be out of scope.
Attachment 1: Maseyk F 2026. Tukituki Water Security Project – Terrestrial Ecology Review of the Land Exchange Assessment Report (Terrestrial Ecology)				
The substantial comments raised by the Terrestrial Ecology Review have been summarised in the main submission of the Royal Forest and Bird Protection Society (primarily in para. 12). The comments raised in the Terrestrial Ecology Review have therefore been addressed via comment responses 22.1 – 22.25 above and at a high level in the Ecological Memorandum prepared by Graham Ussher. As such, no further specific responses to the comments raised by the Terrestrial Ecology Review are considered necessary to provide.				
Attachment 2: McArthur K 2026. Review of application for land exchange report: Tukituki Water Security Project FTAA (Freshwater conservation values)				



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The substantial comments raised by the Freshwater Conservation Values Review have been summarised in the main submission of the Royal Forest and Bird Protection Society (primarily in para. 13). The comments raised in the Freshwater Conservation Values Review have therefore been addressed via comment responses 22.1 – 22.25 above and at a high level in the Ecological Memorandum prepared by Graham Ussher. As such, no further specific responses to the comments raised by the Freshwater Conservation Values Review are considered necessary to provide.				
12. Te Taiao Environmental Forum				
12.1	<i>Pg. 2, Section 2</i> The true extent of land that will be inundated is understated by TWSL. The Ambulatory land status has been applied to a marginal strip along the Makaroro River, the confluence of the Makaroro and Dutch Creek and the lower reaches of Dutch Creek with ~4.2 hectares not included which TWSL is not obliged to compensate for. This ignores the significant ecological values of mudstone seepages, riparian stream (wetland) vegetation, braided river and gravel stream beds that would be flooded and not replaced by a new reservoir marginal strip owned by the Crown. A significant example of ecological values of the mudstone seepage is the recent findings of the Threatened (At-Risk – Naturally Uncommon) plants: <i>Anaphaliodes subrigida</i> and potentially <i>Corybas rivularis</i> species complex on mudstone seepages adjacent to Makaroro river and within DOC land. These rare plants along with nationally rare ecosystems would not be replaced by a reservoir marginal strip and would represent permanent loss.		Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7 (scope) and pg 6, para. 30 (marginal strips).	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope. In terms of marginal strips, this matter is not relevant to the land exchange and is addressed in the TWSL legal submissions.



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12.2	<i>Pg. 3, Section 2.1</i> The DOC land parcels represent several nationally rare and threatened ecosystems (braided riverbanks, wetland types, mudstone seepages and escarpment, alluvial podocarp forest) that are not represented in the Smedley Exchange Block. Consequently, the land exchange and potential dam approval would see the permanent loss of threatened ecosystems of national significance.	Ecology	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7	The TWSL ecological evidence is that there will be an overall enhancement of conservation values from the land exchange.
12.3	<i>Pg.3, Section 2.1</i> There has been an oversight in surveying ecosystem types within the DOC land exchange area. The terms ‘Heathland’, Makaroro heath’ or ‘Regenerating kanuka shrubland/forest’ have been used to characterise DOC land bordering the Makaroro River in the 2013 reports or 2026 TWSL reports. A brief walk through of the area in spring 2025, the presence of Kahikatea, <i>Carex secta</i> and patches of open water determining the area as swamp remnant holding national significance of “Chronically threatened” which will not be offset within the Smedley land parcel.	Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 1, pg. 2.	The Ecological Memorandum supports the adequacy of the ecological surveys undertaken to date, and further notes that an independent assessment of both the DOC land and the SEB land by DOC biodiversity specialists in 2015 did not dispute the findings of the Applicant from their 2013 surveys.
12.4	<i>Section 2.2, pg. 6</i> Red mistletoe was the only recorded threatened plant in Dutch Creek but there is a high likelihood there are more threatened plants within the DOC land	Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 1, pg. 2.	The ecological evidence prepared by Dr Kelvin Lloyd is not specific to the PCL nor does it address the more recent SLR ecological assessment accompanying this land exchange application, which has been prepared following considerable



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	exchange parcels. For example, the presence of <i>Scandia rosifolia</i> (At Risk – declining) on escarpments within the dam footprint and many data – deficient mosses, liverworts and seepage / rock face herbs are likely to have been missed. Large plants of <i>Anaphalioides subrigida</i> (At Risk – uncommon) and potentially <i>Corybas rivularis</i> have been noted on the mudstone seepage on DOC land. No further surveys on DOC land exchange parcels have been conducted since 2013 and the initial survey by Kessell et al. 2013 was argued to be inadequate by Dr Kevin Lloyd and Marie Brown.			time on site in October 2025 and their report reflects this. The Ecological Memorandum supports the adequacy of the ecological surveys undertaken to date, and further notes that an independent assessment of both the DOC land and the SEB land by DOC biodiversity specialists in 2015 did not dispute the findings of the Applicant from their 2013 surveys.
12.5	<i>Section 2.3, pg. 6, para. 1</i> Long-tailed bats will be using all DOC land parcels that have a mixture of old forest growth and younger forest for roosting. Both young and old trees with holes are potential roost sites. The Makaroro and Dutch creek represent high quality feeding habitat. If their present habitat is potentially flooded it will lead to a shift of the population to sub-optimum habitat and create potential competition. If the land exchange was approved and dam went ahead, there would be an overall reduction of feeding habitat and roosting habitat for all bats putting more pressure on a Nationally critical species.	Ecology	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7.	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope.



