Cabinet paper material

Proactive release

Hon Tama Potaka, Minister of Conservation

Title: *Modernising Conservation Land Management: Policy Approvals*

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These documents have been proactively released:

Cabinet paper – Modernising Conservation Land Management: Policy Approvals

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Regulatory impact statement: Conservation land management planning

Regulatory impact statement: Modernising the concessions framework

Regulatory impact statement: Competitive allocation of concessions

Regulatory impact statement: Amenities areas

Regulatory impact statement: Enabling more flexibility for land exchanges and disposals

Material redacted

Some parts of this information release have been withheld as they are not appropriate for release. Where this is the case, the relevant sections of the Official Information Act 1982 (OIA) that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it. If requested under the OIA, these sections would be reconsidered for release at that time.

In Confidence

Office of the Minister of Conservation

Cabinet Economic Policy Committee

Modernising Conservation Land Management: Policy Approvals

Proposal

1 This paper seeks policy approvals to modernise conservation land management so drafting of legislation can commence.

2 This is the first of two papers seeking policy decisions for a Conservation Acts (Land Management) Amendment Bill. I will return to Cabinet shortly to seek decisions on access charging for conservation land.

Relation to Government priorities

3 These proposals support economic growth by unlocking greater economic activity on public conservation land while protecting biodiversity and nature, and our iconic landscapes.

Executive summary

4 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.

5 I propose a new model for managing conservation land that will speed up regulatory decisions, enable biodiversity protection and unlock greater economic activity on conservation land where the risks are manageable. My changes will create an effective and efficient conservation system, providing clarity both for those being regulated and government as regulator.

6 Economic activity on conservation land (nearly a third of New Zealand land) is regulated through management plans and national-level policies. These guide decisions on 'concessions', which authorise a range of activities, from small one-off events, to larger projects involving construction of visitor and tourism infrastructure.

7 Old plans and rules (and related decision-making) constrain economic activities that could have a range of benefits without negatively impacting our conservation objectives. Several factors cause these problems:

7.1 Management plans, which set rules for concessions, are outdated, bloated and sometimes contain contradictory rules. Only around 20% of plans are current, and the overarching 'general' policies are now 20 years old. Plans contain overly rigid barriers to activity on conservation land.

7.2 The system is one size fits all and inhibits modern regulatory approaches even for low-risk and largely similar activities.

7.3 There is ongoing ambiguity about how to give effect to Treaty principles which has generated uncertainties around processing and decision-making.

8 Public consultation on potential changes to address these issues took place from November 2024 to February 2025, including 25 regional hui with Iwi. More than 5,500 submissions were received. Overall, there was agreement the current system is not working and needs to be modernised. However, views on solutions varied.

9 The model I propose includes:

9.1 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 around regulatory rules instead of an array of other bodies;

9.2 Faster processing of concessions through more simplification and standardisation, with classes of concession activities able to be pre-approved or permitted;

9.3 Removal of barriers to make it easier to transfer concessions (including relevant obligations) between organisations, alongside protection for existing investment in private property;

9.4 Driving innovation for tourism, the economy and nature, through settings that enable competitive allocation of scarce concession opportunities, where appropriate; and

9.5 More flexible rules for exchanging and disposing of conservation land.

10 Proposed changes will codify what is required to give effect to Treaty principles under section 4 of the Conservation Act. There will be clear requirements about what is required to comply with section 4 in processes relating to management planning, concessions and land exchanges/disposals. Satisfying these requirements will be sufficient to comply with section 4, providing clarity to decision makers and Treaty partners. These reforms will also clarify that section 4 does not require making concessions for existing major businesses with significant assets operating on conservation land contestable.

11 Today, I seek agreement to key policy decisions to enable drafting of legislation to begin. I will seek further Cabinet agreement to other aspects of conservation reform, including access charging, in the coming weeks.

Background

12 Concessions are issued by the Minister of Conservation under a hierarchy of laws and plans produced under the Conservation Act. The two national policies (Conservation General Policy and the General Policy for National Parks) have not been substantially amended since they were made in 2005. There are over 100 statutory planning documents under these, around 80% of which are outdated. Many plans restrict economic activities without clear reason. Others overlap and have contradictory rules, making it unclear what can be authorised.

13 A clearer national policy and simpler area plans are needed for efficient processing of concessions and for rules that are proportionate and are not contradictory. Without them, every application requires an in-depth analysis, and some pose a high risk of challenge around interpretation.

14 In October 2024, Cabinet agreed to consult on changes to modernise conservation land management [ECO-24-MIN-0235]. Over 5,500 submissions were received, with the vast majority of these in the form of a template submission. Submitters generally agreed the status quo needs fixing. There was support for streamlining management planning and faster concessions processes. However, there were considerable differences in views on how to achieve these goals.

15 Greater use of competitive allocation in some scenarios was generally supported, although Treaty partners and incumbent operators both thought they, respectively, should receive preference in any contestable process. Some submitters were opposed to greater economic activity on conservation land and expressed scepticism about proposals to loosen settings for exchanging and disposing of conservation land. They also did not support shifting approval of all national policy and area plans to the Minister of Conservation, due to concerns about inappropriate use of conservation land.

Reform will provide for a streamlined planning system

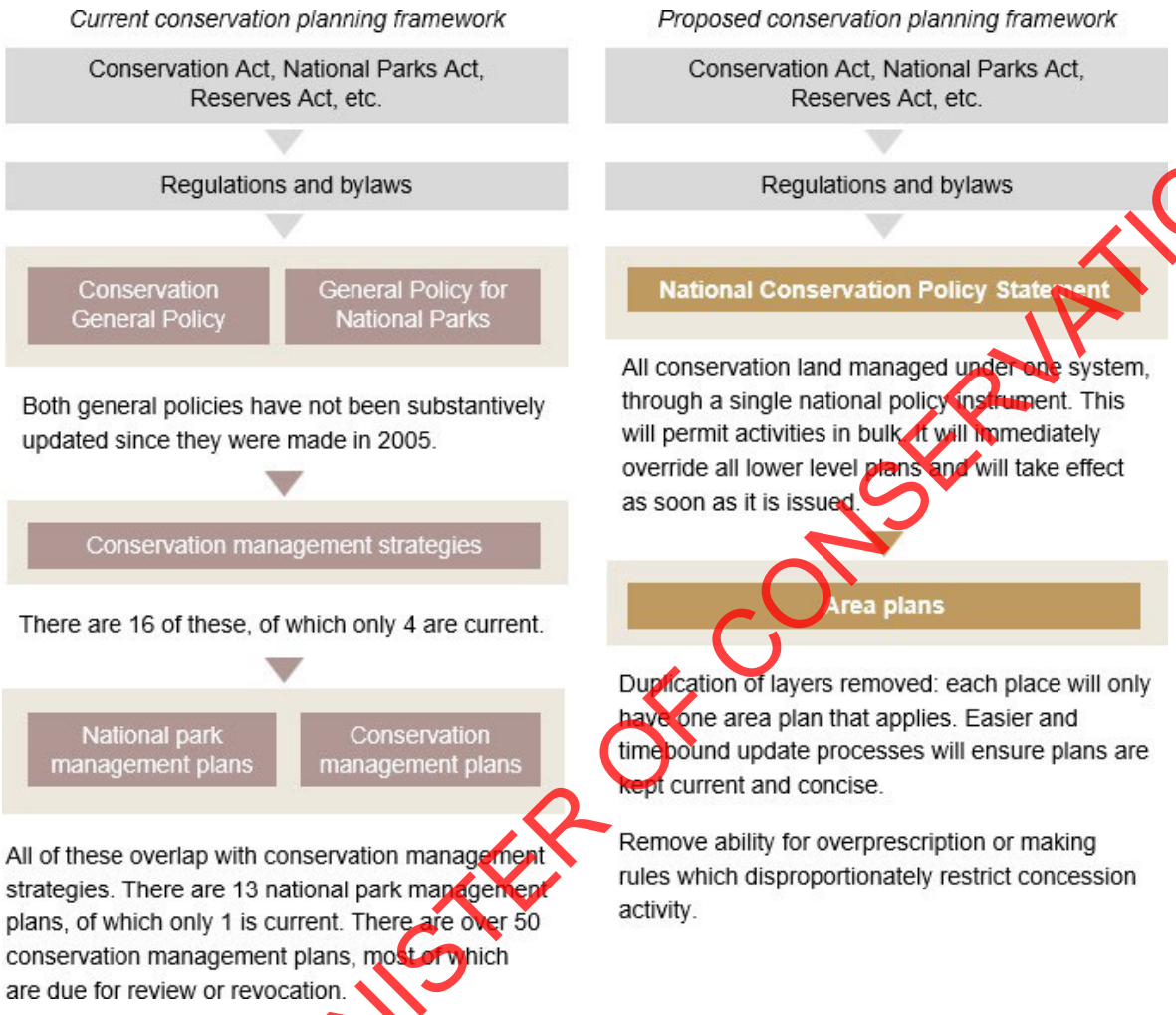
16 I propose replacing the existing Conservation General Policy and General Policy for National Parks with a single National Conservation Policy Statement (**NCPS**).

17 The NCPS will be secondary legislation and will set out what content area plans can include. The single NCPS will reduce the ability for plans to create unnecessary barriers (e.g., limits unconnected to environmental effects) and create a more enabling environment for appropriate activities.

18 I propose replacing conservation management strategies (**CMSs**), conservation management plans (**CMPs**), and national park management plans (**NPMPs**) with a single layer of area plans.

