

# BRIEFING

## Section 65L Public Interest Test for Ruapehu Ski Fields

<b>Date:</b>	26 June 2023	<b>Priority:</b>	Urgent
<b>Security classification:</b>	In Confidence	<b>Tracking number:</b>	2223-4382

Action sought		
	Action sought	Deadline
Hon Grant Robertson <b>Minister of Finance</b>	<p><b>Note</b> on 26 June 2023 Cabinet agreed to provide up to \$5.0 million of loan funding to the liquidators of Ruapehu Alpine Lifts Limited (In Liquidation) (<b>RAL</b>) for the operating costs and commitments for the Whakapapa and Tūroa ski fields for the 2023 season.</p> <p><b>Note</b> that the Cabinet approval was subject to approval from the Minister of Finance under section 65L of the Public Finance Act 1989.</p> <p><b>Agree</b> that it appears to you to be necessary or expedient in the public interest to provide the loan.</p> <p><b>Agree</b> to provide the loan under section 65L of the Public Finance Act 1989 subject to the loan documents being consistent with the key terms approved.</p>	26 June 2023
Hon Kiri Allan <b>Minister for Regional Development</b>	<p><b>Note</b> on 26 June 2023 Cabinet agreed to provide up to \$5.0 million of loan funding to the liquidators of RAL for the operating costs</p>	



	<p>and commitments for the Whakapapa and Tūroa ski fields for the 2023 season.</p> <p><b>Note</b> the contents of this briefing.</p>	
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Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Robert Pigou	Deputy Chief Executive and Head of Kānoa – Regional Economic Development & Investment Unit MBIE	Privacy of natural persons	✓

The following departments/agencies have been consulted

**Minister’s office to complete:**

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister’s Notes

Withdrawn

**Comments**

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### Purpose

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This briefing notifies of the intention of the Deputy Chief Executive and Head of Kānoa – Regional Economic Development & Investment Unit (**Kānoa**) to execute a Loan Agreement, and any related documentation, with the liquidators of RAL.

### Recommended action

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The Ministry of Business, Innovation and Employment (**MBIE**) recommends that you:

- a. **Note** on 26 June 2023, the Minister for Regional Development intends to take a paper to Cabinet seeking up to \$5.0 million of loan funding to the liquidators of Ruapehu Alpine Lifts Limited (In Liquidation) (**RAL**) for the operating costs and commitments for the Whakapapa and Tūroa ski fields for the 2023 season.

*Noted*

MBIE recommends that the Minister of Finance:

- b. **Note** the loan terms are not expected to fall within the 'Approved RSPF Loan Framework' as described in Treasury Report T2023/505.
- c. **Note** the provision of Crown funding to the liquidators of RAL will provide a positive outcome for the communities around the mountain. The funding will provide jobs and tourism activity through the winter months, and allow the communities to continue to benefit from activity on the mountain. This loan is therefore considered under section 65L of the Public Finance Act 1989 to be necessary or expedient in the public interest.

*Noted*

d. **Note** you have delegated to the Secretary of the Treasury the power to execute loan documentation; this power has been sub-delegated to the Chief Executive of MBIE and has been further sub-delegated to the Deputy Chief Executive and Head of Kānoa (Treasury Report T2023/505 refers).

*Noted*

e. **Note** that officials consider this loan to be necessary or expedient in the public interest under section 65L of the *Public Finance Act* 1989.

*Noted*

f. **Agree** (subject to Cabinet's agreement to provide funding) that it appears to you to be necessary or expedient in the public interest to provide the loan on the key terms approved.

*Agree / Disagree*

g. **Agree** (subject to Cabinet's agreement to provide funding), to provide the loans under section 65L of the Public Finance Act 1989 subject to the loan documents being consistent with the key terms approved.