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12.6	<i>Section 2.3, pg. 6, para. 2</i> New Zealand falcon have been known to nest on the escarpment face above the confluence of the Makaroro River and Dutch Creek and sighted by the author during a site visit in summer of 2026, indicating high quality habitat for these birds. This nesting habitat is now recognised as part of the DOC land parcel to be exchanged: loss of the escarpment nesting habitat and hunting grounds (river and associated shrubland) due to flooding would lead to permanent displacement of the falcon pair.	Ecology	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7.	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope.
12.7	<i>Section 2.3, pg. 6, para. 3</i> New Zealand Fern bird are found in the oxbow wetland, Dutch Creek and are likely to be found in the swamp land and marginal strips of the Makaroro River. Flooding of this habitat would see the Fern bird population move into the shrubland representing a lower grade of food and nesting habitat and more susceptible to predators.	Ecology	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope.
12.8	<i>Section 2.3, pg.8, para 1</i> The original 2013 TER survey for lizards was minimal and the choice of invertebrates in field surveys means specific and detailed information is lacking for the DOC exchange land. In lieu of no new surveys being conducted on the DOC	Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 1, pg. 2	The Ecological Memorandum supports the adequacy of the ecological surveys undertaken to date, and further notes that an independent assessment of both the DOC land and the SEB land by DOC biodiversity specialists in 2015 did not



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	exchange land since 2013, it is impossible to determine the full biodiversity richness of the DOC land. Smedley farmland represents less diverse ecosystems and habitats compared to the DOC land parcels and if the transfer were to proceed, there would likely be a net loss in lizards and invertebrates.			dispute the findings of the Applicant from their 2013 surveys.
12.9	<i>Section 2.3, pg.8, para 1</i> A number of threatened or regionally significant fishes (long-fin eel, Koaro, Dwarf Galaxias, Torrent Fish, Bluegill bully and Red Finned Bully) are known to reside in Dutch Creek and the Makaroro River and therefore are an important part of DOC land exchange parcels. Many of these species require fish passage to sea to complete their lifecycle. If the land exchange and dam was to occur the high water quality habitat comprising of gravel stream beads with a diversity of pools and riffles and fast flowing rapid habitat would be destroyed and replaced with lake sediments. This loss of habitat would be irreversible and would see local extinction, particularly to small fishes that would not be able to be successfully transferred.	Ecology	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7.	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope.
12.10	<i>Section 3, pg, 8</i> Many of the issues of ecological significance and need for detailed field	Ecology	Part 2-1 – Appendix A - Ecological Memorandum	The Ecological Memorandum supports the adequacy of the ecological surveys undertaken to date, and further notes that an independent assessment of both the



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	surveys and greater mitigation canvassed in the evidence from Dr Marie Brown and Dr Kevin Lloyd are still applicable. Insufficient ecological surveys means that there is an inherent risk in offsetting due to a poor knowledge of ecosystems as the full scale of significant ecosystems and species on the DOC land is not entirely understood. The SLR land exchange assessment report does not supply any new field surveys for native vegetation, birds, bats, lizards and invertebrates for the DOC land or dam footprint. Submission lodges Dr Marie Brown and Kelvin Lloyds concise summary of evidence and statement of evidence to detail inadequacies present with this TWSL application.		Graham Ussher (RMA Ecology) - Section 1, pg. 2.	DOC land and the SEB land by DOC biodiversity specialists in 2015 did not dispute the findings of the Applicant from their 2013 surveys. Dr Lloyd's evidence includes assessment of the dam site at the river gorge , the river confluence at the Waipawa river (downstream of the dam), the Tukituki River and more. This is all outside of the scope of the proposed land exchange, and was considered and is managed by the resource consents. Similarly, the statement from Dr Marie Brown pertains to the wider project and not the DOC land exchange.
12.11	<i>Section 4, pg. 8, para 2</i> Wetland 2 is inaccurately classified as a swamp. The image of Wetland 2 shows a hill slope with a few Carex secta, no multi-tiered vegetation or standing water. This wetland is better classified as a hill-slope seepage. In contrast, the swamp on DOC exchange land shows all the features mentioned by Johnson and Gerbeaux (2004) and represents a high-quality swamp.	Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 1, pg. 2.	The Ecological Memorandum supports the adequacy of the ecological surveys undertaken to date, and further notes that an independent assessment of both the DOC land and the SEB land by DOC biodiversity specialists in 2015 did not dispute the findings of the Applicant from their 2013 surveys.



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12.12	<i>Section 4, pg. 9, para 2</i> Smedley land exchange does not represent a net gain for the Department of Conservation irrespective of the larger size of Smedley Block. Instead, it reflects a net loss as most of it is highly degraded upland vegetation and is not a like for like match and Nationally significant ecosystems are not present. Another issue that points to a net loss is the technical issues with the Smedley land exchange streams. The Donovan Middle and North and South Streams confluence above the proposed dam wall and lower stretches of streams will be inundated if the dam proceeds and will lose ecological function for fish migration, becoming lake bottom sediments.	Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology) - Section 7, pg. 6, para.4.	The Ecological Memorandum confirms the conclusions of the SLR Land Exchange Assessment that the SEB and proposed management actions (that can be secured by conditions) will provide for a more than equitable exchange and result in an overall greater biodiversity value than the PCL over time.
12.13	<i>Section 4, pg. 9, para 3</i> Any DOC land exchange would see the permanent loss and destruction of significant ecosystems. No mitigation or swap of land, regardless of the size will reduce the permanent loss of braided riverbanks, wetland types, mudstone seepages and escarpments and alluvial podocarp forest. DOC has a statutory obligation to halt the decline of indigenous biodiversity and maintain ecological integrity and the land exchange would	Ecology	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7.	The land exchange, in of itself, will not result in the loss or destruction of any ecosystems (and would see the enhancement of the ecological values of the SEB with the proposed enhancement measures), and the adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope.