19 The purpose of area plans is to implement the NCPS and to set, where necessary, objectives and policies specific to the local context. An area plan will apply to all public conservation land within its boundaries by default.

20 The proposed streamlined system of plans is outlined below:



21 I also propose the Minister of Conservation approves the NCPS and area plans, except where Treaty settlements provide alternative arrangements (e.g., co-approval roles for Iwi). In such context, the Government can create one coherent regulatory framework and be accountable for both the rules and the decisions under them – instead of as now, where the Minister is accountable for decisions and does not set or control the rules.

22 Appendix 1 provides further details on the form and function of the proposed NCPS and area plans for drafting the legislative amendments.

Drafting the first NCPS in the Bill for these changes

23 I recommend making the first NCPS through the Bill that gives effect to these changes. This will ensure a quick transition to the new planning system. I will seek Cabinet agreement to NCPS content in September 2025.

24 Prior to this, I will consult with Iwi, the New Zealand Conservation Authority, and key stakeholders, including a selection of major concessionaires, Federated Farmers, and the Environmental Defence Society. I recommend key Ministers (the Attorney-General, Minister for Tourism and Hospitality, and the Minister for Resources) be delegated authority alongside me to approve policy matters for targeted engagement.

Consultation on subsequent NCPS and area plans

25 The new planning framework will provide a meaningful, explicit, timed-based statutory role for Iwi in the development of the NCPS and area plans. For area plans, the Department of Conservation (**DOC**) will seek early contributions from Iwi about their aspirations and objectives for the plan and seek feedback on the objectives once drafted. Iwi will also be able to provide feedback on the plan after it is revised following public consultation. Outside of preexisting Treaty settlement arrangements, Iwi will not be able to veto the final plan, but Iwi comments must be considered before the plan is approved.

26 The roles of the New Zealand Conservation Authority and conservation boards will change from approval of policies and plans to advisory roles.

27 Proposed details on consultation, including statutory timeframes, are detailed in Appendix 1.

Introducing new amenities areas

28 I recommend introducing a new category of amenities areas. The purpose of an amenities area is to provide for the development and operation of recreational and public amenities and related services appropriate for the public use and enjoyment of conservation land. They give effect to this purpose by:

28.1 Creating a specified zone for the purposes of tourism and visitor-related development;

28.2 Applying rules to the zone that are more enabling of tourism and recreation and removing restrictions that would apply to other conservation land; and

28.3 Enabling a spatial planning approach to development within that zone.

Concessions will be processed faster

29 As of May 2025, there were 800 permission applications, of which 15% were more than a year old. DOC's monthly processing rate more than doubled between April 2024 and April 2025, but application volumes are growing, and the law stifles efficiency through a one size fits all approach.

30 The NCPS and area plans will take the churn out of dealing with each and every concession application by approving, exempting, or prohibiting entire classes of activities. This will remove low-complexity concession applications from the system, which currently need individual assessment and often involve long timeframes.

31 Some of the delays in processing concessions and reviewing plans can be attributed to ambiguities about how to give effect to Treaty principles as set out in section 4 of the Conservation Act. In 2018, the Supreme Court found DOC had not properly applied section 4 in relation to two commercial concessions.[1] This has raised expectations, and caused uncertainty in making decisions, as well as delays and frustration for concessionaires, Iwi/Hapū and officials.

32 Concession applications currently need to be processed on a 'first in, first served' basis. There is no ability to initiate a tender or other contestable process once an application has been submitted for an opportunity. This also means if applications are not progressed for

[1] *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation* [2018] NZSC 122.

any reason (e.g., lack of information being provided), they remain in the queue with their place effectively preserved.

33 To ensure concessions are processed in an efficient manner, I propose:

33.1 Setting statutory timeframes for DOC to make decisions on applications;

33.2 Enabling greater standardisation of concession pricing, terms, and conditions;

33.3 Making it easier to transfer concessions in their entirety to a new organisation/operator;

33.4 Streamlining public notification and reconsideration steps; and

33.5 Allowing for longer terms based on the useful life of fixed assets and structures, or where concessions involve critical infrastructure.

34 Specific details of these proposals are outlined in Appendix 1.

9(2)(f)(iv) [redacted]

Contractual management of concessions

36 I propose enabling rates for concession rents, royalties and fees to be set in secondary legislation, including discounts and waivers. Rents, fees and royalties for specific activities must be reviewed periodically (including public consultation) and regulated pricing will apply to all relevant active concessions, including changes made following a review.

37 We need to ensure smooth transfers if a business is sold or goes under, or if a new operator takes over through a contestable or voluntary process. I propose changes to enable the liabilities under a concession to be transferred without a new concession process. 9(2)(f)(iv) [redacted]
The Crown would be required to confirm that a new operator can meet the concession obligations – to minimise risk of default that creates liabilities for the Crown.

38 9(2)(f)(iv) [redacted]

Competitive concessions processes can increase competition

39 I am proposing three things. First, these proposals will make it easier to contestably allocate new concession opportunities among multiple operators where demand is high, and supply is limited (e.g., beehive permits or aircraft landing permits in particular locations). This will end the 'first in, first served' approach. It will ensure fairness, drives the most economically efficient outcome, and encourages innovation and value-for-money.

40 Second, I am seeking legislative changes to clarify that section 4 of the Conservation Act does not require concession opportunities to be made contestable, particularly for big, complex concessions with significant private investment. Generally, only one operator can hold these types of concessions, and their business cannot be easily separated from the concession opportunity (e.g., ski fields, hotels, and tourism businesses) creating a monopoly in that area. They are relatively small in number but can be significant businesses in terms of revenue. The existing operator has usually invested significantly in fixed assets and wants to renew.

41 While Iwi have expressed interest in applying for these existing major concessions (including leases pre-dating the Conservation Act), when they reach the end of their terms, some concessionaires have expressed significant concerns with making these opportunities contestable. They see legal problems with this, especially given significant investment in private property on conservation land.

42 The courts have not ruled that such concessions must be made open to Iwi under section 4 of the Conservation Act. However, this matter is contested, and parties are willing to seek further clarity from the courts. This ambiguity has created uncertainties for applications and economic investment on or adjacent to conservation land.

43 9(2)(f)(iv) [redacted]

Enabling greater land exchanges and disposals

44 There is currently a very high bar for exchanges and disposals of conservation land: only conservation land of 'no' or 'very low' value can be exchanged or disposed. This means the conservation estate cannot be optimally maintained.

45 I recommend adopting a similar net conservation benefit test as the Fast-track Approvals Act 2024 for exchanges of conservation land.

46 There are instances where disposing of land could support better conservation land management. I recommend disposals be subject to the following tests:

46.1 Values on the land are not considered essential for indigenous biodiversity;

46.2 Conservation values present are represented in other protected areas in the region;

46.3 There are no rare or distinctive species or ecosystems; and

46.4 The Director-General has recommended disposal.

47 As my intention is not to dispose or exchange land of high value, the legislation will specify the categories of land not eligible for exchange or disposal as detailed in Appendix 1.

48 We must ensure rights of first refusal and any other relevant responsibilities (e.g., provided through Treaty settlement redress) are upheld. Iwi will be consulted as part of exchange and disposal processes, with public consultation required for all disposals. I

propose that the Minister of Conservation must consult the Minister for Treaty of Waitangi Negotiations and Minister for Māori Development before deciding whether to dispose or exchange conservation land, similar to fast-track legislation processes.

Clarifying how Treaty principles will be given effect to through legislation

49 Public submissions suggested there is significant or variable opposition to changes to section 4 of the Conservation Act. Section 4 of the Conservation Act requires giving effect to Treaty principles. However, section 4 does not provide legislative detail about how, leading to legal challenges and risks.

50 These proposals will give legislative clarity around how to give effect to Treaty principles through some codification in the Conservation Act. My proposals clarify what is required across land management and concession processes. This includes specificity around procedural steps, statutory roles for Iwi, and requirements to consider Treaty rights and interests where currently these are not explicit. The table below provides further detail.

Status quo	Proposed changes
Management planning While some Treaty settlements provide explicit roles for Iwi in management planning, there is otherwise no clear role for Treaty partners. Several planning processes have stalled due to an inability to reach agreement on how Iwi will be involved. Of the four plan reviews underway, two have come to a halt in recent months for this reason.	'Consultation' role for Iwi in drafting the NCPS and area plans. Set processes and set timeframes for consultation. Requirement for the Minister of Conservation to consider impact on Treaty rights and interests before approving NCPS and area plans. Existing, specific roles provided through Treaty settlements (e.g. co-drafting with Te Hiku Iwi) will be maintained.
Concessions In some cases, Iwi engagement on applications is disproportionate to the scale and nature of the activity concerned. This contributes to processing delays. Some Iwi have said consultation on concession applications can be overwhelming.	There will be fewer individual applications requiring individual consultation due to 'class'-level decisions taking some bulk out of the system. No change in relation to role of Treaty partners: consultation unless provided otherwise in settlements. If their views are sought, Treaty partners will have 20 working days to provide their views, or any longer timeframe specified by the Minister. 9(2)(f)(iv)
Land exchanges and disposals Law does not specify how Treaty partners are to be involved in land exchanges and disposals.	Requirement to 'consult' Iwi on any exchange or disposal process ahead of public notification. Requirement for the Minister of Conservation to consider impact on Treaty rights and interests before approving exchange or disposal. Rights of first refusal in settlements will be upheld.

