

[In Confidence]

Office of the Minister of Conservation

Cabinet Legislation Committee

Conservation Amendment Bill: Approval for Introduction

Proposal

- 1 This paper seeks approval to introduce the Conservation Amendment Bill. This paper also seeks remaining policy approvals so that drafting of the Bill can be finalised.

Policy

- 2 The Conservation Act 1987 needs updating and modernisation. Processing of concessions is too slow, the rules in legislation and statutory plans are too rigid, and there is too much uncertainty for applicants, decision makers and Te Tiriti o Waitangi / Treaty of Waitangi (Treaty) partners.
- 3 In June, July and September 2025, Cabinet made policy decisions to modernise and simplify the management of conservation land [CAB-25-MIN-0213.01, CAB-25-MIN-0236 and CAB-25-MIN-0334.01 refer].
- 4 The Bill amends the Conservation Act to streamline the conservation land management framework, better enable appropriate use of conservation land and support more effective administration of conservation land. This will speed up regulatory decisions and unlock greater economic activity on conservation land.
- 5 The Bill will improve the way we manage conservation land by:
 - 5.1 Providing certainty by making it easier to approve economic activities on conservation land through a streamlined and updated planning framework consisting of two layers of plans (a National Conservation Policy Statement (NCPS) and area plans), and government decision making through regulatory rules instead of an array of other bodies;
 - 5.2 Faster processing of concessions through more simplification and standardisation, introduction of statutory timeframes, and standardisation with classes of activities able to be pre-approved or exempt from needing a concession;
 - 5.3 Enabling the Minister to create visitor amenities areas that provide for visitor-related development and operations on a range of conservation land types;
 - 5.4 Clarifying the Government's Treaty obligations, including under section 4 of the Conservation Act 1987 (which requires giving effect to Treaty principles);

- 5.5 Removal of barriers to make it easier to transfer concessions (including relevant obligations) between concession-holders, for example when businesses are sold or transferred;
- 5.6 Driving innovation for tourism, economy and nature, through settings that enable competitive allocation of scarce concession opportunities where appropriate;
- 5.7 Providing more flexible rules for exchanging and disposing of conservation land; and
- 5.8 Enabling DOC to charge for access to conservation land.

I am seeking Cabinet's approval on final policy matters

- 6 Today, I am seeking decisions on a small number of policy matters that have arisen through the drafting process and require Cabinet approval. I seek Cabinet's confirmation of the approach taken to these issues in the Bill ahead of introduction. These are outlined in Appendix A, with the more significant changes also described below.
- 7 During the drafting process, I have made decisions consistent with Cabinet's delegations [CAB-25-MIN-0213.01 and CAB-25-MIN-0334.01 refer]. These are outlined in Appendix B for your information.

Changes to the purpose of the Conservation Act

- 8 In September 2025, Cabinet noted my plans (pending further advice on drafting from the Parliamentary Counsel Office and Crown Law) to make incisive changes to parts of the Conservation Act that form the existing 'purpose architecture'¹ [CAB-25-MIN-0334.01]. My intention was to enable economic development, targeting those few concession applications likely to be declined under the status quo, while retaining conservation as the primary purpose of the Act.
- 9 Pursuing an incisive amendment to the purpose architecture of the Act (rather than a more extensive change) will reduce s9(2)(h) and disruption to business certainty.
- 10 Under the status quo, most applications to use conservation land are approved. Last year DOC processed around 2,800 concession applications and 120 mining applications under the Crown Minerals Act 1991 (CMA).² Of those considered, only 2% of concession applications and mining approvals were declined.³ Regionally and nationally significant projects can now be approved via the Fast-track Approvals Act 2024.
- 11 My reform package will make it easier for economic development to take place on conservation land with targeted improvements to the purpose architecture of the Act.

¹ The Conservation Act does not include a single purpose statement. The 'purpose architecture' refers to the provisions within the Conservation Act which collectively form the purpose of Act, including the statutory functions of DOC.

² For concessions decisions data is taken from January 2025 – October 2025; for mining permissions data is taken from November 2024 – October 2025.

³ Around 90% were approved and 7-9% withdrawn.