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	represent a significant move away from the core statutory function.			
21. Federated Mountain Clubs				
21.1	<i>Pg. 1, Para 6 and Pg. 2, Para 1-2</i> The land exchange will have adverse effects on public access to outdoor recreation in the wider area as it will enable the construction of the dam which will create said adverse effects. These effects being: - Impeded access to a number of DOC huts and routes - Adverse effects on hunting, fishing and mountain biking	Recreation/Planni	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7. Land Exchange Overview Report - Section 5.2.3.3, pg. 25 & 31.	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope. It is considered there will be a significant net positive benefit in the recreational values of the proposed SEB land (if it were to become part of the conservation estate) compared to the 29.7ha of PCL land. While not proposed as direct improvement measures as part of the land exchange, it is noted that the land exchange will enable the delivery of a suite of additional access and recreation infrastructure provided for in the existing RWSS consent conditions which provide for demonstrable recreation benefits.
21.2	<i>Pg. 2, Para 7</i> There is concern that effects on access to DOC huts and routes cannot be mitigated if: - landowners are not amenable to new walking/cycling tracks around the reservoir; and - consent conditions relating to funding and completion of	Recreation / Planning / Legal	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7. Land Exchange Overview Report - Section 5.4, pg. 40.	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope. It is noted there are no DOC access routes or huts within the 29.7ha of PCL does not currently provide access to any private land or significant sites.



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	mitigation requirements are not complied with, and FMC and other affected persons are not in a position to ensure they are enforced		Part 2-2 – Appendix B - Planning Memorandum - Phil McKay (Mitchell Daysh) - Section 3.2, pgs. 4 - 7.	It is acknowledged that there is a public access easement through the Kaweka Gwavas Forestry Company land that sidles alongside a portion of the western most of the PCL parcels involved in the exchange to connect the Makaroro River with Yoeman's Track however that access easement and associated track does not cross into the subject PCL land. Also see the Planning Memorandum for an explanation of the public access available from the north.
21.3	<i>Pg 2, Para 9</i> To support the application, FMC would require more certainty on mitigation being provided including easements for new practical access routes being conditionally agreed to by landowners (conditional on consent for the land swap being granted), and confirmed funding for construction of the re routed access routes.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7.	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope. While not proposed as direct improvement measures as part of the land exchange, it is noted that the land exchange will enable the delivery of a suite of additional access and recreation infrastructure provided for in the existing RWSS consent conditions which provide for demonstrable recreation benefits.
21.4	<i>Pg 3, Bullet 1</i> The dam will damage the conservation values of the land and river	Ecology / Recreation / Cultural	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7.	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope.



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21.5	<i>Pg 3, Bullet 2</i> Lack of information on how the 170ha land will be used by DOC, especially whether it will be used for new recreation opportunities	Legal	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7.	The future management of the exchange land by DOC is not within the remit of the applicant or the land exchange application to dictate. While not proposed as direct improvement measures as part of the land exchange, it is noted that the land exchange will enable the delivery of a suite of additional access and recreation infrastructure provided for in the existing RWSS consent conditions which provide for demonstrable recreation benefits.
21.6	<i>Pg 3, Bullet 3</i> Queries the economic feasibility of the proposal.	Planning	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7.	The economic feasibility of the broader proposal is not relevant to the consideration of a land exchange application under the FTAA.
21.7	<i>Pg 3, Bullet 3</i> Concern over the environmental effects of the gravel load washing down from the Makaroro Valley	Legal	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7.	The adverse effects of the construction of the dam are not relevant to the land exchange application and are submitted to be out of scope.
25. New Zealand Four Wheel Drive Association				
25.1	<i>Pg. 1, Para 1</i> No objection to land exchange.	Nil	N/A	It is noted that the submission does not object to the land exchange application.



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25.2	<i>Pg 1, Para 2</i> Requests DOC recognises the loss of riverbed recreational four wheeling in the area and identifies possible alternatives in the region.	Nil	Appendix 7 – Recreational Assessment of RWSS	The direct loss of riverbed from the construction of the dam is not relevant to the land exchange application and is submitted to be out of scope. Future management of the exchange land by DOC is not within the remit of the applicant or the land exchange application to dictate.
Previous Submitters on Ruataniwha Water Storage Scheme				
3. Gerard Pain				
3.1	<i>Pg. 1, Para 1</i> Opposed to the original application by Hawkes Bay Regional Investment Company to destroy the Makaroro River by building a massive industrial reservoir enabling more contaminants to enter the waterways. The industrial reservoir would not be needed if river and aquifer was not squandered on inefficient uses.	Planning	N/A	Mr Pain's opposition to the original RWSS Project is noted. To the extent his concerns relate to water allocation, this falls within the statutory responsibilities of HBRC and is not relevant to the land exchange application.
3.2	<i>Pg. 1, Para 2</i> References his verbal submission on the original application to the Hearing Panel in opposition. Reference is specifically made to Kessel's original "Proposed Integrated Mitigation and Offset Approach Report" detailing devastation to "an area of significant conservation value [that is included in the reservoir footprint]" and "the portion of riverbed that will be lost is a	Ecology/Legal	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister - pg. 14, para. 67.	Large parts of Mr Pain's comments are out of scope dealing with issues to do with the wider RWSS Project and clearly has not reviewed the updated SLR Land Exchange Assessment.