51 I do not propose changing the section 4 wording. An overall descriptive clause will be added to the Conservation Act following section 4 with signals and signposts to the new requirements in various other parts of the legislation as outlined in the table above. Drafting will make clear that complying with these requirements will be sufficient to

comply with section 4 (in relation to the relevant processes), subject to advice from Parliamentary Counsel Office on drafting. The legislation will also be clear on what section 4 does not require, such as making concessions contestable.

52 I will liaise with the Ministerial Oversight Group for the Treaty principles provisions review on any drafting issues that arise regarding section 4 and Treaty principles.

Upholding Treaty settlements and marine and coastal area rights

53 Many Treaty settlement commitments embed involvement of Treaty partners in planning and concessions processes and are relevant to the proposals in this paper. Treaty partners' feedback during consultation strongly emphasised the need for the Crown to uphold settlement redress, and to engage meaningfully and in good faith.

54 Engagement with Iwi is underway to discuss how to uphold the intent of Treaty commitments and Takutai Moana rights, in the context of these reforms. This includes with groups who have accepted a Crown offer, and post-settlement governance entities (**PSGEs**). DOC will also work with Te Tari Whakatau through their ongoing engagement with groups who have signed an Agreement in Principle, or initialled or signed a Deed of Settlement, as well as Takutai Moana applicants.

55 9(2)(f)(iv) [redacted]

Consequential matters

56 Giving effect to the proposals in this paper will require consequential and detailed decisions on additional matters, such as the following:

56.1 Eligibility criteria for class concessions (exempt, pre-approved, prohibited classes) and mechanisms for changing these.

56.2 Whether area plans should be secondary legislation.

56.3 Whether reserves that are not managed by DOC should be transitioned to the new area plan system.

56.4 The instruments for setting standard concession prices, terms and conditions.

56.5 Transitional issues relating to existing concessions, 9(2)(f)(iv) [redacted]

56.6 How long concessionaires can continue operating on an expired concession.

56.7 Whether existing 'amenity areas' under section 23A of the Conservation Act should become proposed 'amenities areas' or be renamed to avoid confusion.

56.8 9(2)(f)(iv) [redacted]

Further amendments to the Conservation Act

57 I will seek Cabinet decisions on enabling access charging for some conservation land in the coming weeks [ECO-24-MIN-0236]. Any legislative changes to enable access charging will be included in this Bill.

58 9(2)(f)(iv) [redacted]

59 9(2)(f)(iv) [redacted]

Cost-of-living implications

60 There are no immediate cost-of-living implications from this paper.

Financial implications

61 These changes will improve appropriate use of concession revenues and cost recovery practices. Once the empowering provisions are in place, when seeking Cabinet agreement to standard concession pricing, I will provide more information about estimated fiscal impacts. This will include how revenue generation and allocation from concessions will contribute to DOC's broader financial sustainability programme.

Legislative implications

62 9(2)(f)(iv) [redacted]

63 I expect parts of the Conservation Act will need to be rewritten, and consequential changes needed in other laws. Given the likely scale of drafting required, I seek authorisation to make decisions under delegation during drafting. This delegation will not apply where I intend to report back to Cabinet (e.g., on the NCPS).

64 This is an opportunity to modernise other parts of conservation law. Appendix 2 lists some changes, including ones agreed in 2022 but not enacted [ENV-22-MIN-0059].

Risks – legally privileged

65 9(2)(h) [redacted]

Impact analysis

Regulatory Impact Statements

66 Impact analysis requirements apply to most proposals in this paper. Two panels from DOC, the Ministry of Business, Innovation and Employment (**MBIE**) and the Ministry for Primary Industries (**MPI**) have reviewed the five Regulatory Impact Statements (**RISs**) accompanying this Cabinet paper. The panels consider that one meets the quality assurance (**QA**) criteria and four partially meet the criteria. The following is an abridged version of the QA statements. The full versions are attached in the RISs.

RIS	Assessment	Summary of feedback
Management planning	Meets criteria	The RIS is written clearly, and it is easy to understand the problem and how the proposals will address this. There is demonstrated evidence of consultation and how the feedback from consultation has informed the preferred option to streamline the conservation management planning system. The RIS indicates that the benefits of the preferred option are likely to outweigh the costs.
Concessions processing	Partially meets criteria	The requirements were not fully met because of the limited engagement undertaken on certain options. Further detail is also needed on real world impacts of the issue.
Competitive allocation	Partially meets criteria	The requirements were not fully met because of the limited engagement undertaken on certain options and some missing clarity on the full range of options.
Amenities areas	Partially meets criteria	The RIS does a good job of emphasising conservation outcomes and reflects submission feedback, though it could more clearly explain how that feedback influenced policy development. While the qualitative assessment of benefits is sound, the RIS would be strengthened by discussing how existing amenity areas have managed the conservation/visitor balance, referencing international examples, and situating the proposal within the broader conservation law reform context.
Land exchange and disposal	Partially meets criteria	The requirements were not fully met because of the limited engagement undertaken on certain options.

67 The Ministry for Regulation has determined the following proposals are exempt from the requirement to provide a RIS on the grounds that there are no or only minor economic, social, or environmental impacts:

67.1 Amend the requirement for audited accounts to 'relevant financial statements';

67.2 Clarify legislation to support online issuing of hunting permits;

67.3 Removing the need for newspaper notification;

67.4 Enable electronic delivery of infringement notices; and

67.5 Clarify that DOC can require online payment of infringement fees.

68 The Ministry for Regulation has determined the proposal to allow Crown wharves attached to seabed adjacent to conservation land to be managed as if they were on conservation land is exempt from the requirement to provide a RIS on the grounds the economic, social, or environmental impacts are limited and easy to assess.

Climate Implications of Policy Assessment

69 The policy proposals in this paper do not have any climate implications.

Population implications

70 There are no immediate population implications from this paper.

Treaty implications

71 There has been significant engagement with Treaty partners on these proposals. The proposals in this paper will provide clarity about section 4, outlining the various implications that will be addressed through specific provisions (e.g. clear roles for Iwi in management planning processes), and signposting. Engagement with Iwi is underway to discuss how to uphold Treaty settlement commitments and Takutai Moana rights in the context of these reforms.

Human rights

72 The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Use of external resources

73 Four consultants from MartinJenkins assisted with this work given their prior work on the public consultation and the Milford Opportunities Project.

Consultation

74 Public consultation took place from November 2024 to February 2025.

75 Engagement with Iwi, including PSGEs, is underway to discuss how to uphold Treaty settlement commitments in the context of these reforms. DOC is also engaging with the National Iwi Chairs Forum's Pou Taiao technicians on upholding settlements and drafting the first NCPS.

76 The following agencies have been consulted on this paper: Department of Internal Affairs, Land Information New Zealand, MBIE, Ministry for Culture and Heritage, Ministry for the Environment, Ministry for Regulation, Ministry of Housing and Urban Development, Ministry of Justice, Ministry of Transport, MPI, New Zealand Transport Agency, Te Puni Kōkiri, Te Tari Whakatau, Te Waihanga and Treasury. Crown Law, the Department of Prime Minister and Cabinet, and the Parliamentary Counsel Office have been informed.

Communications

77 Decisions on this paper will be announced together with those in the coming weeks on charging for access to some conservation land.

Proactive release

78 I intend to proactively release this paper with the press release announcing Cabinet's decisions. Redactions will be applied as appropriate under the Official Information Act 1982.

Recommendations

The Minister of Conservation recommends that the Committee:

1 note in October 2024, Cabinet approved public consultation on changes to modernise conservation land management and invited the Minister of Conservation to report back with recommended legislative amendments [ECO-24-MIN-0235];

Policy approvals

2 agree to the proposals to modernise conservation land management as detailed in this paper and Appendix 1, which will:

2.1 streamline the conservation management planning system by replacing the Conservation General Policy and General Policy for National Parks with a National Conservation Policy Statement (NCPS);

2.2 replace conservation management strategies, national park management plans and conservation management plans with a single layer of areas plans;

2.3 enable the creation of amenities areas to provide for recreational and public amenities and related services on conservation land;

2.4 enable faster processing of concessions, including by specifying classes of activities;

2.5 streamline contractual management of concessions;

2.6 enable competitive allocation of concessions; and

2.7 enable greater exchange and disposal of conservation land.

3 9(2)(f)(iv) [redacted]

Codifying section 4

4 agree to add an overall descriptive clause to the Conservation Act following section 4 with signals and signposts to new requirements in various other parts of the legislation;

5 note drafting will make clear that complying with these requirements will be sufficient to comply with section 4 (in relation to the relevant processes), subject to advice from Parliamentary Counsel Office;

6 agree the legislation will specify what section 4 does not require, such as making concessions contestable;

7 note the Minister of Conservation will liaise with the Ministerial Oversight Group for the Treaty principles provisions review on any drafting issues that arise regarding section 4 and Treaty principles;

Treaty settlements and Takutai Moana rights

8 note the intent to uphold Treaty settlements through these reforms including redress commitments made by the Crown in Crown offers, Agreements in Principle, initialled and signed Deeds of Settlement, and settlement legislation;

9 9(2)(f)(iv) [redacted]

Drafting of legislation

10 9(2)(f)(iv) [redacted]

11 invite the Minister of Conservation to issue drafting instructions to the Parliamentary Counsel Office to give effect to decisions on this paper including appendices;

12 authorise the Minister of Conservation to make decisions consistent with this paper on issues that arise during drafting except those in recommendations 3 and 9;

13 agree to also include in the Bill, proposals agreed in 2022 but not enacted [ENV-22-MIN-0059] as listed in Appendix 2;

National Conservation Policy Statement

14 note the Minister of Conservation will seek policy approvals for the NCPS in September 2025 after targeted consultation;

15 delegate the authority to agree policy matters to be consulted on for the first NCPS to the Minister of Conservation, the Attorney-General, Minister for Tourism and Hospitality and the Minister for Resources;

Other policy proposals

16 note legislative amendments for the following could also be progressed through this Bill:

16.1 enabling charging for access to some conservation land, on which the Minister of Conservation will report to Cabinet in the coming weeks [ECO-24-MIN-0236]; and

16.2 9(2)(f)(iv) [redacted]

Authorised for lodgement

Hon Tama Potaka

Minister of Conservation

Appendix 1: Proposals in detail

Streamlining the conservation management planning system

1 The NCPS is secondary legislation.

2 The purpose of area plans is to implement the NCPS and to set, where necessary, objectives and policies specific to the local context. An area plan will apply to all public conservation land within its boundaries by default.