It will do this by simplifying the structure of statutory planning documents, exempting and pre-approving certain activities, removing unnecessary rules and limits, and providing clear, consistent direction on a number of economically significant activities. The NCPS will also be able to provide additional information on how consistent an activity is with the purposes for which different types of conservation land are held, to guide concession decisions and supplement the high-level statements in primary legislation.

- 12 The proposed targeted amendments to the purpose provisions would have increased the likelihood that some of the 2% of concessions declined last year were approved.
- 13 When I last reported to Cabinet, I proposed a package of four incisive changes directed at the purpose of the Conservation Act [CAB-25-MIN-0334.01]. I intend to progress three of these changes that together will amend DOC's functions to include economic development, and empower the NCPS and area plans to enable economic development.
- 14 Following discussion, I am seeking Cabinet agreement to clarify the earlier policy decisions around enabling greater economic development on conservation land s9(2)(h) [REDACTED] I propose that the Bill amends section 6(e) of the Conservation Act – which sets out the functions of the Department of Conservation – to include recognising economic opportunities and enabling associated use and development of land and natural and historic resources to the greatest extent practicable. This will then flow through the other purpose-related provisions in the Bill, including the NCPS empowering provisions, to reflect the intent of enabling of economic development.
- 15 The purpose provision for the concessions framework will also reflect this language. This, alongside the provision in the Bill requiring the Minister to consider any mitigation measures, means operators will still be able to get approval to undertake activities with adverse impacts on conservation land, where they manage those impacts.
- 16 I have opted not to change the threshold that must be met in concessions decisions. This means the purpose for which land is held will continue to operate as a threshold (as it does now), rather than a mandatory relevant consideration (as suggested when I last reported to Cabinet). The economic development outcomes enabled by the broader package will not be materially impacted by retaining the threshold currently in the Conservation Act. s9(2)(h) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] A detailed summary of these changes is set out in Appendix B.

Section 4 of the Conservation Act

- 17 Section 4 of the Conservation Act requires conservation legislation to be interpreted and administered so as to give effect to Treaty principles. However, section 4 does not provide legislative detail about how this should be done, leading to uncertainty, legal challenges and risks. In April 2025, Cabinet agreed that these reforms provided the

best basis for reviewing section 4, rather than the broader review into Treaty principles references in legislation [SOU-25-MIN-0041].

- 18 Subsequently, in June 2025, Cabinet agreed an overall approach to section 4, which included retaining section 4 without any wording changes. Cabinet also decided to [CAB-25-MIN-0213.01]:
- 18.1 Add a new descriptive clause to the Conservation Act (which would provide signals and signposts to new requirements in various other parts of the Act),
 - 18.2 Noted the drafting would make clear that complying with the new requirements would be sufficient to comply with section 4 (“deemed compliance”), subject to advice from Parliamentary Counsel Office (PCO),
 - 18.3 Agreed the drafting would specify what section 4 does not require, such as making concessions opportunities contestable, and
 - 18.4 Noted I would liaise with the Ministerial Oversight Group (MOG) for the Treaty principles references review on any drafting issues that arose regarding section 4 and Treaty principles.

Section 4: Deemed compliance

- 19 The Bill reflects Cabinet’s decisions, with one change. The Bill contains a new descriptive clause without a deemed compliance element. Deemed compliance was considered among a number of options to provide clarity, reduce uncertainty and support better compliance. PCO and Crown Law provided advice on the suitability of deemed compliance, which is outlined below.

- 20 s9(2)(h) [REDACTED]

- 21 The descriptive clause will reference the new obligations being added through the Bill, which address the issues that create challenges in practice for decision makers. It will point to specific obligations in statute which are less dependent on specific context. This will significantly improve clarity, reduce uncertainty, and allow decision makers, businesses, interest groups, Iwi and others to operate with greater confidence. I have also directed DOC to begin preparing operational policy and guidance to provide further clarity for substantive matters and decisions.

- 22 These changes relating to section 4 build on the substantive changes being made through the reforms, which will provide efficiencies and additional clarity for decision makers. The new system will:
- 22.1 Provide clear procedural steps relating to the consultation role for Iwi in management planning processes, which currently do not explicitly exist in statute. The proposed changes will provide consistency outside Treaty settlements, as well as set timeframes for completing plans.
 - 22.2 Provide clearer and more transparent rules, through the resulting NCPS and area plans, that will apply when consenting activities on conservation land.
 - 22.3 Make bulk decisions to pre-approve or exempt activities through the NCPS (accounting for 30 – 40% of concession applications DOC currently receives), allowing concession applicants, Iwi and DOC to focus on a smaller number of more complex concessions.
- 23 I have also engaged with the MOG on the most appropriate way to manage the issues associated with deemed compliance, in light of the overall approach to section 4. The approach taken in the Bill – and described in this paper – reflects those discussions.

