

Item 1

From: Stacey Wrenn <xxxxxx@xxx.xxxx.xx>
Sent: Tuesday, June 20, 2023 11:01:48 AM
To: Kevin Martin <xxxxxx@xxx.xxxx.xx>
Subject: Fwd: confirmation on financial approach

From: Marie Long <xxxxx@xxx.xxxx.xx>
Sent: Monday, June 19, 2023 7:46:34 PM
To: Stacey Wrenn <xxxxxx@xxx.xxxx.xx>
Subject: Fwd: confirmation on financial approach

Hi Stacey

Here is the email from Treasury that gives us authorisation.

Penny would like something in writing to authorize Mike too vote tomorrow.

Thanks for organizing this.

Cheers
Marie

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From: Caralee McLiesh [TSY] <@..>
Sent: Monday, 19 June 2023, 6:00 pm
To: Penny Nelson <@..>
Cc: Marie Long <@..>; John Marney [TSY] <John.Marney@treasury.govt.nz>; Vicki Plater [TSY] <@..>; James Beard [TSY] <@..>
Subject: confirmation on financial approach

Kia ora Penny

Thanks for your message earlier. I understand John Marney spoke to Marie Long this morning and indicated that the Treasury was comfortable with the various amounts owed by RAL and outlined in your e-mail on Friday being described as debts to the Crown, with DOC voting at the watershed meeting on behalf of the Crown. I am e-mailing now to confirm that position. Under the Public Finance Act, the Crown includes all Ministers of the Crown and all departments, and the chief executive of a department is responsible for the financial management and reporting of liabilities managed by the department on behalf of the Crown. Your finance team will be best placed to advise, but I understand that the National Parks also sit on the Crown (non-departmental) financial schedules in DOCs financial statements. It would make sense to deal

with the 9(2)(b)(ii) already invoiced (for unpaid concession fees, user charges, and other) in the same way, rather than separately treating that as debt owed to the DOC specifically.

If the 9(2)(b)(ii), 9(2)(i) to remove redundant infrastructure from the ski fields becomes a liability when RAL surrenders their concessions, then we think this will need to be provisioned and expensed in the current financial year, which will likely give rise to unappropriated expenditure. You may wish to seek Cabinet authorisation for this (and for the expenditure to be met from imprest supply) as that was not covered off in last week's Cabinet paper.

My thanks to the teams in both our organisations for all the great work at pace on some complex issues. Hope all goes well at the Watershed meeting tomorrow.

Kind regards
Caralee

Caralee McLiesh ([she/her](#))

Te Tumu Whakarae mō Te Tai Ōhanga | Secretary and Chief Executive - The Treasury

Tel: 9(2)(a) | Email/IM: xxxxxxx.xxxxxx@xxxxxxx.xxxx.xx

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Item 2

From: Penny Nelson <pnelson@doc.govt.nz>
Sent: Monday, June 19, 2023 7:21:29 AM
To: Caralee McLiesh [TSY] <Caralee.McLiesh@treasury.govt.nz>; Marie Long <mlong@doc.govt.nz>; Stacey Wrenn <swrenn@doc.govt.nz>; Kevin Martin <kmartin@doc.govt.nz>
Cc: Vicki Plater [TSY] <Vicki.Plater@treasury.govt.nz>; James Beard [TSY] <James.Beard@treasury.govt.nz>; John Marney [TSY] <John.Marney@treasury.govt.nz>; Jayne Winfield [TSY] <Jayne.Winfield@treasury.govt.nz>; Anthea Williams [TSY] <Anthea.Williams@treasury.govt.nz>
Subject: Re: RAL - Watershed meeting

Thanks Caralee

Really appreciate it.

I've asked Marie to call John this morning. She has been with Lil at the hui over the weekend. ■■■

s9(2)(f)(iv)

The aim is by 11am to be in a position to update Ministers on what Doc will take into the watershed meeting tomorrow on behalf of the Crown.

Thanks for your help.