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	nationally rare ecosystem type” and the original Kessel’s Terrestrial Ecology Study detailing the significant negative effect on long-tailed bats. The comment is critical of DOC for being complicit in “vandalism” of 22 hectares of Conservation Land but also the other areas of native bush, wildlife habitat, braided riverbed within the reservoirs footprint and for not protecting them.			
3.3	<i>Pg. 1 Para 3</i> Notes nothing is different with what is being proposed and claims: • The land exchange would be illegal if not for the FTAA; • The industrial reservoir will still destroy the Makaroro River and a nationally rare area of important and valuable flora and fauna; • It will enable degradation of the Tukituki Catchment; and • It would be unnecessary once wiser water use is practised in rivers and aquifers.	Legal	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 5, para. 24.	TWSL is using a land exchange process established for development and infrastructure projects with regional and nationally significant benefits. The previous Supreme Court ruling under the decision-making criteria of the Conservation Act 1987 is irrelevant as the present application is being considered under the provisions of Schedule 6, FTAA. While the history of the Project provides relevant context, the current application satisfies the requirements of the FTAA and provides for an enhancement or collective net gain in conservation values. Large parts of Mr Pain’s comments are out of scope relating to the broader project (industrial reservoir) and the need for wiser water use throughout the catchment.
3.4	<i>Pg. 1, Para 4</i>	Ecology	Part 2–1 – Appendix A - Ecology Memorandum - Graham Ussher (RMA	The existing land values and proposed management actions (occurring prior to the exchange) are considered by a



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	Cites Dr Amelia McQueen of Te Taiao statement in her submission that “the exchange is like swapping a diamond for a jar of glass beads”		Ecology) - Section 4, pg. 4, Section 5 pg.5 and Section 7, pg.6.	suitably qualified ecologist to provide for a more than equitable land exchange and result in an overall far greater biodiversity value of the SEB compared to the DOC land over time. On almost all accounts the SEB block provides a greater or equal area of native vegetation.
3.5	<i>Pg. 1, Para 5</i> Reiterates Sharleen Baird’s submission that Smedleys Block was already stewardship land and exchanging the two, the Conservation Estate gains nothing and only loses Conservation Land.	Planning	Part 2-2 – Appendix B - Planning Memorandum - Phil McKay (Mitchell Daysh) - Section 3.2, Figure 3, pg 7.	The submission mischaracterises the SEB as stewardship land, where in actuality it is private land held in a Public Trust. Refer to Figure 3 in Part 2-2 Planning Memorandum .
3.6	<i>Pg. 1, Para 6</i> Claims the money thrown at the Project (\$18 million) means the total loss of public money is approaching \$50 million. Posits that instead the money should have been spent on buying Central Hawkes Bay Dairy Farms that inefficiently use the already available water then relinquishing all or part of its water consent for the betterment of the whole catchment and reallocating it to more profitable farming practices the Makaroro would be better off.	TWSL	N/A	The submission comments on public expenditure on the Project to date and contemplates alternative uses of those funds. These matters are outside of the scope of the land exchange application.
4. Sharleen Baird				
4.1	<i>Pg. 1, Para 1</i> States that the issues in original submission are still valid. Notes that the application applies for more DOC	Ecology	Part 2-1 - Ecology Memorandum - Graham Ussher (RMA Ecology) -	The existing land values and proposed management actions (occurring prior to the exchange) are considered by a suitably qualified ecologist to provide for a more than equitable land exchange and



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	Conservation Park and challenges previous DOC stance that the land swap will enhance conservation values making a mockery of research completed to date and the legal processes already decided on.		Section 4, pg. 4, Section 5 pg.5 and Section 7, pg.6.	result in an overall far greater biodiversity value of the SEB compared to the DOC land over time. On almost all accounts the SEB block provides a greater or equal area of native vegetation.
4.2	<i>Pg. 1, Para 1</i> Conservation Park status is already deemed necessary for preservation due to the presence of flora (400 year old trees, fungi) and fauna that is not so easily relocated (long-tailed bats, native birdlife, weta and interconnected biodiversity). This area encompasses cultural sites that must be taken into account and valued accordingly.	Planning	Land Exchange Overview Application Report - Section 6, pg. 45.	A thorough robust comparative assessment of the conservation values of the PCL and SEB has been undertaken by the application that has taken into account the ecological and cultural conservation values of the pieces of land. On the basis of this assessment, the land exchange application has strong net benefits for the proposed exchange of the PCL with the SEB.
4.3	<i>Pg. 1, Para 1</i> The stewardship land has no such designation and Smedley Station has an extremely limited amount of actual forested land with less biodiversity within its boundaries.	Ecology	Part 2-1 – Appendix A - Ecology Memorandum - Graham Ussher (RMA Ecology) - Section 4, pg. 4, Section 5 pg.5 and Section 7, pg.6.	Refer to response to comment 4.1 above.
4.4	<i>Pg. 1, Para. 2</i> Claims that [the land exchange] is not a swap and is a land grab taking away 29 hectares for land which we already have stewardship of.	Planning	Part 2-2 - Appendix B - Planning Memorandum Phil McKay (Mitchell Daysh) - Section 3.2, Figure 3, pg 6.	The submitters characterisation of the land exchange as a “land grab” is unhelpful and not supported by the statutory framework governing the application. Clause 30(2) of the FTAA requires the Panel to be satisfied that the proposed exchange will enhance the conservation values of the land (to be held for conservation purposes).



