



Memorandum

	South Westland Office
To	Mark Davies, Director Western South Island Region
From	Wayne Costello, Operations Manager South Westland District
CC	Al Bramley, Chief Executive, ZIP
Date	19 December 2017
Subject	ZIP Operations – Adam’s Wilderness Area Activities

Purpose

The purpose of this memo is to request Directors delegated approval to authorise activities in the Adams Wilderness Area that are otherwise not permitted. ✓

Background/Context

DOC has been asked to support Zero Invasive Predators Ltd (ZIP) in their third and most challenging trial to date that will aim to completely remove predators from a large area in the head of the Perth catchment. ✓

ZIP is a not-for-profit research and development entity, established through public (DOC) and philanthropic (NEXT Foundation, Jasmine Social Investments, Morgan Foundation) funding, to develop the knowledge, tools and techniques required to completely *remove* of possums, rats and stoats from large areas of mainland New Zealand and *protect* those areas from reestablishment of these predators. ✓

ZIP has developed a modified prescription –called ‘1080 to Zero’ –designed to completely remove all possums and rats from the treatment area. ZIP has undertaken a trial of the prescription in the Arawhata over the last winter and the trial was a success. ✓

In order to determine if the prescription works at a larger scale and that the method has a high likelihood of being successful at a landscape scale ZIP needed to find another site that meet its criteria. The site ZIP believes best meets these criteria is the Whataroa/Perth catchment area. ZIP proposes to undertake this operation in two stages; the first stage is more remote – and includes part of the Adam’s Wilderness Area. ✓

ZIP has provided a full proposal to the Director of Operations, Western South Island Region; part of this proposal shows that in order to undertake the ZIP operation in the Perth catchment – tracks would need to be marked and cut and temporary accommodation provided for workers in Bivvy’s as shown on the attached map – see Appendix 1. This activity would be within the Adam’s Wilderness Area. ✓

Wilderness Areas are set aside to remain in their natural state and have strict policies to protect their natural values. These are set out in the West Coast CMS section 3.6.1.2 - pages 117 to 120. As a rule tracks and accommodation facilities such as huts/bivvy’s are not permitted; however if the activity is desirable for the preservation of the wilderness area’s indigenous natural resources exceptions are provided for. ✓

Analysis.

There is the ability under s 20(2) of the Conservation Act for the Minister to authorise anything in a wilderness area if it is in conformity with the [West Coast] CMS and the Minister is satisfied that its doing is desirable or necessary for the preservation of the area's indigenous natural resources.

The legal advice detailed below in appendix 3 suggested that it is likely that the Minister could authorise the activity of cutting/marking the tracks and placing temporary bivvy's in the Adam's Wilderness Area for the ZIP work, but because section 3.6.1.2 isn't specific to the activities proposed legal suggested management planning advice was obtained to ensure we were acting in strict accordance with the law and CMS policy.

Management planning advice is attached in Appendix 2. This advice concludes that:

the proposed activities are not unconformable with the CMS. It seems incongruous to restrict the Department's functions to such an extent that it is unable to carry out activities to protect the very values for which the WA has been set aside, including preservation of indigenous natural resources.

This advice together with the legal advice makes it clear that under section 20(2) of the Conservation Act the Minister can authorize the activity of track marking and cutting along with temporary placement of bivvy's in the Adam's Wilderness Area - as such activities could be considered necessary for the preservation of the areas indigenous natural resources. This authority is delegated to the Director.

The Management Planner further advises that:

the Department should take all practicable steps to minimise the effects of the activities on visitors to the AWA e.g avoiding flying over and landing in areas known to be used by visitors; keeping vegetation clearance to a minimum; removing any structures when they are no longer required; restoring cleared sites to a natural state.

So the approval to ZIP/DOC to undertake these activities must be conditional on minimising the temporary and long term impacts of undertaking these authorised activities in the Adam's Wilderness Area.

Recommendations

It is recommended that you:

1. Read and note the content of this memo
2. Agree that the proposed activities of ZIP are desirable or necessary for the preservation of the areas indigenous natural resources
3. Agree that the activities proposed by ZIP are in conformity with the West Coast Te Tai Poutini CMS
4. Agree that if authorised a set of conditions is drafted to minimise the impacts on the Wilderness Area during the operation and long term
5. Authorise the proposed activities of ZIP in the Adams Wilderness Area specifically the marking and cutting of tracks and placement of relocatable bivvy's as detailed on the map in appendix 1.