Penny

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From: Caralee McLiesh [TSY] <Caralee.McLiesh@treasury.govt.nz>
Sent: Sunday, June 18, 2023 1:24 PM
To: Penny Nelson <pnelson@doc.govt.nz>; Marie Long <mlong@doc.govt.nz>; Stacey Wrenn <swrenn@doc.govt.nz>; Kevin Martin <kmartin@doc.govt.nz>
Cc: Vicki Plater [TSY] <Vicki.Plater@treasury.govt.nz>; James Beard [TSY] <James.Beard@treasury.govt.nz>; John Marney [TSY] <John.Marney@treasury.govt.nz>; Jayne Winfield [TSY] <Jayne.Winfield@treasury.govt.nz>; Anthea Williams [TSY] <Anthea.Williams@treasury.govt.nz>
Subject: RE: RAL - Watershed meeting

Kia ora Penny – Looks like I wasn't connected to the network at home on Friday evening and my response seems to have saved to draft, re-sending now...

Kia ora Penny - Many thanks for this message and our conversation earlier. I am copying John Marney, Treasury manager who has been advising on this, and for their visibility Jayne Winfield, our chief Government Accountant, and Anthea Williams our Chief Legal officer (who has also been involved today). As requested, James Beard is the relevant Dep Secretary and Vicki Plater the Director. As mentioned we'll work to agreeing accounting treatment and advise on the approach below. Our pre-cab meeting with Ministers is also Monday, at 11am.

Ngā mihi

Caralee

From: Penny Nelson <pnelson@doc.govt.nz>
Sent: Friday, 16 June 2023 7:31 pm
To: Caralee McLiesh [TSY] <Caralee.McLiesh@treasury.govt.nz>; Marie Long <mlong@doc.govt.nz>;

Stacey Wrenn <xxxxxx@xxx.xxx.xx>; ^DOC: Kevin Martin <xxxxxx@xxx.xxx.nz>

Subject: Fwd: RAL - Watershed meeting

Hi Caralee

Thank you for your reply, and for your team having considering DOC's request over the last few days.

I also appreciate our phone call earlier.

I'm sending this from Dunedin on my phone after catching up with our team on RAL issues including our CFO about the components of debt owed by RAL, and how DOC should treat these when making our creditor claim. These components are:

- **9(2)(b)(ii)** in unpaid concession fees, user charges, and other debt invoiced by, and owed to, DOC. This component of the debt is on our books and is clearly owned by DOC.
- **9(2)(b)(ii), 9(2)(f)** to remove redundant infrastructure from the ski field, that should have already been removed by RAL. This is not currently on our books but will be come a liability when RAL surrenders their concessions.
- Between \$47 million and \$88 million to remove all infrastructure from the ski fields, as required by the make good provisions in the concessions. This is currently proposed as being treated as a contingent liability in DOC's 30 June 2023 financial statements. It will be recognised as a liability once we know more details about what events may trigger the liability, including if and when the concessions are transferred to a new operator. Cabinet has agreed that while this liability may be recorded in DOC's books in the future, the Crown will provided DOC with funding to cover this liability when required and approve any required appropriation changes.

I consider the first component of the debt **9(2)(b)(ii)** to be owned by DOC, and am proposing to register this DOC's creditor claim at the watershed meeting.

I consider the second two components of the debt to be owned by the Crown, as it not recorded as a liability for DOC at this stage. I am proposing to register this as a Crown debt of **9(2)(b)(ii)** with DOC voting on behalf of the Crown at the watershed meeting.

Are you comfortable with this approach?

I'm keen to ensure what ever we put forward on Tuesday is supported by the Treasury.

I've also copied in key people at our end.

I will let our Minister know we are working the Treasury when I meet her before cabinet on Monday.

Happy to discuss.

Many thanks Penny

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From: Caralee McLiesh [TSY] <xxxxxxx.xxxxxxx@xxxxxxx.xxx.xx>
Sent: Friday, June 16, 2023 2:09:54 PM
To: Penny Nelson <xxxxxxx@xxx.xxx.xx>
Subject: RE: RAL - Watershed meeting r

Kia ora Penny

Thanks for your email. My teams have been discussing this with their DOC colleagues over the last couple of days. They reviewed the advice from Duncan Cotterill on this point yesterday and our Chief Legal Advisor has provided her assessment to me this morning.

Our view is that the Department of Conservation is the creditor in this matter. 9(2)(h)
[Redacted]

9(2)(h)
[Redacted]

Happy to discuss as helpful.