Section 4: The “give effect to” obligation

- 24 The Bill reflects the overall approach to section 4 agreed by Cabinet last year, which includes retaining the “give effect to” obligation in section 4. This differs from the approach now being taken for Acts within scope of the broader review of Treaty principles references in legislation, where any relevant obligations will be no stronger than a “take into account” obligation. Changing the “give effect to” obligation in section 4 would not be appropriate in the context of the conservation system for the following reasons.
- 24.1 The Treaty provisions from which “give effect to” is being removed as part of the Treaty references review are generally all descriptive or purpose clauses, which are not operative in and of themselves. This is in contrast to section 4 of the Conservation Act, which has operative effects on functions, duties and powers in the conservation system.
 - 24.2 Section 4 applies across the Acts administered by DOC. Changing the strength of the obligation would not resolve Treaty-related uncertainty – it would instead exacerbate those issues. Any change is highly likely to be tested in the courts by Treaty partners and others to identify its new boundaries.
 - 24.3 §9(2)(h) [REDACTED]
- 25 Feedback from the public consultation process on the *Modernising Conservation Land Management* discussion document between November 2024 and February 2025

showed that the businesses making the most of conservation land are not seeking significant change here. I want my reforms to unleash a fresh wave of investment and concessions as well as providing certainty around timeframes for processing concession applications. For that to happen, we need to avoid putting at risk the speed, clarity and certainty they will deliver.

Approach to upholding Treaty settlements and Takutai Moana rights

- 26 There are about 80 Treaty settlements which contain redress that relate to these reforms. This redress ranges in nature, from commitments that can be easily upheld in the context of these reforms, to those that will require modified arrangements to be upheld. Last September, we agreed the following approach to upholding redress and Takutai Moana rights in the context of these reforms [CAB-25-MIN-0334.01]:
- 26.1 At introduction, the Bill would reflect specific decisions on the following:
- 26.1.1 How several types of settlement redress (collectively called “standard redress”, referring to deeds of recognition, overlay classifications, decision-making frameworks, cultural materials, and consultation on exchanges and disposals) would be upheld in the context of the reforms; and
- 26.1.2 How rights under the Marine and Coastal Area (Takutai Moana) Act 2011 would be upheld.
- 26.2 At introduction, the Bill would include “temporary arrangements” (e.g. transitional provisions) to uphold the more complex types of settlement redress affected by the reforms, and rights relating to the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019. At the time, it was agreed these would be replaced with more specific drafting ahead of enactment.
- 27 The Bill generally reflects those decisions, with two changes. First, the approach taken to upholding standard redress (i.e. by making amendments to Acts) means the Bill does not specifically address redress that stems from non-legislative instruments, such as settlement deeds. Amendments to settlement deeds can generally only be made by agreement by all parties and it is not good practice for legislation to change non-legislative instruments. This means deeds of recognition, which are generally found in settlement deeds, will instead be upheld through the “temporary arrangements” referred to in paragraph 26.2 above.
- 28 Second, those “temporary arrangements” have been drafted to reflect the approach taken by the Government for the Planning Bill and the Natural Environment Bill. This ensures consistency in our approaches to settlement issues raised across the two natural resources reform programmes. This means the Bill contains provisions which:
- 28.1 Commit the Crown to working with post-settlement governance entities (PSGEs) and Ngā Hapū o Ngāti Porou to seek agreement on how their redress will operate in the new system for two years following enactment; and
- 28.2 Before agreement is reached (as above), require giving redress the same or equivalent effect to the greatest extent possible as it has in the current system.

- 29 The two-year timeframe to enter discussions with PSGEs does not prevent agreements being reached after that time and does not apply to the provision in paragraph 28.2 which provides equivalency for redress.