- Recommendation 1 ~~Agree/Disagree~~
- Recommendation 2 ~~Agree/Disagree~~
- Recommendation 3 ~~Agree/Disagree~~
- Recommendation 4 ~~Agree/Disagree~~
- Recommendation 5 ~~Agree/Decline~~

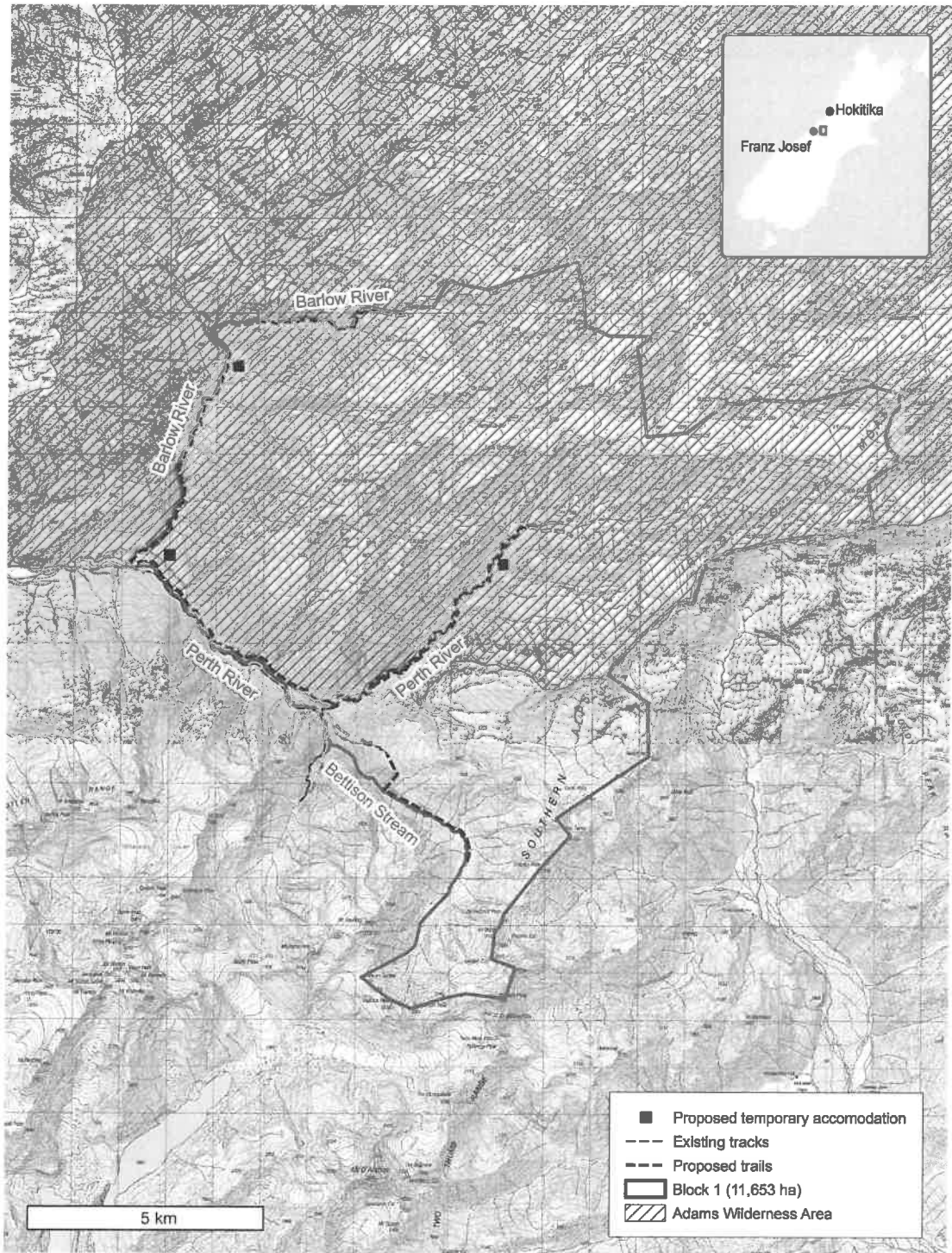
Signed Mark Davies Date: 21/12/17
 Mark Davies - Director Western South Island

Memo prepared by:
 Wayne Costello
 Operations Manager
 South Westland District

Note in approval of ZIP for the work I will include a condition that a work plan and timeline for all proposed activities and structures including the siding and subsequent removal will be supplied by approval -

Appendix 1

Map



NZGD 2000 New Zealand Transverse Mercator
1:100,000
Produced: 22/11/2017
Z:\Dropbox\DOC_ZIP_GIS\Whataroa_Perth\
WP_Block1_A4P.mxd

Whataroa-Perth Block 1 Proposed Temporary Accommodation and Trails



Appendix 2

Planning advice:

Management planning advice – conformity of predator control activities in the Adams Wilderness Area with the West Coast Te Tai o Poutini Conservation Management Strategy

Assyst request R127315

Context

To support work associated with the Predator Free 2050 goal, the South Westland District Office wishes to undertake various activities in the Adams Wilderness Area (AWA). Management planning advice is sought whether these activities are in conformity with the West Coast Te Tai o Poutini Conservation Management Strategy (CMS).