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				The submission mischaracterises the SEB as stewardship land, where in actuality it is private land held in a Public Trust.
4.5	<i>Pg. 1, Para 3</i> Supreme Court decision should be taken into account and adhered to. Positions that this application is motivated by private commercial interests and will exploit conservation areas for private profit (noting a number of companies supporting have overseas investors).	Planning / Legal	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 13, para 70.	The Supreme Court decision on land exchange issues is only relevant in factual context, given this land exchange is subject to the provisions of the FTAA Act rather than the provisions of the Conservation Act 1987 considered by the Supreme Court.
4.6	<i>Pg. 1, Para 4.</i> Current water allocation consents should be truncated, declined or time limited to wisely relocate water for less water intensive agribusiness rather than squandering on dairy irrigation draining the ancient riverbed resulting in pollution of land and water.	Planning	N/A	This comment is not relevant to the matters under consideration in this land exchange application. The allocation and management of water resources within the catchment, including decisions relating to existing consents, allocation limits, duration and review of consents and reallocation are matters that fall within the jurisdiction of Hawkes Bay Regional Council through statutory planning and consenting processes.
4.7	<i>Pg. 1, Para. 5</i> Notes as someone with whakapapa, the land swap would lessen the ability of Māori to exercise their role and rights under Te Tiriti as kaitiaki to protect the whenua for future generations.	Planning	Part 2-2 – Appendix B - Planning Memorandum - Phil McKay (Mitchell Daysh) - Section 3.3.3, pg. 14.	In dealing with cultural effects with respect to the proposed land exchange, there are no such impacts have been identified in the engagement to date, publicly available mapping and through the CIA prepared by TPW. The land exchange will result in a net conservation benefit providing a much



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				larger area with greater biodiversity and 4.2 times more indigenous vegetation than the PCL. Importantly, the project will continue to be developed in partnership with Tamatea Pōkai Whenua through the Mana Whenua Working Party Group which will continue to address and manage cultural effects through exercising kaitiaki roles through preparation of the Substantive Application.
4.8	<i>Pg. 1, Para. 6</i> If a decision is made under the Fast-Track against the Supreme Court judgement, the precedent would make all DOC land vulnerable to commercial profits prioritised over the valuable conservation environment.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 8, para. 40.	The assertion that the approval of the proposed land exchange would be precedent setting against the Supreme Court judgement is rejected. The present land exchange is being sought through the FTAA framework as a listed project. Accordingly, each land exchange is to be assessed on its own particular facts, statutory framework and merits. Any decision under the FTAA requires a detailed and balanced consideration against Schedule 6 Cl. 29. The concern that approval of this land exchange would expose all Department of Conservation land to commercial exploitation overlooks the statutory threshold that must be satisfied before any exchange can be approved requiring the land exchange, money received and conditions must enhance conservation



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				values across the wider conservation estate.
6. Kathryn Bayliss				
6.1	<i>Pg.3, Para 1</i> Some of the Schedule of documents submitted with the application are over 10 years old. Some people and viewpoints have changed. Some of the documents are to do with the Ruataniwha Water Storage Scheme and not the DOC land exchange. Some are not taking a 'current value' approach to conservation values. Some of the document page references are wrong.	Planning/Ecology	Appendix 3 – Ecological Values Land Exchange Report - Section 3.2.2, pg. 6. Part 2-1 – Appendix A - Ecological Memorandum - Graham Ussher (RMA Ecology) - Section 1, pg. 2.	The assertion that the material relies solely on the 2013 RWSS material is not supported by the evidence. Where updates have been required these have been accommodated in application material. A substantial amount of additional ecological surveying of the SEB has been undertaken for the current land exchange application, building on the baseline information provided in the 2013 work. The Smedley Block Ecological Survey report and Terrestrial Ecology Report prepared in 2013 was reviewed and updated with information from the 2025 site visits to provide a comprehensive assessment of existing ecological values. Particular attention was given to the effects of Cyclone Gabrielle, eDNA sampling, natural inland wetland delineation was carried out in accordance with MFE (2022) protocols and updated habitat assessments. Aerial imagery was assessed and where appropriate vegetation and habitat were remapped. The Ecological Memorandum supports the adequacy of the ecological surveys undertaken to date, and further notes that



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				an independent assessment of both the DOC land and the SEB land by DOC biodiversity specialists in 2015 did not dispute the findings of the Applicant from their 2013 surveys.
6.2	<i>Pg 3, Para 2</i> On page 6 the additional 'island area' of approximately 7.3 ha in extent adjacent to the bed of the Makaroro River. On other pages the island area is stated as 7.5 ha.	Property/Planning	Land Exchange Overview Report - Section 2, pg. 8.	The additional 7.5 hectares island of land labelled 'F' was only recently identified as having Ruahine Forest Park status and is now included in the total area of conservation land required to be exchanged.
6.3	<i>Pg 3, Para 3- 4</i> Much of SLR Report is based on Kessels 2013. Since then there have been floods, Cyclones including Cyclone Gabrielle, high winds and droughts. The cyclone transformed the river and whio moved up towards the Barlows hut area. The whio are making a slow recovery so there is a likelihood they will move back down the Makaroro River.	Ecology	Appendix 3 – Ecological Values Land Exchange Report - Section 3.2.2, pg. 6.	Refer to Comment 16.1 response (above). Special consideration has been given to the effects of Cyclone Gabrielle (and other natural hazard phenomenon such as effects of floods, high winds and drought) through revision and update to ecological information and mapping following site visits during October 2025.
6.4	<i>Pg 3-4, Para 5-6</i> Executive summary outlines section 16A of the Conservation Act to be applied. Much of the SLR Report is based on "potentially" suitable habitats or "likely" occurring existence of fauna or future possibilities. The existence of some flora and fauna has not been proven. Much of what might occur in future is conjecture and might not eventuate.	Ecology/Legal	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - Pg.9, para. 45-46.	Section 16A of the Conservation Act 1987 is related to the Schedule 6 FTAA requirement that the Expert Panel must be satisfied the exchange will enhance conservation values of the conservation areas and reserves considered holistically. The timing that the values of land should be assessed is not prescribed by the FTAA and enables the exercise of an informed



