

Appendix B: Delegated decisions made by the Minister of Conservation

<i>Purpose</i>
1. Retain “consistency with the purpose for which the land is held” as a threshold for concession decisions, s9(2)(h) 2. Add new purpose provisions to Parts 3A (management planning) and 3B (concessions) of the Act to state the National Conservation Policy Statement (NCPS) and area plans enable the use and development of conservation land. 3. Amend section 6(e) of the Conservation Act (which sets out the functions of the Department of Conservation) as well as new sections 13D, 13H and 14 of the Bill (the purposes of the NCPS, area plans and concessions) to recognise the economic opportunities that arise from the use and development of land and other natural and historic resources managed by the Department, and enable this use and development to the greatest extent practicable under this Act and other enactments. 4. Include empowering provisions for the NCPS that explicitly state that one of its functions is to provide additional information on how consistent an activity is with the purposes for which land is held or managed.
<i>Exchanges and disposals</i>
5. Remove national and cultural significance from the mandatory exclusions for land exchanges and disposals, and make them mandatory considerations instead. 6. Simplify the land disposals process by aligning the Reserves Act 1977 process with the Conservation Act 1987 process. 7. Allow the list of excluded land for exchanges and disposals to be varied by Order in Council, similar to the Crown Minerals Act 1991 and the Fast-track Approvals Act 2024.
<i>Amenities areas</i>
8. Rename amenity/amenities areas as follows to avoid confusion: • Conservation Act amenity areas (both future and existing ones) will be called ‘natural character areas’. • National Parks Act amenities areas and any new amenities areas made under the Bill will be called ‘visitor amenities areas’. 9. Codify processes giving effect to section 4 for the new visitor amenities areas tool, in line with the approach to management planning, concessions, and land exchanges and disposals. 10. Visitor amenities areas can only be established on Crown-owned, and DOC-administered reserves.
<i>Management planning</i>

11. Include transitional provisions in the Bill to ensure that the existing determination made by the NZCA, which relates to salmonids and game birds, remains in effect following enactment of the Bill until such time as the NZCA revokes or varies the determination. 12. Add a revision stage to the short NCPS process where Iwi and NZCA final comments will be sought, with a 20 working-day timeframe to respond
<i>Pre-approved and exempt activities</i>
13. An activity can be exempt or pre-approved by the NCPS if: - the activity is consistent with the requirements of the Act the land is held or managed under and the purposes for which that land is held; and - the activity does not require an interest in land; and - the adverse effects (including cumulative effects of the activity) can be avoided, remedied or mitigated (including by use of conditions). 14. The Minister must consider the following when deciding whether it is more appropriate to pre-approve an activity (rather than exempt it): - the scope and effects of the activity; - whether concession data should be collected to monitor the volume of activity; and - whether it is reasonable to charge an activity fee for the activity. 15. Enable the Minister to suspend a pre-approved or exempt activity in specified locations for up to 60 working days. The Minister may amend the NCPS through the truncated process to amend or revoke the suspended pre-approved or exempt activity.
<i>Upholding rights under the Marine and Coastal Areas (Takutai Moana) Act 2011</i>
16. Customary marine title (CMT) groups will have 40 working days to give or decline permission for an activity to be designated as pre-approved or exempt within their CMT area. 17. In the future where a CMT is recognised over an area with existing pre-approved or exempt activities, those pre-approvals and exemptions continue to apply.
<i>Treaty settlements</i>
18. Amend obligations in overlay classifications for general policy so they apply to the Minister of Conservation and Director-General, instead of the NZCA and conservation boards, when preparing, considering or making a decision on a draft NCPS or draft amendment to the NCPS.
<i>NCPS</i>
19. Iwi and the NZCA will have 40 working days to provide written comment on the draft NCPS during the final consultation stage in the standard NCPS process.

20. Pre-approved and exempt activities can be designated, amended or revoked through a truncated NCPS amendment process including:

- The Director-General (DG) drafts changes to the NCPS.
- The NZCA and Iwi are invited to comment in parallel with the public, and the timeframe for response is 20 working days.
- The DG revises the draft NCPS following consultation and prepares a summary of submissions and impact analysis report.
- The DG provides Iwi and the NZCA the revised draft, summary of submissions and impact analysis report, and the timeframe for response in 20 working days.
- DG makes any further revisions and provides the summary of submissions, impact analysis report and draft NCPS to the Minister.
- The Minister decides whether to approve or refuse amendments to the NCPS, and must have regard to the summary of submissions and impact analysis report when making that decision.