*Agree / Disagree*

Privacy of natural persons

Robert Pigou  
**Deputy Chief Executive and Head of Kānoa –  
Regional Economic Development &  
Investment Unit, MBIE**

Hon Grant Robertson  
**Minister of Finance**

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26 / 06 / 2023

Hon Kiri Allan  
**Minister for Regional Development**

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## Background

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1. On 12 June 2023 Cabinet agreed to provide up to \$<sup>Commercial Information</sup> of funding from the Regional Strategic Partnership Fund (**RSPF**). across deals with Pure Tūroa Limited (**PTL**) and Whakapapa Holdings Limited (**WHL**) as part of the transaction to restructure RAL (at that time RAL was under voluntary administration).
2. The Watershed Creditors Meeting of RAL was held on 20 June 2023. The RAL creditors were asked by the administrators to vote on three resolutions:
  - A. That RAL execute a proposed deed of company arrangement; or
  - B. That RAL be placed in liquidation (which, if all conditions were satisfied, would then enable the liquidators to enter into sale and purchase agreements with PTL and WHL, which included the Crown funding noted in para 1. above); or
  - C. That the Administration end and control of RAL be returned to its directors.
3. Due to a stalemate vote at the Watershed Creditors Meeting of RAL, the outcome was that control of RAL was returned to its directors.
4. RAL was put into liquidation by the High Court in Auckland on Wednesday 21 June 2023, following a request by the RAL directors.
5. **Commercial Information, Confidentiality, Negotiations**  
[Redacted]
6. Further, Ngāti Tūwharetoa, through the <sup>Privacy of natural persons</sup>, has now expressed a strong interest in purchasing the RAL assets. **Commercial Information, Negotiations**  
[Redacted]
7. Because the ski season is expected to commence operations shortly after 1 July there is a need for an interim solution. Officials recommended funding the liquidators to run the season, and the liquidators have said that they need a guarantee of \$5 million in order to run the ski

fields for the 2023 season – as the ski fields generates revenue the amount ultimately drawn under the \$5 million loan facility may reduce, but it provides an assurance that they can operate and not lose money.

8. The traditional start of the ski season is the beginning of the July school holidays, which is the end of this week (1 July). Staff have been recruited on the expectation that the season will begin, and have chosen to work at RAL. Confidentiality [REDACTED]  
[REDACTED]  
[REDACTED]
9. The liquidators have the power to carry on RAL's business in the name and on behalf of the company under the existing concessions. However, they can only do so if it is for the purpose of liquidating the company in a manner that is in the best interests of the creditors.
10. Officials are confident the RAL liquidators can run the ski fields as they have retained key staff, are familiar with the business and have been operating it over the summer period, and had previously operated the Tūroa ski field when it was put into receivership in 2000.
11. The funding will allow the RAL liquidators to draw funds in order to fund the skifield operating costs and commitments (Confidentiality, Commercial Information [REDACTED]  
[REDACTED])
12. Commercial Information, Legal professional privilege [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
13. The Minister for Regional Development intends to take a paper to Cabinet on Monday 26 June 2023 seeking up to \$5.0 million of loan funding to the liquidators of Ruapehu Alpine Lifts Limited (In Liquidation) (**RAL**) for the operating costs and commitments for the Whakapapa and Tūroa ski fields for the 2023 season
14. For loans funded through the RSPF, under section 28 of the State Sector Act 1988, the Minister of Finance has delegated to the Secretary of the Treasury, who in turn has delegated to the Secretary of MBIE and then to the Head of Kānoa, powers in sections 65L, 65O and 65Q of the Public Finance Act 1989 including, but not limited to, the authority to enter into loan agreements, give notices, make and receive payments, take securities, and do all other acts or things required to exercise or perform the Crown's rights and obligations under or in relation to loan agreements where the lending is funded from the RSPF (Treasury Report T2023/505 refers).

15. Under the current delegation, before the Head of Kānoa can approve and sign a Loan Agreement, the delegated Ministers (Minister of Finance and Minister for Regional Development) must be notified of the key details of the agreement.
16. Subject to Cabinet agreement to provide funding for the liquidator to run the 2023 ski season, the provision of this funding will provide a positive outcome for the communities around the mountain. They will provide jobs and tourism activity through the winter months, and allow the communities to continue to benefit from activity on the mountain.

## Next steps

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17. Following the Minister of Finance approval to provide the loans under section 65L of the Public Finance Act, the Head of Kānoa will execute the loan agreement, and any related documents required, with the liquidators of RAL.
18. The loan agreement, and any related documents required, will be novated to Crown Regional Holdings Limited (**CRHL**) and then be managed by Kānoa under the terms of the Management Agreement between Kānoa and CRHL.