Ngā mihi nui
Caralee

From: Penny Nelson <xxxxxxx@xxx.xxx.xx>
Sent: Thursday, 15 June 2023 4:53 pm
To: Caralee McLiesh [TSY] <xxxxxxx.xxxxxxx@xxxxxxx.xxx.xx>
Subject: RAL - Watershed meeting r

Hi Caralee,
We are working closely with MBIE and Te Arawhiti on the RAL issue at the moment.
A question has come up about the most appropriate person to vote at the Watershed meeting next Tuesday. My team is advising me that I should be delegating this to the Treasury given the overall liability would be a Crown one rather than a Doc one. The context I've had from my teams is below.
I'd appreciate discussing with it with you.

Thanks Penny

- 9(2)(b)(ii), 9(2)(i), 9(2)(j)
[Redacted]

It is important our regulatory role is not confused with our role voting as a creditor voting at the watershed meeting. [REDACTED] 9(2)(b)(ii), 9(2)(i), 9(2)(j)

- [REDACTED] 9(2)(b)(ii), 9(2)(i), 9(2)(j)
- [REDACTED] 9(2)(h)
- We believe it is most appropriate for Treasury to vote on behalf of DOC at the watershed meeting, as this relates to DOC and Crown’s fiscal position. DOC will then be in a good position to make safe regulatory decisions on the transfer of the concessions.
- If RAL enters liquidation without a solution that allows the ski fields to continue operating, then the Crown will be liable for approximately \$47 million to \$88 million to remove the infrastructure from the ski fields. DOC will lose approximately [REDACTED] 9(2)(b)(ii) per year in concession fees and contributions to the running of Whakapapa village. There will also be a flow on effect to other concessions in the area, increasing the fiscal risk to the Crown.
- For resolutions to pass at the watershed meeting, they must meet two thresholds: 50% of the vote by number of creditors and 75% of the vote by value of debt.
- DOC’s claim at the creditor meeting is for approximately [REDACTED] 9(2)(b)(ii) in unpaid fees and historic debt, and [REDACTED] 9(2)(b)(ii), 9(2)(j) to remove redundant infrastructure from the ski fields that RAL has failed to remove.
- MBIE have also asked that we include the contingent liability (an amount between \$47 million and \$88 million) in our creditor claim. We have legal advice this is a valid claim, but it creates a significant reputational risk that we are unfairly supporting MBIE’s proposals by increasing our voting power. Including the contingent liability would make DOC the most significant creditor at the watershed meeting by far.
- In ordinary circumstances, DOC would consider abstaining from this vote to protect our regulatory role. However, this is not a viable option given Cabinet have agreed to support proposals put forward at the watershed meeting.

Penny Nelson

Director-General | Tumuaki-Ahurei
Department of Conservation | Te Papa Atawhai

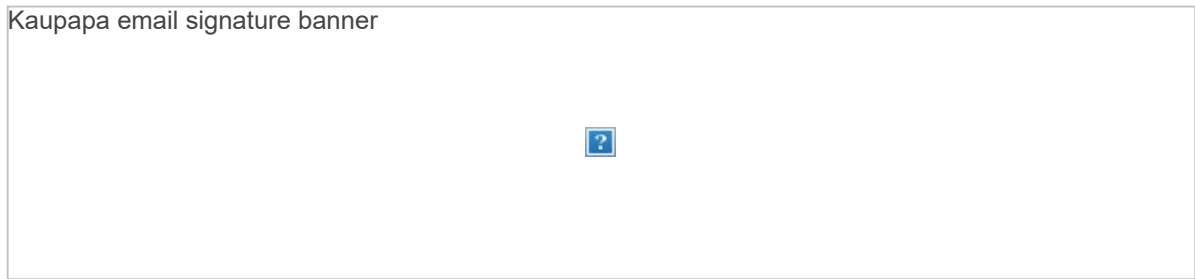
Conservation House Wellington | Whare Kaupapa Atawhai

18 - 32 Manners St | PO Box 10 420, Wellington 6143

T: + [REDACTED] 9(2)(a)

EA to Penny – Sandra Griffiths xxxxxxxxx@xxx.xxx.xx: [REDACTED] 9(2)(a)

Kia piki te oranga o te ao tūroa, i roto i te ngātahitanga, ki Aotearoa
To work with others to increase the value of conservation for New Zealanders