Amendment to the scope of access charging

- 30 The Cabinet paper ‘Charging for access to some public conservation land’ used the term ‘public conservation land’ when setting the scope for the types of land to which access charges could apply. This limited the scope to just conservation land (i.e. land held under Acts such as the Conservation Act and National Parks Act) managed or administered by DOC and owned by the Crown. This was not in line with the original intent for it to apply more broadly to any conservation land managed or administered by DOC.
- 31 I seek to clarify that conservation land managed or administered by DOC is in scope of access charges by removing the requirement that the land be owned by the Crown.

I am seeking Cabinet’s approval to introduce the Bill

- 32 Following Cabinet’s agreement to these final policy approvals, I am seeking approval to introduce the Bill.
- 33 The Bill is still undergoing proof reading, editing and final quality checks. Minor changes may be needed on technical matters in line with Cabinet’s previous policy decisions and to incorporate feedback from PCO quality assurance processes.

Impact analysis

- 34 Regulatory impact statements have been prepared in accordance with the necessary requirements and were submitted when Cabinet approved the policies relating to the Bill [CAB-25-MIN-0213.01, CAB-25-MIN-0236 and CAB-25-MIN-0334.01 refer].
- 35 In June 2025, Cabinet directed me to look at potential changes to the purpose of the Conservation Act. The ensuing changes required a supplementary analysis report (SAR) (Appendix C).
- 36 A panel comprising officials from the Department of Conservation have reviewed the SAR: *Amending the purpose of the Conservation Act 1987*. The assessors consider that the information and analysis summarised in the SAR partially meets the quality assurance criteria. The panel considered that the analysis did not assess a full range of options, however the Cabinet decision on the regulatory solution constrained what options would be considered. The panel also noted the proposed changes were not consulted specifically, and the analysis makes assumptions based on related engagement on the wider Conservation Amendment Bill. The panel felt the SAR clearly outlined these constraints and provided critical analysis of the preferred option which has a targeted impact and objectives.

Compliance

- 37 The Bill complies with each of the following:
- 37.1 the principles of the Treaty of Waitangi;

- 37.2 advice from the Treaty Provisions Officials Group on any Treaty of Waitangi provisions;
- 37.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
- 37.4 the disclosure statement requirements;
- 37.5 the principles and guidelines set out in the Privacy Act 2020;
- 37.6 relevant international standards and obligations; and
- 37.7 the Legislation Guidelines (2021 edition).

Consultation

- 38 Public consultation on the reforms took place from November 2024 to February 2025.
- 39 Engagement with Iwi has been ongoing since November 2024. As part of the public consultation process, regional in-person and online hui were offered to Iwi to explain the proposed reforms. More specific engagement with PSGEs has since been taking place to discuss how to uphold specific Treaty settlement commitments in the context of these reforms. All PSGEs who have complex redress arrangements have been offered hui to work through the specifics of their redress, although uptake of offers to meet has been mixed. DOC has met with those groups who asked to discuss their redress as well as groups who wanted to understand the reforms further. In some instances, these discussions were in combination with the Ministry for the Environment so that the conversations could happen as part of the broader government programme of reform. DOC also engaged with the National Iwi Chairs Forum's Pou Taiao technicians on upholding settlements and drafting the first NCPS.
- 40 There has been targeted engagement with Treaty partners on the design of the proposal for the NCPS and DOC's ongoing engagement with Iwi on upholding settlements also includes discussion of the NCPS proposals. Cabinet recently directed DOC to commence consultation on the NCPS proposal document [ECO-26-MIN-0030]; this will include further engagement with Treaty partners.
- 41 In preparing this paper, the following agencies were consulted: Crown Law, Department of Internal Affairs, Ministry of Housing and Urban Development, Land Information New Zealand, Ministry for Culture and Heritage, Ministry for Primary Industries, Ministry for Regulation, Ministry for the Environment, Ministry of Business, Innovation and Employment, Ministry of Justice, Ministry of Transport, New Zealand Infrastructure Commission, New Zealand Transport Agency, Parliamentary Counsel Office, the Treasury, Te Puni Kōkiri, and Te Tari Whakatau.

Binding on the Crown

- 42 The Bill will be binding on the Crown [CAB-25-MIN-0213.01].

Creating new agencies or amending law relating to existing agencies.