Reserves

21. Maintain existing management planning and permission arrangements for reserves vested in, or owned by, non-Crown entities.

22. Pre-approved and exempt activities cannot be designated in control and manage reserves (that aren't in place due to a Treaty settlement), as well as reserves with joint committees (that aren't in place due to a Treaty settlement).

Concessions

23. Applications to transfer concessions can only be considered if they meet the following criteria:

- the activity is not changing; and
- it is possible to allocate liability to a particular point in time, and split it between the incoming and outgoing operators.

24. Transfers are only possible if the Minister is satisfied of the following due diligence requirements. The incoming operator:

- is who they claim to be;
- is financially sound and can pay fees associated with their concession (activity fees as well as processing fees, management, and monitoring fees);
- has the necessary capacity and capability to undertake the activity; and
- does not have a history of non-compliance with any concessions currently or previously held.

25. When setting concession conditions the Minister can:

- set standard conditions that must be used (either individual conditions or options for conditions); and

- set types of conditions that must be used.
26. Where the Minister has set a standard condition (including options for a standard condition), a bespoke condition cannot be used, unless otherwise agreed by the Minister.
 27. The Minister must publish all standard conditions they have set (including types of conditions they have required) for concessions.
 28. Other conditions in a concession cannot derogate from any ministerially-set standard conditions for that concession, and are of no effect where there are inconsistencies.
 29. Setting conditions for existing concessions can only be done through regulations, rather than the ministerial power in the above recommendations.
 30. Regulations setting conditions for existing concessions must specify:
 - the conditions being applied to concessions (either exact conditions or options for conditions);
 - the concession types, activities, or categories the conditions apply to; and
 - if there is a choice between options for conditions, the deadline by which the Minister and concession-holder must agree on a condition.
 31. Standard concession rents, royalties, and fees (activity fees) can be set in regulations, which may:
 - use specific dollar amounts, formulae or other methodologies for calculating activity fees, by concession types, activities, and/or categories;
 - set different fees and pricing models for activities, including for different times of the year or in different locations); and
 - provide for discounts, waivers and exemptions.
 32. The regulations for activity fees can apply to any type of conservation land.
 33. The regulations for activity fees must be reviewed every 3 years.
 34. The Minister can suspend processing of an application if requested by the applicant.
 35. The Minister can reject an application if it has been suspended for longer than 120 working days.
 36. Define and set a statutory timeframe for processing of one-off applications in regulations made under section 48AA of the Conservation Act, rather than in the primary legislation.
 37. Allow a term of up to 60 years where the useful life of fixed assets and structures associated with the concession is longer than 30 years.

Competitive allocation of concessions

38. Use regulations to specify when the Minister cannot initiate an allocation process (e.g. competitive allocation) for certain concessions, or process applications received from parties other than the incumbent concession holder.
39. For an allocation process:

- the Minister can invite one or more potential applicants to apply by a set deadline; and - the applications can be processed in parallel and must comply with the standard concession application requirements and statutory tests at a minimum (with the Minister able to seek any extra information and consider other criteria appropriate for the opportunity).
<i>Commencement</i>
40. The Bill will commence the day after Royal assent.
<i>Miscellaneous</i>
41. Four minor and technical changes, previously agreed by Cabinet, will no longer be progressed in the Bill: - Replacing references to Westland National Park with Westland National Park/Tai Poutini National Park. - Replacing references to Commissioners of reserves with the Director-General; - Raising the threshold for auditing of reserve boards and reserve administering bodies to those with an annual operating expenditure exceeding \$550,000. - Removing the requirement for New Zealand Police to have Department of Conservation authorisation to hold seized items under the Wild Animal Control Act 1977.
42. One change that Cabinet agreed was not included in the Bill as it requires further consideration, and will instead be assessed during the select committee process: §9(2)(f)(iv)