Background

The proposed pest control programme in the head of the Perth River catchment, within the AWA, requires helicopter access, tracks to be cut and the placement of up to 3 temporary bivvy shelters.

Legal advice regarding section 20 of the Conservation Act 1987 (CA87) and the Minister's (delegated) ability to authorise the tracks and bivvies, considered the activities meet the test of being "desirable or necessary for the preservation of the area's indigenous natural resources" (section 20(2)(b)). The question is whether "the doing of anything [in the] wilderness area is in conformity with the conservation management strategy" (section 20(2)(a)).

CMS analysis

The descriptive text in section 3.6.1.2 'Gazetted wilderness areas' acknowledges the provisions of section 20 CA87. Two objectives and six policies follow (see Appendix). Aircraft access can occur where it is "desirable or necessary for the preservation of the area's indigenous natural resources". The proposed pest control meets this test. The other provisions appear to not allow tracks, huts or other facilities. However, these provisions need to be read in the wider context of the CMS.

Section 3.6 deals with people's benefit and enjoyment, and recreation zones. The wilderness areas are one of these zones. The zoning system identifies broad recreation outcomes at Places, by describing where the major recreational facilities and services are and those areas that will remain free of high levels of public use because of a lack of, or lower grade, facilities. The relevant outcome, for Te Wāhi Pounamu Place, states "The Perth headwaters and the Adams Wilderness Area remain free of recreational facilities".

The objectives and policies under section 3.6.1.1 focus on using the recreational zoning framework to manage recreational opportunities.

I interpret the provisions in section 3.6.1.2 as applying to recreational opportunities, whether provided by the Department or concessionaires. The proposed tracks and structures are not for public use and enjoyment.

Conclusion

I consider the proposed activities are not unconformable with the CMS. It seems incongruous to restrict the Department's functions to such an extent that it is unable to carry out activities to protect the very values for which the WA has been set aside, including preservation of indigenous natural resources.

Despite this, the Department should take all practicable steps to minimise the effects of the activities on visitors to the AWA e.g avoiding flying over and landing in areas known to be used by visitors; keeping vegetation clearance to a minimum; removing any structures when they are no longer required; restoring cleared sites to a natural state.

Katherine Hughes, Management Planner, Christchurch Shared Services Team
13 December 2017

Appendix

Section 3.6.1.2 West Coast Te Tai o Poutini Conservation Management Strategy Objectives and Policies

Objectives

1. To retain a range of challenging unmodified natural settings that contribute to the world's wilderness resource.
2. To enable people to experience extensive natural settings with diverse topography and very high levels of natural character, including natural quiet, where:
 - a) people are unlikely to encounter other users or find evidence of others having been there;
 - b) mechanical access is prohibited;
 - c) no noise intrusion from aircraft is present; and
 - d) no tracks, bridges, huts or other facilities are provided,thus they are places in which people must be suitably equipped and experienced, self-reliant, and travel entirely on nature's terms.

Policies

1. Gazetted wilderness areas will be managed according to the provisions of relevant legislation, general policy and any relevant management plans, and meet the desired outcomes described in Part 4 of this CMS, and should also be managed according to the provisions of the Wilderness Policy 1985 where consistent with legislation and this CMS.
2. Concessions should not be authorised for gazetted wilderness areas except when:
 - a) the activity is necessary or desirable for the preservation of the area's indigenous natural resources; and
 - b) groups are subject to conditions that ensure the objectives for gazetted wilderness areas (see Objectives 1 and 2 above) are complied with; and
 - c) groups are no larger than 4 persons including guide(s), except in the case of guided rafting in the Tasman Wilderness Area where groups are no larger than 21 persons including guide(s) or such lesser maximum group size as may be specified in the Kahurangi National Park Management Plan.
3. With the exception of Policy 4 below, no motorised vehicle or motorised water craft access will be authorised within gazetted wilderness areas.
4. No motorised vehicle or motorised water craft access (including aircraft landings^{18,19}) will be authorised in gazetted wilderness areas, other than for:
 - a) activities desirable or necessary for the preservation of the area's indigenous natural resources, such as authorised wild animal control; or
 - b) emergencies; or
 - c) search and rescue purposes.
5. The Department may seek to restrict low level flights over gazetted wilderness areas, through liaison with aircraft operators and advocacy to other agencies, in order to protect

the opportunity for recreationists to experience the natural quiet and natural character of these areas.

6. Use may be monitored to ensure that it remains consistent with the statutory restrictions and provisions of the legislation and Objectives 1 and 2 above.

Appendix 3

Legal advice sought:

From: Victoria Tumai

Sent: Tuesday, 12 December 2017 12:59 p.m.