3 The Director-General of Conservation has the power in legislation to determine the boundaries of the new area plans (noting that there may be different arrangements for where boundaries are set out in Treaty settlements which are subject to further decisions).

4 The National Conservation Policy Statement (NCPS) and area plans can provide policy direction for the implementation of the following Acts (as per the status quo):

- 4.1 Conservation Act 1987
- 4.2 National Parks Act 1980
- 4.3 Reserves Act 1977
- 4.4 Marine Reserves Act 1971
- 4.5 Hauraki Gulf Marine Park Act 2000
- 4.6 Marine Mammals Protection Act 1978
- 4.7 Wild Animals Control Act 1977
- 4.8 Wildlife Act 1953.

5 The NCPS can:

- 5.1 Specify what types of content area plans can and cannot include (e.g. setting the template);
- 5.2 Make class decisions on concessions (exempt, pre-approved, prohibited activities); and
- 5.3 Define Crown activities exempt from a resource consent under section 4 of the Resource Management Act 1991 (RMA).

6 The purpose of area plans is to implement the NCPS and to set, where necessary, objectives and policies specific to the local context.

7 Area plans can (subject to the NCPS):

- 7.1 Set place-based objectives and policies;
- 7.2 Include concise descriptions of core conservation values of places; and
- 7.3 Define activities exempt from a resource consent under section 4 of the RMA.

8 The NCPS and area plans cannot:

8.1 Derogate from the legislation; or

8.2 Include actions or milestones for DOC; or

8.3 Duplicate legislative provisions; or

8.4 Set limits based on the number of concessionaires that can operate within an area; or

8.5 Affect agreements or contracts between the Crown and landowners.

9 Area plans cannot derogate from the NCPS.

Transition to the new system

10 The first NCPS will be made through the Conservation Amendment Bill.

11 Within 12 months of the Bill passing, conservation management strategies (CMSs), conservation management plans (CMPs), and national park management plans (NPMPs) will be translated by the Director-General of Conservation into area plans (removing errors, making them consistent with the NCPS and legislation, and moving things between plans to ensure there is a single layer). As there will be no substantial policy changes no consultation processes will be required.

12 Management plans for reserves managed by DOC will become area plans or chapters in wider area plans.

13 The Minister of Conservation will decide whether reserve management plans developed by administering bodies under the Reserves Act are to become area plans.

14 Conservation management plans that are no longer necessary as part of the transition to the new system will be revoked.

15 Plan reviews that are in progress at commencement of the Act must comply with new content requirements set out in legislation and the NCPS and new process requirements apply for the next applicable step. The Director-General Conservation will determine which stage of the new process, the review maps to. There is discretion to repeat notification if deemed necessary.

16 Applications for authorisations already in progress at the commencement of the NCPS must comply with the new NCPS.

17 Any new applications for authorisations made following commencement of the NCPS must comply with the new NCPS.

NCPS processes (will not apply to first NCPS made through Bill)

18 The Minister may initiate an amendment to the NCPS at any time and direct the Director-General to prepare those amendments following these steps:

18.1 The Director-General will provide Iwi and the New Zealand Conservation Authority (NZCA) a minimum of 40 working days to review and provide comment on the draft and may revise the draft in light of those comments.

18.2 The Director-General must publicly notify the draft, invite comments from the public, and directly notify Iwi, the NZCA, conservation boards and the New Zealand Fish and Game Council. They will have at least 40 working days to comment. Public notification will not include hearings.

18.3 The Director-General must prepare a summary of submissions and an impact analysis report (including Treaty rights and interests) and may revise the draft NCPS.

18.4 The Director-General will provide Iwi and the NZCA the summary of submissions, impact analysis report, and revised draft. Iwi and the NZCA have 30 working days to provide written comment on the revised draft to the Minister.

18.5 The Minister approves the NCPS and must have regard to the summary of submissions, the written comments of Iwi and the NZCA, and the impact analysis report when doing so.

18.6 The Minister may request the Director-General to make revisions.

19 Minor and technical changes to the NCPS would not require drafts being shared with Iwi and NZCA, public consultation, or an impact analysis report. They can also be initiated by the Director-General of Conservation without the need for Ministerial direction.

Area plan processes

20 The Minister may initiate an amendment of an area plan at any time following these steps:

20.1 The area plan process will be completed within 12 months:

20.1.1 4 months for drafting;

20.1.2 2 months for public consultation;

20.1.3 3 months for revision;

20.1.4 2 months for Iwi, NZCA and conservation board comment.

20.2 The Minister may, at the request of the Director-General, extend timeframes but must give reason for doing so and set a new reasonable timeframe.

20.3 The Director-General will draft the area plan, in consultation with the relevant Iwi and conservation board(s). Iwi and conservation board consultation requires seeking their views on:

20.3.1 Their aspirations for the objectives and policies in the plan before drafting; and

20.3.2 The draft objectives and policies once drafted.

20.4 The Director-General must publicly notify the draft and provide a minimum of 40 working days for comments from the public. Public notification will not include hearings.

20.5 The Director-General must prepare a summary of submissions and an impact analysis report (including impacts on Treaty rights and interests).

20.6 The Director-General will revise the draft area plan and provide the draft area plan and summary of submissions to the NZCA, relevant Iwi and conservation board(s), who have 40 working days to provide comment.

20.7 The Director-General may revise the draft before sending the area plan to the Minister for approval, accompanied by the summary of submissions, impact analysis report, and written comments from relevant Iwi, conservation board(s), and the NZCA.

20.8 The Minister approves the plan, taking into account the submissions, impact analysis report, and written comments from relevant Iwi, conservation board(s), and the NZCA.

20.9 The Minister may request that the Director-General makes revisions.

21 Amendments to update specific policies follow a truncated process with shorter timeframes:

21.1 2 months drafting;

21.2 1 month public consultation;

21.3 2 months revision; and

21.4 1 month for Iwi, NZCA and conservation board comment.

22 The Minister may, at the request of the Director-General, extend these timeframes but must give reason for doing so and set a new reasonable timeframe.

23 Minor and technical changes would not require drafts being shared with Iwi and conservation boards, public consultation, or an impact analysis report. They can also be initiated by the Director-General of Conservation without the need for Ministerial direction.

24 Amendments to area plans that are required to ensure consistency with the NCPS must be made as soon as practicable. They follow the same process as minor and technical changes. The public must be notified once any relevant amendments to area plans have been made.

25 Area plans do not need to be reviewed within a specific timeframe.

26 The Minister may initiate an amendment of an area plan if requested by a concession applicant and may require the applicant to pay all or part of the actual and reasonable costs.

Processing concession applications

27 The Minister must make a decision on a concession application within the following timeframes:

27.1 One-off applications: 10 working days.

27.2 Permits (other than one-off applications): 80 working days.

27.3 Non-notified licenses and easements (other than one-off applications): 100 working days.

27.4 Notified licences and leases: 180 working days.

28 The statutory timeframe starts when a complete application is accepted and lodgement fee is paid, and concludes when the Minister makes the decision to grant or decline the application.

29 The Minister can extend the timeframe at any point during the application process, and must provide reasons for the extension to the applicant.

30 The processing clock is paused if:

30.1 The applicant requests their application be put on hold; or

30.2 Further information is requested from the applicant and a timeframe longer than ten days is provided to the applicant; or

30.3 A report is commissioned or advice sought on matters raised in relation to the application (excluding Treaty partner engagement); or

30.4 Interim payments have not been settled by the specified deadline.

31 Concession applications can be required to be made in a specified form, or include certain information in addition to what is already required by the Conservation Act.

32 Applicants may be required to pay a lodgement fee for a concession application.

33 The Director-General can issue a request for payment to recover costs associated with processing a concession from when a complete application is received.

34 The Minister may decline an incomplete application at any time.

35 The Minister may decline an application within 10 working days if:

35.1 It is clear that the application will not meet statutory requirements, i.e. the application obviously does not comply with, or is inconsistent with, the Conservation Act or any statutory planning document (currently the general policies, CMS, CMP and NPMPs and, in future, the NCPS and area plans); or

35.2 The applicant has a history of serious or repeated non-compliance with concession conditions, including if the applicant owes money to the Crown in relation to current or previous concessions; or

35.3 The Crown has plans for specific areas of public conservation land and the Minister needs the ability to decline any applications to allow for those plans to be implemented.

36 The Minister of Conservation can decline a concession application within 20 working days to initiate a competitive allocation process.

37 If further information is requested, applicants will have 10 working days to provide further information if requested, and if information is not provided the application may be declined.