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				judgement and discretion by the Director General. If values were required to be assessed at present day, where there is an absence of certainty as to whether the wider Project will be approved or implemented would require significant upfront investment that could ultimately be wasted if the exchange was declined.
6.5	<i>Pg 4-6, Para 7</i> If the over ten years old evidence and future possibilities and benefits of the Smedley exchange land with the Makaroro Reservoir and dam is taken consideration, then the overall environmental damage caused by the Makaroro Reservoir and dam should be taken into consideration: A list of excerpts are provided from the Tukituki Catchment Proposal Board Of Inquiry Volume-1-of-3 Report.	Planning	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 2, para. 7.	Effects of the dam and reservoir are considered beyond the scope of the land exchange decision making criteria (Schedule 6, Cl29 of the FTAA).
6.6	<i>Pg 6, Para 8</i> In the Conservation General Policy it states: Conservation Beyond Public Conservation Lands and Waters. Not all conservation goals are achievable on public conservation lands or waters. DOC needs to work cooperatively with other landowners and occupiers and the wider community including local government to protect and advocate for natural resources, historical and cultural heritage and public access.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 12 para.60 and 61.	Section 35(3) of the Act does however identify that the Director General's (D-G's) report must include the matters specific in clause 26 of Schedule 6, which includes information to address the mandatory considerations for the panel for a land exchange decision under clause 29. This includes information on statements of general policy approved under section 17B or 17C of the Conservation Act 1987, so is appropriately a matter for the D-G to



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				address in this instance given that DOC administers these policy statements.
6.7	<i>Pg 7, Para 11-12</i> Ruataniwha Water Storage Scheme Recreation Assessment, May 2013 is ten years old and not current. People use this DOC land wanted for the exchange, and undertake recreational activities such as picnicking, exploring, and swimming in the river, photographing and videoing. The Wise Water Use Group have had four organised hikoi (visits) where they invited members of the public and community. People of many ages still make many private trips to it There is no comparable access to a river system nestled right in the Ruahine Forest Park bush-line of the Ruahine Range that you can drive to in CHB. This Makaroro area is unique. In addition, there is a camp spot on this DOC land wanted for the exchange beside the Makaroro River which is used by fishermen, hunters and campers. A local artist collects rocks and flora from Makaroro River and area, often by the old Yeoman mill site, to make pigments etc.	Planning	Land Exchange Overview Report - Section 5.2.3.3, pg. 25-31. Appendix 4 – Schedule 6a Integrated Mitigation and Offset Approach of RWSS Resource Consents Package.	The Recreation Assessment concludes that, while the wider project will have adverse effects on some recreational values, there is considered to be a significant net positive benefit in the recreational values of the proposed SEB land (if it were to become part of the conservation estate) compared to the 29.7 hectares of PCL land. TWSL is committed to implementing the Integrated Mitigation and Offset Approach (IMOA) in accordance with the existing resource consents as part of its FTAA application. The camping area and Makaroro River are not within the PCL land areas subject to this application.
6.8	<i>Pg 7-8, Para 13-15</i>	Legal	Part 1 – Legal Submission - Response to Written	The consents continue to be in the name of Water Holdings Hawkes Bay Limited,



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	The consents are owned by the Hawke's Bay Community Water Trust. Ownership of the pre-existing intellectual property remains with the Trust.		Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 14 para. 70.	which is owned by the Trust. Aside from the accuracy of Ms Bayliss' assertions, these matters are irrelevant to the land exchange application.
6.9	<i>Pg 8, Para 16-21</i> <i>The fact that an active fault line is under the reservoir with others in the area has not been included in the land exchange application.</i> <i>Examples are provided in regard to how earthquakes can be caused or affected by dams and water reservoirs.</i> <i>The Ruahine Ranges are known for high erosion, many landslides and high sediment loads in rivers.</i> <i>The Makaroro Dam and reservoir would increase the risks of flooding. It is in an area vulnerable to extreme winds and rainfall, landslides and earthquakes.</i>	Planning	N/A	The consideration of natural hazard risk and climate change for the TWSP will be included as part of the Substantive Application under the FTAA.
6.10	<i>Pg 10, Para 22-26</i> <i>This comment relates to the summary of compliance or enforcement actions which has not covered a complaint made to the Broadcasting Standards Authority: BAYLISS AND CENTRAL FM LTD - 2024-092 (9 JUNE 2025)</i>	Legal	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 14 para. 70.	The Broadcasting Standards Authority Act 1989 governs complaints about radio and television broadcasting. It is not legislation that governs land exchanges and is not the same as enforcement action such as how a council or environmental regulator might. As stated in the Legal Submission, pg. 14, para 70, the outcome of a complaint to the Broadcasting Standards Authority