To: Wayne Costello <wcostello@doc.govt.nz>

Subject: Wilderness Areas - tracks and moveable huts for management purposes

Importance: High

Kia ora Wayne

I have now had the chance to consider your questions:

In terms of question one, there is certainly the ability under s 20(2) of the Conservation Act for the Minister to authorise anything on a wilderness area if it is in conformity with the WC CMS and the Minister is satisfied that its doing is desirable or necessary for the preservation of the area's indigenous natural resources.

In my view the ZIP work will help eliminate pests from the area which in turn will help to preserve the area's indigenous natural resources. However, as I am not a management planner I cannot say for sure that the ZIP work, and in particular the activities associated with the ZIP i.e. cutting tracks & heli landings, are in conformity with the CMS. Conformity is defined in the Collins English Dictionary as '*compliance in actions, behaviour*' On the face of it, and based on your analysis, it would seem the ZIP work conforms with the CMS especially given the exception in section 3.6.1.2 policy 4, but when I re-read the relevant provisions in the CMS, particularly the objectives, I am not so sure. Policy 4 only applies to motorised vehicles and watercrafts not the cutting of tracks. This then begs the question as to whether objective 2(d) applies to activities proposed to be authorised by the Minister such as the cutting of tracks.

As these activities, if authorised, have the potential to attract attention, being in a wilderness area, my suggestion is that you seek some specific advice from a management planner. Perhaps have them provide their written analysis/interpretation of section 3.6.1.2.

If the management planning advice confirms the activities to be in conformity with the CMS then, in my view, s 20(2) applies and it is open to the Minister to authorise ZIP's activities provided the Minister is satisfied of the test set out in s 20(2)(b) Conservation Act.

In terms of your question 2, the powers in s 20(2) are delegated to the DDG and DO (see table below) I would suggest a memo is prepared for the decision-maker setting out the legal test in s 20(2) and the relevant CMS provision, similar to what you have done for me. Depending on the management planners advice than, in addition to confirming whether the activities conform with the CMS, I would clearly explain/describe in any memo the indigenous natural resources, giving examples, that will be preserved as a result of the ZIP work.

I hope this helps otherwise I am happy to discuss

Thanks

Vic

20(2)	Authorise the doing of anything on a wilderness area in conformity with paras (a) and (b) of that subsection		133	M	DDG, DO
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From: Wayne Costello
Sent: Thursday, 7 December 2017 10:54 a.m.
To: Victoria Tumai <vtumai@doc.govt.nz>
Subject: Wilderness Areas - tracks and moveable huts for management purposes
Importance: High

Hi Vic

I'm not sure if you are aware but we have been working with ZIP <http://zip.org.nz/> participating and supporting in their work to develop a new method/approach to using aerial 1080 to eliminate possums (functional extinction). At the same time they have been pretty successful in eliminating rats. This work is in support of the PF2050 and the intermediate goal of eliminating on of the 3 key pests (possums, rats, stoats) by 2025. They think this is possible for possums.

We had a trial in the Arawhata (Danny Lane/Royden Dick – you will recall the shenanigans!) which was very successful

Now ZIP are looking to expand the programme to try a bigger area – this is proposed to be in the V between the Whataroa and the Perth rivers – and a 2 staged approach with the first year being in the very head of the Perth. To undertake the programme and research/monitoring associated with it – staff have to be based there and tracks have to be cut to ensure success and the goals of the initiative.

Some of these will be in the Adam's Wilderness Area

Attached is the CMS provisions and the Cons Act related to wilderness areas.

The Minister may authorise (the cutting of these tracks and placement of 2 possibly 3 temporary bivvy shelters (mini-huts)) if this is in conformity with the CMS and the Minister is satisfied that its doing is desirable or necessary for the preservation of the areas indigenous natural resources.

In my reading of the CMS – I can't see any policies that are specifically related to/focussed on cutting tracks, placement of temp bivvies for pest control management. On page 117 the context does note that establishment of facilities can be done where it is desirable or necessary for the preservation of indigenous natural resources. It is noted that we can provide for access (Policy 4 (a)) via helicopter (motorised vehicle) where it is desirable or necessary for the preservation of the areas indigenous natural resources.

Two questions

1. In your view do you believe the work were are proposing to do here with ZIP to remove predators (possums and rats) from this area of the Adam's wilderness area meets the tests of "being necessary and desirable for the preservation of the areas indigenous natural resources?" and therefore we are able to recommend to the minister to authorise the cutting of tracks and the placement of bivvies to provide for this work? (we expect that these will over grow and that the bivvies will be removed in 3 years)
2. Is the authority under section 20 (2) delegated? If so – who to?

F it's not delegated – what form does the request take to get the authorisation!!?

Thanks Vic

Kind regards
Wayne

Wayne Costello

Operations Manager/Pou Matarautaki, South Westland

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