38 The Minister can pause consideration of a concession application if the Director-General has made a written demand under section 60B of the Conservation Act for payment to recover costs incurred to date in considering the application and payment has not been may within 20 working days of receiving written notice. The Minister may decline the application is payment is not settled within a further 28 days.

39 Whether engagement with Treaty partners takes place on a concession application is a matter of operational discretion, to be supported by explicit guidance and protocols.

40 If their views are sought, Treaty partners will have 20 working days to provide their views on the concession application, or any longer timeframe specified by the Minister.

41 Applications that must be publicly notified do not need to be notified if the Minister intends to decline the application. The Minister has discretion to determine whether a hearing is appropriate as part of public notification.

42 Public notification is not required for grazing licences.

Reconsiderations

43 Applicants must submit a reconsideration request within 20 working days of being notified of the concession decision.

44 Reconsiderations must be processed within 30 working days, or any longer timeframe specified by the Minister.

45 Reconsideration of a concession decision can only be requested once. As part of the reconsideration, the Minister cannot consider any information that was not considered as part of the original decision, unless:

45.1 The information existed at the time the decision was made and would have been relevant to the making of that decision; and

45.2 In all the circumstances it is fair to consider the information.

Competitive allocation of concessions

46 Retain the general discretion for the Minister to decide when to competitively allocate concession opportunities based on whether:

46.1 Supply is limited;

46.2 A market is likely to exist (i.e. demand would exceed supply); and

46.3 The benefits of running a competitive allocation process outweigh the costs.

47 Clarify that competitive allocation cannot be triggered on grounds of section 4 of the Conservation Act (giving effect to Treaty principles).

48 Criteria for choosing between multiple suitable applicants in a contestable process include:

48.1 Performance;

48.2 Returns to conservation;

48.3 Offerings to visitors;

48.4 Benefits to the local area; and

48.5 Recognition of Treaty rights and interests.

Contractual management of concessions

49 Enable the rate for concession rents, royalties and fees to be set in secondary legislation, including discounts and waivers. Rents, fees and royalties for specific activities must be reviewed periodically (including public consultation) and regulated pricing will apply to all relevant active concessions, including changes made following a review.

50 For concessions not subject to regulated pricing (i.e. those that are not suitable for standardisation), the Minister must continue to review rents, fees and royalties every three years. The Minister may change the method of charging set out in the contract during the review and any changes made following a rent review will apply to all relevant active concessions.

51 The Minister may set standard terms and conditions for concessions.

52 Concession terms corresponding to the useful life of fixed assets and structures associated with the concession can be granted, if longer than 30 years. Concessions that provide critical infrastructure may be granted for up to 60 years under appropriate conditions.

53 Replace the requirement for concessionaires to provide complete statement of audited financial accounts at the end of each financial year with a requirement to provide relevant financial statements.

54 Enable the Minister to transfer or reassign an entire concession and contract (i.e. liabilities in addition to benefits, conditional transfers), subject to the new operator meeting due diligence requirements, and with an ability for the Crown to update terms and conditions.

55 If the Minister intends to decline concession applications to run an alternate process (for an existing concession opportunity), the current concessionaire can continue operating on an expired concession until their right to reconsideration in relation to the allocation decision expires or is resolved.

Exchange and disposal of public conservation land

Exchange of public conservation land

56 The Minister will be able to exchange public conservation land for other land where they are satisfied it results in a net conservation benefit (as assessed by the Director-General of Conservation). The net conservation benefit test will include:

56.1 Assessment of the conservation values of land to be exchanged and land to be acquired, as these values are likely to exist in the foreseeable future;

56.2 Benefits (including those expected from the improvements the applicant provides money for) must be assessed to be achievable within a reasonable period of time after the transaction;

56.3 Consideration of the ratio of cash to land; and

56.4 Consideration of the likelihood that conservation value improvements will be achieved.

57 The Minister may authorise the payment or receipt by the Crown of money by way of equality of exchange. The exchange can include money to be used on improvements to the land being acquired by the Crown that are necessary to satisfy the Minister that the exchange results in net conservation benefit but that the land being acquired must already have a reasonable level of conservation value.

58 The Minister retains the discretion not to exchange land even if the exchange is assessed to have net conservation benefit, but cannot exchange if it does not meet the net conservation benefit test.

59 Areas that already have sound protection mechanisms in place, such as a conservation covenant, may not necessarily meet the net conservation benefit test if it is assessed that no additional conservation protection is provided through the exchange.

Disposal of public conservation land

60 The Minister may dispose of public conservation land subject to the following tests:

60.1 Values on the land are not considered essential for indigenous biodiversity conservation;

60.2 Conservation values present are represented in other protected areas in the region;

60.3 There are no rare or distinctive species or ecosystems; and

60.4 The Director-General has recommended disposal.

61 The Minister must also have regard to:

61.1 How the land contributes to conserving indigenous biodiversity;

61.2 How well represented the conservation values are on conservation land;

61.3 The presence of rare or distinctive species or ecosystems;

61.4 The significance of ecosystem services, where information is reasonably available;

61.5 The cultural and historic significance of the land;

61.6 How the land contributes to natural linkages and functioning of places;

61.7 Provision of public access;

61.8 Recreational value; and

61.9 Financial implications for the Crown of the disposal.

62 DOC will be able to recover costs associate with preparing the land for sale from the proceeds of sale. Any proceeds from the disposal of conservation land above the costs of preparing the land for sale can only be applied to land purchases or capital expenditure on public conservation land.

Exclusions for land exchange or disposal

63 Land is not eligible for exchange or disposal if it is in one of the following categories:

63.1 Categories of land that are not eligible for exchange under the Fast-track Approvals Act, including national reserves;

63.2 Ecological areas (under the Conservation Act 1987);

63.3 Any conservation land within a designated World Heritage Area;

63.4 Any land that has been assessed as having cultural, national or international significance (to be determined by the Minister); and

63.5 Reserves that are not Crown-owned.

64 Minor and technical boundary adjustments (that require exchange or disposal) may be made to the excluded areas above (with the exception of national parks) where the specific areas being disposed of have low or no conservation value.

Other exclusions and considerations

65 Where an exchange or disposal would trigger an offer-back or right of first refusal obligation, agreement in writing from the holder of that right or obligation is required.

66 The Minister must consider the impacts on existing concessionaires when making a decision on an exchange or disposal.

67 Ministers must consider whether the consequences of the land exchange would be practical to manage on an ongoing basis, including consideration of whether the land exchange would result in an enclave of private land within a conservation area or a Crown-owned reserve.

68 Where land is subject to an existing Treaty settlement negotiation it cannot be disposed or exchanged.

69 When making a decision on an exchange or disposal the Minister must consider whether the land is likely to be subject to a future Treaty settlement negotiation.

70 Land being given up by the Crown may be subject to a reservation, classification, interest, or encumbrance (e.g. covenants or easements).

Process requirements for exchange and disposal

71 Land disposals will be subject to public consultation. The Director-General must provide a minimum of 30 working days for public comment.

72 Land exchanges will not require public consultation.

73 The Director-General must seek feedback on a proposed land exchange or disposal from Treaty partners and provide them a minimum of 30 working days to provide comment. For disposals, this must occur prior to public notification. Feedback must be included in a report with analysis of Treaty rights and interests and the report must be considered by the Minister when making their decision.

74 The Minister of Conservation must consult the Minister for Treaty of Waitangi Negotiations and the Minister for Māori Development before deciding whether to dispose or exchange conservation land.

Crown-owned reserves with administering bodies

75 Any relevant reserve administering body in place as a result of a Treaty settlement must agree to an exchange or disposal.

76 Reserve administering bodies not in place because of a Treaty settlement must be consulted on the proposal to exchange or dispose of land.

77 Where land is exchanged, the administering body for the land being disposed of will not be the default administering body for the land being acquired.

Amenities areas

78 The purpose of an amenities area is to provide for the development and operation of recreational and public amenities and related services appropriate for the public use and enjoyment of conservation land. They give effect to this purpose by:

78.1 Creating a specified zone for the purposes of tourism and visitor-related development;

78.2 Applying rules to the zone that are more enabling of tourism and recreation and removing restrictions that would apply to other conservation land; and

78.3 Enabling a spatial planning approach to development within that zone.

79 Amenities areas can be established in the following categories of land:

79.1 National parks (National Parks Act 1980);

79.2 Conservation parks (Conservation Act 1987);

79.3 Stewardship areas (Conservation Act 1987);

79.4 Recreation reserves (Reserves Act 1977);

79.5 Historic reserves (Reserves Act 1977);

79.6 Scenic reserves (Reserves Act 1977); and

79.7 Government or local purpose reserves (Reserves Act 1977);

80 Establishment of an amenities area is subject to a test to determine where it is reasonably necessary to enable tourism and recreational enjoyment while protecting and preserving the values of the wider area. The criteria for the test include:

80.1 The location is already, or is predicted to be, an area of high visitor use; and

80.2 The amenities area is in the practical location where it would have the least effect on conservation and cultural values; and

80.3 The proposed size of the amenities area is no larger than reasonably necessary to provide for facilities and services; and

80.4 Development of the amenities area would not threaten the persistence of the values that underpin the purpose for which the wider area is protected.

81 The Minister of Conservation must consult relevant Iwi on a proposed amenities area prior to public notification. The Minister must also consult the NZCA if the proposed amenities area is to be in a national park. This replaces the current requirement that amenities areas can only be established in national parks on the recommendation of the NZCA.

82 The Minister of Conservation must publicly notify an intent to create an amenities area, and provide a minimum of 40 working days for comment.