- 43 This Bill will not create new agencies or limit the coverage of the Ombudsmen Act 1975, the Official Information Act 1982, or the Local Government Official Information and Meetings Act 1987.

Allocation of decision-making powers

- 44 This Bill does not allocate decision-making powers between the executive, the courts, and tribunals.

Associated regulations

- 45 New regulations will be developed as needed to support the Bill to achieve the outcomes of the reforms. These include:
- 45.1 Regulations for third-party remuneration for consultation on concessions;
 - 45.2 Regulations to govern contestability of leases and licences with significant private capital investment;
 - 45.3 Regulations defining “one-off concessions”;
 - 45.4 Regulations outlining details of the access levy, including areas where they apply, how much they are, and the levy payable by different visitor groups;
 - 45.5 Regulations setting activity fees for concessions; and
 - 45.6 Regulations setting standardised conditions for existing concessions.

Other instruments

- 46 The Bill includes provisions empowering the creation of new planning instruments. On 30 June 2025, Cabinet agreed to streamline the planning hierarchy for conservation [CAB-25-MIN-0213 refers]:
- 46.1 The NCPS will be secondary legislation made under the Bill, amalgamating the two national policy instruments that currently guide implementation of conservation legislation into a single instrument. In March 2026, Cabinet agreed to policies for the NCPS subject to further consultation [ECO-26-MIN-0030]. These policies will be published to support the Environment Committee’s consideration of the Bill.
 - 46.2 The Bill will empower the creation of a single layer of area plans, which will replace existing conservation management strategies, national park management strategies and conservation management plans.
- 47 Existing regulation and bylaw making powers may be used to set limits, conditions and prohibitions on activities as these will be removed from existing planning documents. Further work will determine where these should be retained, updated or allowed to expire.

48 The Bill enables additions to the list of excluded land types for exchanges and disposals by Order in Council on the Minister of Conservation's recommendation. This is modelled on the approach in the Crown Minerals Act 1991 and Fast-track Approvals Act 2024.

49 The explanatory note to the Bill sets out the reasons for these provisions.

Definition of Minister/department

50 The Bill does not contain a definition of Minister, department (or equivalent government agency), or chief executive of a department.

Commencement of legislation

51 The Bill will come into force on the day after Royal assent.

Parliamentary stages

52 I propose the Bill be introduced as soon as possible, and referred to the Environment Committee following first reading.

Proactive release

53 I intend to proactively release this Cabinet paper, subject to any redactions that need to be made, within 30 days of it being confirmed by Cabinet.

Recommendations

I recommend that Cabinet:

- 1 s9(2)(h)
[Redacted]
- 2 **note** that the Bill will streamline the conservation land management framework, better enable appropriate use of conservation land, and support more effective administration of conservation land;
- 3 **approve** additional proposals for the Bill as set out in the paper and Appendix A under the submission CAB-26-SUB-0141;
- 4 **note** the policy decisions made during drafting, consistent with Cabinet's earlier delegations, which are set out in Appendix B to the submission under CAB-26-SUB-0141;
- 5 **note** that no change to the threshold that must be met in concession decisions (relating to the purpose for which the land is held) has been made, s9(2)(h)
[Redacted]
- 6 **agree** to amend the purpose-related provisions (amended section 6(e) and new sections 13D, 13H and 14 in the Bill) to recognise the economic opportunities that arise from the use and development of land and other natural and historic

I N C O N F I D E N C E

resources managed by the Department, and enable this use and development to the greatest extent practicable under this Act and other enactments;

- 7 **authorise** the Minister of Conservation, with advice from the Parliamentary Counsel Office and Crown Law, to approve the final wording used in the Bill to give effect to the decision in recommendation 6 above;
- 8 §9(2)(f)(iv)
- 9 **authorise** the Parliamentary Counsel Office to continue to make minor and technical changes to the Bill, in line with Cabinet policy decisions, up until the Bill is introduced;
- 10 **approve** the Conservation Amendment Bill [PCO 28229/18.0] for introduction, subject to final drafting to give effect to the above decisions;
- 11 **agree** that the Bill be introduced as soon as possible;
- 12 **agree** that the Government propose that the Bill be referred to the Environment Committee for consideration.

Authorised for lodgement

Hon Tama Potaka

Minister of Conservation

I N C O N F I D E N C E