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Memo

Date: 16 June 2023
To: Mike Tully, Deputy Director-General Organisation Support
From: Marie Long, Deputy Director-General National Operations and Regulatory Services
CC: Kevin Martin, Chief Financial Advisor
Subject: **DOC as a creditor at Ruapehu Alpine Lifts Limited (RAL) watershed meeting**

Executive summary

1. Ruapehu Alpine Lifts Limited (**RAL**) entered voluntary administration on 11 October 2023. The watershed meeting, where creditors vote on the next steps for the company, is scheduled to be held on 20 June 2023.
2. We will vote as a creditor at the watershed meeting. 9(2)(f)(iv)
[Redacted]
3. We have also been asked by MBIE to consider including the contingent liability to fulfil the make good provisions in the concessions, estimated at \$47 million to \$88 million, in our claim. This will increase our voting power at the watershed meeting, and make us the most significant creditor.
4. 9(2)(g)(i)
[Redacted]
5. 9(2)(g)(i)
[Redacted]
6. We also need to ensure our vote at the watershed meeting is seen as separate from our decisions as a regulator on our decisions about the concessions. Voting as a creditor does not mean we have made a decision on any applications to transfer RAL's concessions to a new operator.

Purpose – Te aronga

7. The purpose of this memo is to support decisions about our voting position as a creditor at the watershed meeting for Ruapehu Alpine Lifts Limited (**RAL**).

Out of Scope
[Redacted]



Watershed meeting

Process at the watershed meeting

15. The voluntary administration process ends with the watershed meeting, where creditors vote on the future for the company. There are three possible outcomes at a watershed meeting. The company may:
 - a. Enter a deed of company arrangement, which restructures the company;
 - b. Be placed into liquidation; or

- c. Be returned to the control of the directors.
16. MBIE are proposing to support a resolution that RAL is placed into liquidation. The liquidator (in this case, the voluntary administrators would become the liquidator) will then complete the sale of the RAL's assets to Whakapapa Holdings and Pure Tūroa.
17. To be successful, a resolution must be accepted by:
 - a. 50 percent of creditors by number; and
 - b. 75 percent of creditors by value of debts.
18. In the event no resolution is passed, the company is returned to the control of the directors. MBIE have advised us the directors would apply to the Courts to have RAL placed in liquidation, with the intention of the liquidator then completing the sale of RAL's assets as proposed. The timeframe for this option is unknown as this stage; however, we understand RAL's directors' lawyers have sought a Court date immediately following the watershed meeting, in case no resolution is passed.

Additional resolution put forward

19. The Ruapehu Skifields Stakeholders Association (**RSSA**) have put forward a resolution to restructure the company to allow for their proposal for one or both of the ski fields. This proposal was initially put forward to Kānoa through the expression of interest process but was not progressed by Kānoa.
20. Under this proposal, life pass holders (who are also creditors) would have an ownership stake in the restructured company. Funding would come from life pass holders, crowd funding, and other sources.
21. This proposal is supported by the group who put forward the fourth proposal in the expression of interest process, which was also unsuccessful.

Details of the watershed meeting

22. The voluntary administrators formally called the watershed on 13 June 2023 and published their administrators' report at this time. The watershed meeting is scheduled for 20 June 2023 and will be held concurrently in Whakapapa, Auckland, and Wellington. Votes can be made in advance, in person or by proxy.

Voting at the watershed meeting

23. We can vote as a creditor at the watershed meeting. We have one vote for the purposes of the vote by the number of creditors. Our vote by value of debt will be determined by our claim as a creditor. We will make this claim to the voluntary administrators prior to the watershed meeting, who will then assess whether our claim is valid and assign a value to it.
24. As part of our claim to the voluntary administrators, we need to demonstrate the validity of the debt. For our claims, we need to provide the concession documents and any documentation to quantify the debts.
25. To keep our decisions at the watershed meeting separate from our future regulatory decisions, including decisions to transfer RAL's concessions to the new operator/s, we are urgently discussing with Treasury whether they could vote on our behalf.

s9(2)(h)

s9(2)(h)



- 27. If Treasury does not agree to vote on behalf of DOC at the watershed meeting, I recommend you do this. This will help to manage any perceptions that we are making decisions about the transfer of RAL's concessions at the time we make our votes at the watershed meeting.
- 28. Decisions about the transfer of concessions will only be made after the watershed meeting, when the outcomes of the watershed meeting are known.