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				referred to at page 10 of the comments is irrelevant to this process.
6.11	<i>Pg 11, Para 27-28</i> <i>The Crown already owns Smedley Station. It also owns the DOC land. Questions why the Crown would sell Smedley only to acquire it back.</i>	Legal	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 14 para. 70.	The registered proprietor on the Record of Title for Smedley Station is Public Trust. If the land was Crown owned, the registered proprietor would be shown as His Majesty the King. As stated in the Legal Submission pg. 14, para 70, the ownership of Smedley Station is irrelevant to this process.
6.12	<i>Pg 12, Para 29-30</i> <i>Even though the amount of DOC land wanted for the TWSP has increased by 7.5 hectares the land exchanged has not increased from the 170ha. If the land exchange proceeds the DOC (heart) land of 7.5 hectares will need to be accounted for and paid. It has a high intrinsic and environmental value!</i>	Planning	Appendix 3 – Ecological Values Land Exchange Report - Executive Summary, pg. ii. Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology), section 4, pg 5.	The increase in DOC land to be exchanged (due to the newly identified 7.5 hectares) results in a slightly reduced exchange ratio. The 170 hectare SEB was sized to provide a significant net conservation gain, therefore the exchange area was not further increased with the conservation enhancement test still clearly met. The area recommended for a DOC land exchange is 125 hectares, which equates to a land exchange ration of 1:4:2 – the SEB clearly exceeds this ratio and provides for 4.2 times more indigenous vegetation than the PCL.
6.13	<i>Pg 12, Para 31-33</i> <i>Comments raise concerns about the Hawke’s Bay Community Water Trust, the lack of public involvement and legalities around the Local Government Act 2002.</i>	Planning/Legal	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James	Concerns about the composition of Hawke’s Bay Community Water Trust are irrelevant to the land exchange and should be disregarded.



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			Winchester Barrister) - pg. 14 para. 71.	
6.14	<i>Pg 13, Para 34-35</i> Makaroro River already forms a buffer and corridor to the Ruahine Forest Park. The Smedley Exchange Land has 45.000 hectares of Pasture or rank grass so will take a lot of resources and time to manage and care for. Much of the SLR Assessment is done on the assumption that DOC will place some form of permanent legal protection over the Smedley land. This has not been confirmed.	Planning/Ecology	Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology)- Section 5, pg. 5, section 7 pages 6 & 7.	The ecological memorandum confirms that the proposed SEB exchange area comprises of over 100ha of significant indigenous vegetation and will result in an overall enhancement of biodiversity values. To ensure enhanced conservation values are achieved, TWSL is proposing direct improvement measures to the SEB. The Ecological Memorandum confirms the proposed enhancement measures are standard, undertaken across New Zealand and widely accepted as being beneficial for wildlife and ecosystems, and will produce benefits that will 'lift' the conservation values of the SEB site. Should the Director General consider it necessary and appropriate, they can specify conditions to resolve any uncertainty with regards to implementation of the direct improvement works.
6.15	<i>Pg 14, Para 36-40</i> Many people have heritage and cultural values associated with the Public Conservation Land. There may be not always be physical evidence on the	Planning	Appendix 9 – Archaeological Assessment - pg. 50-51. Appendix 6 – External Guidance for conservation	The Archaeology Assessment (which reviewed literature and archaeological reports relevant to the area) does not identify any heritage or cultural values of



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	Conservation land but it is in memories, stories handed down over generations, and present day visits. One significant feature of the Makaroro often overlooked is its associations with William Colenso.		values assessments - Attachment 4, pg. 14.	significance on either the PCL or SEB land . The comment refers to intangible associations with place but does not provide evidence demonstrating these views are widely held. The Land Exchange with respect to cultural and heritage values assessment is in accordance with Attachment 4: Criteria for cultural and heritage values assessment as it related to understanding and appreciation of cultural and historic heritage.
6.16	<i>Pg 15, Para 41-42</i> Many people have become attached to the public conservation land that would be lost if the Makaroro Dam and reservoir destroys it. There is no social licence for loss of this existing public conservation area. There will be no social licence for the acquisition of the SEB land which would always be a reminder of the time and effort put in trying to prevent the destruction of this Makaroro area.	Planning	N/A	Comment is acknowledged as the commentators opinion.
6.17	<i>Pg 15-16, Para 43-44</i> It would be easy to identify users of the 29.7ha of the PCL land to be exchanged. Tramping clubs, Federated Mountain Clubs, Forest and Bird, Hawke's Bay Marae's, and the Wise Water Use Group. Wise Water Use Group have on their	Planning	Part 2-2 Appendix B - Planning Memorandum - Phil McKay (Mitchell Daysh)- pg 2, para 3.1. Land Exchange Application Overview Report - Section 5.2.3, pg. 19-31.	The recreation values of both the Public Conservation Land to be exchanged (the PCL) and the proposed Smedley Exchange Block (SEB) are assessed in section 5.2.3 of the Overview Report (pages 19 – 31).



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	facebook page and website photos and notices of trips to the Makaroro area.			
6.18	<i>Pg 16-17, Para 45-46</i> If the land exchange proceeds, then TWSL should have to pay for and continue until the fencing is finished and the areas are planted indigenous plants. Pest plant and animal pest control should be done by TWSL for 30 years (the same as the Offsetting and mitigation package for the Ruataniwha Water Storage Scheme).	Planning/Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister)- pg. 15 para. 72 Part 2-1 – Appendix A - Ecological Memorandum Graham Ussher (RMA Ecology), section 5, pg 6.	The suggestion at page 16-17 of the Bayliss comments that the applicant should be required to carry out planting and pest control for 30 years on the exchange land is unreasonable and well beyond what has been proposed in the application. It is however noted that TWSL adopts the recommendation of the Ecology Memorandum to increase the duration of pest control to 5 years.
6.19	<i>Pg 17, Para 47</i> In the Property Group Land Status Report – Makaroro Riverbed the acquisition history only goes back to May 1881. It does not state how or when the Land was acquired from the Maori.	Legal	Part 1 – Legal Submission Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 14 para. 71.	The Property Group Land Status Report includes all information available on record. The acquisition history of the Makaroro River bed is not considered relevant to the land exchange proposal. If the inference is that the inclusion of such land involves an ineligible activity for the purposes of the Act, this is legally incorrect.
6.20	<i>Pg 17, Para 48-50</i> We need to look after what native species and habitats and environments that exist now in the Department of Conservation's (public) land wanted for the exchange. Not on what might occur in future or is based on conjecture as in the Smedley Exchange Block.	Planning	Appendix 3 – Ecological Values Land Exchange Report - Section 4, pg. 9.	The original RWSS proposal involved an exchange of approximately 140ha of Smedley Station land, which was increased to 170ha following advice from DOC to ensure that a better conservation outcome was achieved.