83 When establishing an amenities area, and without triggering a review of the affected plan, the Minister will set the objectives and policies for the amenities area within a relevant area plan. Any objectives and policies specific to the amenities area will override objectives and policies set by the rest of the area plan for the purposes of managing the amenities area.

Appendix 2: Other changes

Amendment	Rationale	ENV-22-MIN-0059
Remove personal liability of New Zealand Conservation Authority and Conservation Board members acting in good faith when undertaking their statutory duties	Support unfettered decisions or advice	Yes
Require reserve boards and reserve administering bodies only be audited when their total annual operating expenditure is $550,000 or more	Reduce administrative costs	Yes
Require the Public Service Commission only give written consent for the Director-General to delegate powers to a Department of Conservation officer or employee	Reduce administrative costs	Yes
Allow for role of 'Commissioner' to be delegated to a specific job title (regardless of which individual holds that title)	Reduce administrative costs	Yes
Allow a 'conservation area' to be established as a nature reserve or scientific reserve without first needing to be established as a 'reserve'	Reduce administrative costs	Yes
Explicitly state that aircraft concessions are required for landing or taking off on all public conservation land, not just 'conservation areas'	Clear and user-friendly legislation (reflects operational practice)	Yes
Explicitly state that all aircraft activities (whether recreational or not) require a concession for landing or taking off on public conservation land	Clear and user-friendly legislation (reflects operational practice)	Yes
Remove the requirement that New Zealand Police must have Department of Conservation authorisation to hold seized item(s) (currently required for every item seized under section 39C of Wild Animal Control Act 1977)	Reduce administrative costs	Yes
Update the definition of 'disability assist dog' in legislation	Clear and user-friendly legislation (outdated wording)	Yes
Update references made to Westland National Park/Tai Poutini National Park	Clear and user-friendly legislation (outdated wording)	Yes
Amend the Conservation Act 1987 and National Parks Act 1980 to modernise the publication requirements for conservation management strategies and plans, and national park management plans	Reduce administrative costs	Yes

Declare that land under section 62 of the Conservation Act 1987 is held for conservation purposes under section 7 of the Act	Reduce administrative costs	Yes
Allow marginal strips to be less than 20 meters if the purposes of the marginal strip can be achieved with a smaller strip	Clarifies law, consistent with the purpose of the provision	-
Allow Crown-owned wharves attached to seabed adjacent to public conservation land to be managed as if they were Crown-owned assets on public conservation land	Certainty for commercial users and manage Crown liability risks	-
Clarify legislation to support online issuing of hunting permits	Clear and user-friendly legislation (reflects operational practice)	-
Enable email delivery of infringement notices	Modernisation – reduce administrative costs	-
Clarify that infringement fees are not able to be paid in person at Department of Conservation offices	Modernisation (and codifies existing practice)	-
Modernise public notification requirements by removing the need for newspaper notices	Modernisation – reduce administrative costs	-

Cabinet

Minute of Decision

Modernising Conservation Land Management: Policy Approvals

Portfolio **Conservation**

On 30 June 2025, following reference from the Cabinet Economic Policy Committee, Cabinet:

1 **noted** that in October 2024, ECO approved public consultation on changes to modernise conservation land management and invited the Minister of Conservation to report back with recommended legislative amendments [ECO-24-MIN-0235];

Policy approvals

2 **agreed** to the proposals to modernise conservation land management as detailed in the paper and Appendix 1 under ECO-25-SUB-0096, which will:

2.1 streamline the conservation management planning system by replacing the Conservation General Policy and General Policy for National Parks with a National Conservation Policy Statement (NCPS);

2.2 replace conservation management strategies, national park management plans and conservation management plans with a single layer of areas plans;

2.3 enable the creation of amenities areas to provide for recreational and public amenities and related services on conservation land;

2.4 enable faster processing of concessions, including by specifying classes of activities;

2.5 streamline contractual management of concessions;

2.6 enable competitive allocation of concessions; and

2.7 enable greater exchange and disposal of conservation land;

3 9(2)(f)(iv) [redacted]

4 9(2)(f)(iv) [redacted]

Codifying section 4

5 **agreed** to add an overall descriptive clause to the Act following section 4 with signals and signposts to new requirements in various other parts of the Act;

6 **noted** that drafting will make clear that complying with the new requirements will be sufficient to comply with section 4 (in relation to the relevant processes), subject to advice from the Parliamentary Counsel Office;

7 **agreed** that the Act specify what section 4 does not require, such as making concessions contestable;

8 **noted** that the Minister of Conservation will liaise with the Ministerial Oversight Group for the Treaty principles provisions review on any drafting issues that arise regarding section 4 and Treaty principles;

Treaty settlements and Takutai Moana rights

9 **noted** the intent to uphold Treaty settlements through these reforms including redress commitments made by the Crown in Crown offers, Agreements in Principle, initialled and signed Deeds of Settlement, and settlement legislation;

10 9(2)(f)(iv) [redacted]

Drafting of legislation

11 9(2)(f)(iv) [redacted]

12 **invited** the Minister of Conservation to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decisions;

13 **authorised** the Minister of Conservation to make decisions consistent with the paper under ECO-25-SUB-0096 on issues that arise during drafting, except those in paragraphs 4 and 10;

14 **agreed** to also include in the Bill proposals agreed by Cabinet in 2022 [ENV-22-MIN-0059] but not enacted, as listed in Appendix 2 to the paper under ECO-25-SUB-0096;

National Conservation Policy Statement

15 **noted** that the Minister of Conservation intends to seek policy approvals for the NCPS in September 2025 following targeted consultation;

16 **authorised** the Minister of Conservation, Attorney-General, Minister for Tourism and Hospitality, and the Minister for Resources to agree policy matters to be consulted on for the first NCPS;

Other policy proposals

17 **noted** that legislative amendments for the following could also be progressed through the Bill:

17.1 enabling charging for access to some conservation land [ECO-24-MIN-0236], on which the Minister of Conservation will report back to Cabinet shortly; and

17.2 9(2)(f)(iv) [redacted]

Rachel Hayward
Secretary of the Cabinet

Secretary's Note: *This minute replaces ECO-25-MIN-0096. Cabinet agreed to amend paragraph 3.*

ECO-25-MIN-0096

Cabinet Economic Policy Committee

Minute of Decision

Modernising Conservation Land Management: Policy Approvals

Portfolio **Conservation**

On 25 June 2025, the Cabinet Economic Policy Committee (ECO):

1 **noted** that in October 2024, ECO approved public consultation on changes to modernise conservation land management and invited the Minister of Conservation to report back with recommended legislative amendments [ECO-24-MIN-0235];

Policy approvals

2 **agreed** to the proposals to modernise conservation land management as detailed in the paper and Appendix 1 under ECO-25-SUB-0096, which will:

2.1 streamline the conservation management planning system by replacing the Conservation General Policy and General Policy for National Parks with a National Conservation Policy Statement (NCPS);

2.2 replace conservation management strategies, national park management plans and conservation management plans with a single layer of areas plans;

2.3 enable the creation of amenities areas to provide for recreational and public amenities and related services on conservation land;

2.4 enable faster processing of concessions, including by specifying classes of activities;

2.5 streamline contractual management of concessions;

2.6 enable competitive allocation of concessions; and

2.7 enable greater exchange and disposal of conservation land;

3 9(2)(f)(iv) [redacted]

4 9(2)(f)(iv) [redacted]

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Codifying section 4

5 **agreed** to add an overall descriptive clause to the Act following section 4 with signals and signposts to new requirements in various other parts of the Act;

6 **noted** that drafting will make clear that complying with the new requirements will be sufficient to comply with section 4 (in relation to the relevant processes), subject to advice from the Parliamentary Counsel Office;

7 **agreed** that the Act specify what section 4 does not require, such as making concessions contestable;

8 **noted** that the Minister of Conservation will liaise with the Ministerial Oversight Group for the Treaty principles provisions review on any drafting issues that arise regarding section 4 and Treaty principles;

Treaty settlements and Takutai Moana rights

9 **noted** the intent to uphold Treaty settlements through these reforms including redress commitments made by the Crown in Crown offers, Agreements in Principle, initialled and signed Deeds of Settlement, and settlement legislation;

10 9(2)(f)(iv) [redacted]

Drafting of legislation

11 9(2)(f)(iv) [redacted]

12 **invited** the Minister of Conservation to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decisions;

13 **authorised** the Minister of Conservation to make decisions consistent with the paper under ECO-25-SUB-0096 on issues that arise during drafting, except those in paragraphs 4 and 10;

14 **agreed** to also include in the Bill proposals agreed by Cabinet in 2022 [ENV-22-MIN-0059] but not enacted, as listed in Appendix 2 to the paper under ECO-25-SUB-0096;

National Conservation Policy Statement

15 **noted** that the Minister of Conservation intends to seek policy approvals for the NCPS in September 2025 following targeted consultation;

16 **authorised** the Minister of Conservation, Attorney-General, Minister for Tourism and Hospitality, and the Minister for Resources to agree policy matters to be consulted on for the first NCPS;

Other policy proposals

17 **noted** that legislative amendments for the following could also be progressed through the Bill:

17.1 enabling charging for access to some conservation land [ECO-24-MIN-0236], on which the Minister of Conservation will report back to Cabinet shortly; and

17.2 9(2)(f)(iv) [redacted]

Rachel Clarke
Committee Secretary

Present:
Hon David Seymour
Hon Nicola Willis (Chair)
Hon Chris Bishop
Hon Brooke van Velden
Hon Shane Jones
Hon Erica Stanford
Hon Todd McClay
Hon Tama Potaka
Hon Simon Watts
Hon Penny Simmonds
Hon Andrew Hoggard
Hon Mark Patterson
Hon James Meager
Hon Scott Simpson
Simon Court MP

Officials present from:
Office of the Prime Minister
Office of Hon Tama Potaka
Department of Conservation
Officials Committee for ECO

Department of Conservation
Te Papa Atawhai

Regulatory Impact Statement: Conservation Land Management Planning

Decision sought	Cabinet agreement on rationalising planning processes for conservation land management
Agency responsible	Department of Conservation
Proposing Ministers	Hon Tama Potaka, Minister of Conservation
Date finalised	17 June 2025

Description

This proposal seeks to streamline the conservation management planning system by:

- rationalising the structure of statutory planning documents.
- allowing planning documents to make decisions on categories of activities permitted or not in conservation lands (concessions).
- improving the timeframes and processes for making, reviewing, and amending statutory planning documents, with the Minister of Conservation as the decision-maker.