Out of Scope




DOC's claim as a creditor

Value of debts owed to DOC

33. RAL currently owes us debts for:

a.  9(2)(i)

b.  9(2)(f)(iv)

34. The unpaid concession fees and historic debt is made up of:

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35. Under the terms of works approvals permitting upgrades to ski field infrastructure including building the Sky Waka gondola, RAL was required to remove all redundant infrastructure, for example the Waterfall Express Chair that was replaced by the Sky

Claiming for contingent liability

36. We have been advised by MBIE and Chapman Tripp, acting for Kānoa, that we can claim for the contingent liability to fulfil the make good provisions of the RAL's concessions. We have estimated this cost to be between \$47 million and \$88 million, noting this is a desktop assessment only. We would require an actual assessment by a quantity surveyor and decisions to be made on assumptions used during the desktop assessment (for example, the extent of infrastructure to be removed) to determine the likely actual cost.

s9(2)(h)

38. s9(2)(h) We have evidence to support our claim through the concession documents and our desktop assessment. The requirement for RAL to remove infrastructure from the ski field, and the potential cost to the Crown if the ski fields close as they are unable to fulfil this requirement, has been widely reported since RAL first entered voluntary administration.
39. If we include the contingent liability in our claim, we would be the largest creditor by value of debt, by at least \$25 million depending on how we value the debt (if all 14,000 life pass holders vote the same way, valued at \$2,000, they would be the second largest creditor with a collective debt of \$28 million).
40. MBIE are encouraging us to include the contingent liability in our claim, as it would considerably strengthen the Crown's position. While this may not be material for the vote at the watershed meeting, MBIE have advised it will become important if the

company is returned to RAL's directors who will then apply to the Court to liquidate the company. It will strengthen the likelihood the Court will agree to the liquidation process if the directors can demonstrate such a high level of support by value of debt for the proposal to liquidate the company.

41. s9(2)(g)(i)

[Redacted]

42.

[Redacted]

43. We have been working with Treasury and our auditors on the accounting treatment for the make good liability. Our view is that this is a contingent liability as at 30 June 2023, which our auditors have agreed with. We have been advised that recognising the contingent liability as part of our creditor claim will not impact on the accounting treatment in the 30 June 2023 financial statements.

44. 9(2)(g)(i)

[Redacted]

Voting position

- 45. As a government department, we should vote for the proposal put forward by MBIE as this proposal has been approved by Cabinet.
- 46. Under this proposal, we will need to write off our debts; however, Cabinet have agreed to provide funding to cover these debts.
- 47. If the RSSA proposal is successful, it is very unlikely we will be able recover our debts. Kānoa also believe this proposal is not viable in the long term as it is reliant on crowd funding, and won't have Crown support.

Out of Scope

[Redacted]



53. There is a risk we will be perceived to be making regulatory decisions on any applications to transfer RAL's concessions at the point we vote at the watershed meeting as a creditor. We are seeking advice from Treasury about whether they could vote on our behalf, to truly separate these processes. However, Treasury may not agree to this proposal, and it may not be practical to arrange prior to the watershed meeting. If this is not an option, I recommend you make the decision about how we vote at the watershed meeting as the Deputy Director-General responsible for financial matters, and I will remain responsible for regulatory decisions.

Next steps – Ngā tāwhaitanga

- 54. We will prepare DOC's creditor's claim based on your decision about the value of debt to include in this claim. My team will work with the Finance team to prepare the claim.
- 55. If you agree to vote on behalf of DOC at the watershed meeting, my team will support you to place this vote.
- 56. I will lead the regulatory process to assess any applications to transfer RAL's concessions to a new operator/s.

Recommendations

57. I recommend that you:

a. Agree to vote that RAL be placed into liquidation, to allow the appointed liquidator to complete the sale of RAL's assets proposed by Kānoa	Agree / Disagree
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b. Agree to include s9(2)(i) [redacted] in DOC's creditor claim (actual amount to be determined based on financial information)	Agree / Disagree
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- c. [REDACTED] 9(2)(f)(iv) [REDACTED] Agree / Disagree
- d. Agree to include \$47 million (the lower end of our range of \$47 million to \$88 million) for the contingent liability for the make good provisions in our creditor claim Agree / Disagree

Mike Tully
Deputy Director-General, Organisation Support

Date

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