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				A detailed description of the vegetation types and habitat values of both land areas is provided in the SLR report Hawkes Bay Regional Council acknowledges in their comments on the Application that the SEB has a greater total area of ecologically significant vegetation and wider range of habitats compared with the DOC land.
6.21	<i>Pg 18, Para 51</i> Many people treasure the Department of Conservation exchange land wanted by TWSL more than they do the Smedley Exchange Block. If the land exchange proceeds it would negate the many years of unpaid time, effort, and donations by many people to try to save and protect DOCs Makaroro Conservation land, waterbodies and environment wanted for TWSL.	Planning	N/A	Comment is acknowledged but is anecdotal. The commentor is directed to the Schedule 6 Cl. 29 FTAA decision-making criteria which states that the Expert Panel must not grant the approval unless it is satisfied that the land exchange will enhance conservation values.
6.22	<i>Pg 1 of additional comments, Para 1-5</i> The reference to the community-led trust entity (Hawke's Bay Community Water Trust.) is misleading. It is not Hawke's Bay "community-led". The Hawke's Bay Community Water Trust have not communicated or consulted with the wider Hawke's Bay Community. Very few people in the wider Hawke's Bay Community will know that the Trust has entered into a	Planning	Part 1 – Legal Submission - Response to Written Comments Received on Land Exchange Application – James Winchester (James Winchester Barrister) - pg. 14 para. 71.	Concerns about the establishment, composition and purpose of the Hawke's Bay Community Water Trust are also irrelevant to the land exchange proposal and should be disregarded.



Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence / Conditions	Response
	licence agreement with Tukituki Water Limited Partnership.			
6.23	<i>Pg 1-2 of additional comments, Para 6-9</i> The references to boat access to the Smedley Station Exchange Block, “SEB”, assumes most people who want to use the “SEB”, will have a boat. The majority of people do not own boats or watercraft. It is proposed that an aeration bubbler (aerator) be placed at the outlet end of the dam. This could make it dangerous to use boats or watercraft to access to the Smedley Station Exchange Block, or deter people doing so.	Planning	Land Exchange Application Overview Report – 16 March 2026, pg. 29. Part 2-2 – Appendix B Planning Memorandum – Phil McKay (Mitchell Daysh) Section 3.2, pgs 4 - 8.	Page 29 of Attachment 01 – Overview Report states that the SEB will also have a theoretical overland access connection to the Ruahine Forest Park boundary via crown marginal strips. Overland access to the SEB land from the north is addressed in the Planning Memorandum. It is noted that Dam operators can manage risks to boaters in number of ways including establishing controlled exclusion zones using physical barriers (booms, buoys, and fences), high-visibility hazard signage or localized water restrictions. The boat ramp is proposed well away from the outlet end and aerator.



3-8 – Comments in Support

Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence / Conditions	Response
5. Minister for Regional Development				
5.1	<i>Pg 2 (Annex One), Para 1</i> The Minister notes the exchange of 170 hectares of private land with approximately 29.7 hectares of land held by the Department of Conservation is necessary to enable the overall Tukituki Water Security Project.	N/A	N/A	The support of the Minister for Regional Development for the land exchange is noted.
5.2	<i>Pg.2 (Annex One), para. 6</i> The Minister notes the current freshwater shortfall in Hawkes Bay region from the existing land-use practises and potential economic activity and additional jobs and additional annual GDP [in the Central Hawkes Bay area] from the wider scheme should construction commence and the project become operational. As such, the proposed land exchange will provide significant regional benefits to the Hawkes Bay, as reflected by the decision to approve funding for the Project via the Regional Infrastructure Fund.	N/A	N/A	TWSL acknowledges the support for the wider Project but notes this is beyond the scope of this land exchange.
17. Parliamentary Commissioner for the Environment				
17.1	<i>Pg 1, Para 2.</i> The Department of Conservation has published guidance on how to assess if conservation values are being enhanced in practice. 2 The applicant appears to have followed that guidance. Based on the information provided by the applicant, it would appear the proposed land	N/A	Appendix 3 – Ecological Values Land Exchange Report - Executive Summary, pg. ii.	Comments are noted. The proposed land exchange was assessed following the 'External Guidance for conservation values assessments for land exchanges under the Fast-track Approvals Act 2024 – Current 18 August 2025'.



Comment Number	Comment Summary	Technical Input / Responder	Response Location in Application Documents / Response Evidence / Conditions	Response
	exchange is reasonable and likely beneficial from a conservation perspective.			
16. Central Hawkes Bay District Council				
16.1	Pg 3, Para 4 Council supports water security initiatives, particularly the next stages of the Tukituki Water Security Project (formerly known as the Ruataniwha Water Storage Scheme) including the land exchange application.	N/A	N/A	The support of CHBDC for the land exchange application is acknowledged.
24. Minister for the Environment				
24.A	<i>Pg 1, Para 2</i> Broad support for projects which deliver positive outcomes for New Zealand, including improving water security, while protecting and preserving our natural environment.	N/A	N/A	Comments are acknowledged but the wider project is beyond the scope of the land exchange application.