Summary: Problem definition and options

What is the policy problem?

Activity on conservation land is regulated through management plans and national-level policies. The two national policies have not been substantially amended since they were made in 2005. There are over 100 statutory planning documents under these, around 80% of which are outdated. This impacts approvals of activities. Delays in the approval of allowable activities on conservation lands has social and financial impacts for communities, iwi and hapū, businesses, filmmakers, event organisers, etc.

There is a lack of shared understanding across the conservation system of the purpose, scope, and value of the hierarchy of statutory planning documents. This results in confusion, frustration, and more resources and time allocated to consultation in attempts to resolve the differing perspectives. As a consequence, planning documents fall out-of-date, and the impact of new activities and technologies are not incorporated consistently. Management plans and the national policies can place unnecessary restrictions on what can. For example, some restrictions on mountain biking and guided tours do not have clear rationale. New plans are imposing additional uncertainty or policies that do not always accord with good regulatory practice and the Government's overarching policies.

There is no legislative specification as to how section 4 of the Conservation Act (the requirement to give effect to Treaty principles) operates in respect of management planning.

There are also no specific roles for Treaty partners, unless expressly provided for through Treaty settlement legislation. For example, while the Department of Conservation (DOC) tends to engage with Treaty partners during all management planning processes, this is not directly required in the Conservation Act. Instead DOC engages with Treaty partners so as to comply with the general obligation at section 4 of the Act, to give effect to Treaty principles.

There is an opportunity to rationalise and modernise the planning system to support a faster and more effective approvals system (i.e. of concessions to operate on public conservation land), as well as broader land management tools that can be used by DOC to achieve better conservation outcomes as well as better commercial and social outcomes for people using public conservation lands.

What is the policy objective?

The primary objective is to improve the efficiency of the conservation management planning so it can effectively deliver on the purpose of the conservation system. The purpose of the conservation system is to support good conservation outcomes through education, regulation, and enforcement, while also supporting other outcomes such as allowing for recreation, tourism, economic opportunities or key infrastructure development.

The specific changes proposed to conservation's statutory planning system will:

- help deliver faster, more consistent, and more effective policies on the activities that can take place on public conservation lands.
- improve DOC's regulatory practices, reducing the time and cost to develop and amend documents, ensuring they stay up-to-date and reflect current priorities for conservation, and providing greater clarity and certainty for regulated parties.
- improve alignment and influence of decision-making over regulatory documents so that the Government sets the rules it must then implement.
- provide more clarity on how Treaty rights and interests should be recognised and protected in conservation management planning.

Improved efficiency, reduced uncertainty, and more timely processes across the development and operation of planning documents will support the delivery of better outcomes. Up-to-date national policies and regional plans can better inform decision-making on concession applications and other activities on PCL. They can provide clarity on national and local priorities to support balancing any trade-offs between conservation and other interests, as well as consistency in consideration of the use of new technologies or activities.

What policy options have been considered, including any alternatives to regulation?

There are multiple options that can be considered to rationalise planning documents as well as rationalising their processes for updating those planning documents.

The analysis has looked at streamlining:

- national level planning documents that set out the government's general policy direction – namely, replacing the Conservation General Policy (CGP) and the General Policy for National Parks (GPNP) into a single national conservation policy statement; and/or
- regional and local area strategies and plans to reduce overlaps in geographic area – this would combine the regional Conservation Management Strategies (CMSs), with the local area Conservation Management Plans (CMPs), and National Park Management Plans (NPMPs), into a single layer of area plans.

The preferred approach to deliver the greatest efficiency gains is streamlining planning across the national and regional/local levels.

There are also multiple options for rationalising the processes for developing, reviewing and updating planning documents. The preferred options include:

- the Minister of Conservation approving both national and area planning documents.
- an advisory role for the New Zealand Conservation Authority (NZCA) and conservation boards in the development of national and area plans.
- setting timelines for ensuring new/revised area plans are completed within a year.
- establishing processes for discrete and targeted policy change to area plans to keep them up-to-date.
- clearer requirements for consultation with iwi.
- clear roles and functions for the national policy and area plans, including setting rules, boundaries and guidance governing activities on conservation land (improving the concessions system).
- enabling 'class approaches' to permitting groups/types of common, low-risk activities that can be authorised at a national-level.

Given the statutory role of planning documents, non-regulatory options have not been considered. In addition, given the extent of interactions between Conservation Boards, management plans and Treaty settlements, wider change options were also out of scope.

What consultation has been undertaken?

The proposals were consulted on as part of the wider government consultation to modernise the conservation system to enhance the care and protection of public conservation land. The proposal for 'Streamlining the conservation management system' was outlined in Section 5 of the discussion document – *Modernising conservation land management*. Public consultation was from 15 November 2024 until 28 February 2025.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes.

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

The main monetised and non-monetised costs of introducing a new management planning system are for DOC in transitioning to the new system. However, the new, more efficient planning system will reduce DOC's management planning and permissions costs over the medium term.

There should be no additional costs for organisations (i.e. the NZCA and local conservation boards, environmental NGOs, local communities, and businesses) or for iwi to input and participate in the new planning development/renewal process. However, the tighter statutory timeframes for consultation and input on plans may result in costs being more concentrated over shorter periods.

Benefits (Core information)

The primary monetised benefits (which cannot be estimated) are to the government through:

- reduced costs to prepare multiple statutory planning documents;

- enabling DOC to deliver faster, quicker approvals (concessions) of allowable activities; and
- reduced numbers of applications.

The changes should also increase compliance with the system and reduce incentives and scope for illegal operations; it will be fairer for operators and contribute to better regulatory effectiveness.

The new streamlined process will deliver greater clarity and certainty to everyone engaging with the planning process and better understanding of the specified activities that are allowed or prohibited on public conservation land. It will improve social benefits by removing unnecessary barriers to activities on PCL. The new process will have flow-on impacts of delivering more efficient and faster decisions in the concessions system for businesses, iwi and hapū, and local communities). The value of these non-monetised benefits cannot be estimated.

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?

The proposals to improve statutory planning processes will support better management of public conservation land. They will support more up-to-date plans that reflect the government and local priorities for conservation, both at national and area level.

Greater certainty and clarity in planning processes will ensure a more robust foundation for the day-to-day management of activities on public conservation land. This in turn will support a more efficient process regarding permissible activities for local communities, businesses, iwi and hapū, and the public.

Implementation

The new processes and approach to conservation land management require legislative change to implement. However, there are no significant implementation programmes of work required to enable DOC to implement the new planning processes.

The national conservation policy statement will be developed alongside the Bill. Area plans will be translated within 12 months of commencement. Statutory planning changes impacting on the timeliness of the concessions system will occur as soon as the national policy statement is agreed, resulting in immediate benefits and a drop-off in volume of applications for low-risk and common activities.

Limitations and Constraints on Analysis

The Minister of Conservation intends for Parliament to enact legislation on these proposals in this term of government, with the proposals forming part of reform to modernise the management of public conservation land. This is a tight timeframe, which limits the time and resources available for policy analysis, refinement, and testing of options following public consultation.

The proposals do not amend section 4 of the Conservation Act. They are intended to support effective implementation of section 4 by clarifying its application to planning processes through the addition of specific provisions/measures. Drafting will make it clear that complying with these specific measures will be sufficient to comply with section 4 (in relation to the relevant processes).

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:

Eoin Moynihan
Policy Manager – Regulatory Systems Policy
17/06/25

Quality Assurance Statement	
Reviewing Agency: Department of Conservation and Ministry for Primary Industries	**QA rating:** Meets
Panel Comment: The QA panel consider that the information and analysis summarised in the RIS meets the Quality Assurance criteria. The RIS is written clearly, and it is easy to understand the problem and how the proposals will address this. There is demonstrated evidence of consultation and how the feedback from consultation has informed the preferred option to streamline the conservation management planning system. The RIS indicates that the benefits of the preferred option are likely to outweigh the costs. This was based on a qualitative assessment of reduced costs and time associated with plan preparation and processing applications.	

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. Under the Conservation Act 1987, the Department of Conservation (DOC) is responsible for managing public conservation land (PCL), protecting biodiversity, enabling recreational and economic activities, advising the Minister of Conservation, and advocating for conservation.

2. DOC manages nearly a third of the country's land mass (over 8 million hectares). This includes native forests, tussock lands, alpine areas, wetlands, dunelands, estuaries, lakes and islands, national forests, maritime parks, marine reserves, nearly 4,000 reserves, river margins, some coastline, and many offshore islands.

3. DOC is the lead agency in the conservation regulatory system and has a key role in protecting and supporting ecosystems, and encouraging recreation and sustainable tourism. In doing so, DOC works with a network of statutory organisations, community groups, iwi, hapū, Māori organisations, private landowners, regional councils, and non-government organisations (NGOs).

4. DOC faces growing challenges in meeting its statutory responsibilities. These include increasing cost pressures driven by growing wages and inflation, funding shortfalls for maintaining DOC's visitor network amid growing visitor numbers, ageing infrastructure, and repair costs following extreme weather events and natural disasters. DOC's annual budget is around $650 million, which is roughly 0.45% of core Crown spending.

5. Meanwhile, biodiversity is under threat, and these threats are growing. Recent examples include the global spread of avian flu, and incursions of sea spurge, caulerpa seaweed, golden clams and wild animals like feral pigs. Native wildlife is also at serious risk of extinction. 94% of our reptile species, 82% of bird species, 80% of bat species, 76% of freshwater fish species, and 46% of plant species either face extinction or are at risk of being threatened with extinction.

Conservation management planning framework

6. The current management planning system[1] was established in an attempt to bring the protected areas and natural and historic resources administered by DOC under different conservation legislation into one cohesive system. The system relies on a hierarchy of policy and planning documents that guide management of PCL and other natural and historic resources managed by DOC.

7. There are two legislatively sanctioned national-level instruments – Conservation General Policy (CGP)[2] and General Policy for National Parks (GPNP)[3]. These instruments set national direction for how DOC and others with conservation roles

[1] The management planning system, as used in this RIS, describes management planning for PCL and other natural and historic resources managed by DOC. It does not cover reserves that may be administered or controlled and managed under the Reserves Act 1977 by other parties (such as regional councils, local bodies, iwi, etc)

[2] Statements on general policy, section 17B, Conservation Act 1987

[3] Statements of general policy for national parks, section 22, National Parks Act 1980

(such as the New Zealand Fish and Game Council and the Minister of Conservation) fulfil their responsibilities under conservation legislation.

8. Both general policies were published in 2005, with only minor or technical amendments made to date. Since their approval, there have been several changes to the context under which protected areas and protected species are managed, including a significant increase in the number of visitors to PCL, agreements or settlement of historic Treaty claims, and changes to species management and how built assets are managed as a result of climate change.

9. These two general policy statements articulate guidance and policies for the conservation system, which is then delivered through conservation management strategies and plans, management plans for national parks and freshwater fisheries management plans.[4]

    a. **Conservation management strategies (CMS):** These are intended to implement the general policies and set objectives for the integrated management of natural and historic resources, including any species, managed by DOC.

    b. **National park management plans (NPMP):** These plans sit underneath the CMSs in the planning hierarchy and set the specific management direction of the park. NPMPs must not derogate from the relevant CMS.

    c. **Conservation management plans (CMP):** These also sit below CMSs, implement CMS policies, and can be used to provide management direction for a specified area. CMPs are optional except where required by Treaty settlements. CMPs that are not part of settlements are largely being phased out of use.

10. Management planning attempts to influence a wide range of functions including regulatory decision-making on PCL, land use management, marine area decisions and management, species management and DOC input into Resource Management Act regional planning and decision-making, as well as helping guide DOC's operational planning and resource prioritisation. Some plans also try to regulate certain activities, such as mountain biking or e-biking in particular areas or tracks. Such restrictions are only legally binding when they are in by-laws. In addition to supporting these functions, the management planning framework plays an important role in giving effect to Treaty settlements and Conservation

[4] Some Treaty settlement legislation also includes bespoke requirements for developing, reviewing, and approving planning documents. For example, the Ngāti Whare Claims Settlement Act 2012 requires the Whirinaki Te Pua-a-Tāne CMP to be prepared in consultation with the trustees of Te Rūnanga o Ngāti Whare, with the conservation board and Te Rūnanga o Ngāti Whare having a joint role in approving the CMP.

Act section 4 obligations, and enabling public participation in the management planning process of PCL.

Planning documents regulate the activities approved on public conservation land (the concessions system)

11. Any activity on PCL requires authorisation in the form of a concession from the Minister of Conservation, with some exceptions.[5] This means a wide range of activities are regulated through concessions, such as grazing, guiding and other tourism businesses, visitor accommodation, energy infrastructure, filming, and research activities.

12. The concessions system helps DOC ensure activities on and uses of PCL are compatible with the overriding purpose of conservation.[6] It also helps ensure services and facilities provided for visitors are appropriate and of a suitable standard, and that activities do not conflict with visitor enjoyment and recreation.

13. A concession gives a person/business/entity:
    a. a legal right to carry out their activity on PCL;
    b. a formal relationship with DOC, so both parties are aware of their obligations, responsibilities, and duties; and
    c. security of tenure for the term of the concession.

14. The planning documents play an important role in the conservation system by setting objectives for the management of PCL and guiding what concession activities should and should not be authorised. When deciding whether a concession can be granted, DOC (acting under delegation from the Minister of Conservation, who grants the concession):
    a. assesses if the activity is consistent with the:
        - purpose for which land is held,
        - purpose of the Conservation Act 1987 and other statutory provisions,
        - relevant statutory planning documents (CMSs, CMPs and other plans);
    b. assesses if the effects of the activity can be understood, and if there are any methods to avoid, remedy or mitigate these effects (referred to as an 'effects assessment'); and
    c. consults with iwi, hapū, and whānau at place.

The current management planning system is burdensome on all parties

15. The tiered management planning means there is a large suite of lengthy planning documents (often hundreds of pages long). This leads to difficulties interpreting plans, for example, because they have taken different approaches across regions and over time to setting conservation objectives. There are also issues with overlapping and

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5 These exceptions are recreational activities without any specific gain/reward; activities carried out by the Minister of Conservation or DOC in exercising functions, duties or powers under any law; activities authorised by conservation legislation; and activities to save or protect life or health, to prevent serious damage to property, or to avoid actual or likely adverse effect on the environment.

6 The Conservation Act 1987 (s.2) defines 'conservation' as the 'preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations'.

conflicting policies across documents that apply to the same place (discussed further below).

16. In their current form, statutory planning documents contain highly prescriptive and detailed policies and guidance or, conversely, vague or conflicting requirements which are difficult to interpret. Planning documents have tended to become catch-all instruments, even when there may be better tools or avenues for some of their contents. The contents of planning documents span a range of functions, such as:
    a. articulating conservation values, outcomes, and priorities in a particular area;
    b. defining permissible activities and setting capacity limits on those; spatial planning; and
    c. directing DOC's business and operational planning.
17. Statutory planning documents are costly to make, review, and update in terms of time and resources. Processes to create or review them tend to take years, and involve heavy resource burdens for DOC, conservation institutions, iwi, hapū, communities, and conservation groups. Consequently, many documents are out-of-date. Of the statutory planning documents that currently exist, around 80% are overdue for review. There are 16 CMSs, of which four are current. A further two are in development. Only one of the 13 NPMPs is current.

What is the policy problem or opportunity?

Complexity of planning framework constrains timely decision-making

18. The conservation management framework is a complex hierarchy of policy and planning documents. These layers of policy and planning documents with overlapping and largely outdated content creates complexity and uncertainty for decision-makers and applicants. This contributes to slow decision-making, legal risk and inconsistent outcomes.

> **EXAMPLE – Uncertainty Limiting Opportunities for Biking Track Use**
>
> Until recently, DOC's interpretation of Conservation General Policy requirements regarding vehicles (including bikes) was that conservation management strategies (CMS) had to specifically list tracks or locations suitable for bike use. A partial CMS review or amendment, with full public consultation, would be necessary to consider a new unlisted track.
>
> In 2022, the Otago CMS was partially reviewed to specifically consider adding new locations where biking opportunities had significant funding from the Ministry of Business, Innovation and Employment. This was a time and resource intensive process, which took two years to complete and has been estimated to have cost DOC $500,000.
>
> A recent re-examination of the requirements in the Conservation General Policy resulted in a more flexible understanding of how CMS can 'identify' where bike tracks are located. However, this more flexible understanding cannot be applied to all regions – six of the 16 CMS regions would need a CMS review or amendment to consider a new unlisted bike track on its merits. Some existing tracks may not be lawful.

Most strategies and plans are out-of-date, and time-consuming and slow to revise

19. Both the current national policy statements are out-of-date. The process to update them is slow and onerous, as each has a different statutory process to amend, revoke, and update it. The general policy statement for national parks is approved by the NZCA, and the conservation general policy statement is approved by the Minister. Both sets of rules are binding on the Minister. The Director-General supports the process (e.g. preparing drafts, consultation and public submission processes).

20. There is a significant backlog of overlapping, lengthy, and outdated planning documents, including some that have not been updated since the 1990s. Planning documents are intended to be operable for 10 years and kept up to date through the review and amendment processes outlined in the Conservation Act and National Parks Act. However, under the current system, a review can take up to four years or more to complete. There are options for amending plans, but except for minor or technical changes, these require the same lengthy process as a full review.

21. The lack of a clear purpose for management plans within the conservation system has resulted in people holding multiple and differing views about what plans should have oversight of. This has resulted in development of lengthy documents, extended consultation, varied content coverage, and delays in finalising plans. Independent reviews into the conservation management planning framework have also noted the need to clarify the purpose of plans and what they should deliver.[7]

22. Although plans are used for a broad remit, their ability to effectively deliver on these functions varies and, in many cases, duplicates work that is done elsewhere. For example, plans are not linked to government resourcing decisions, so their effectiveness in influencing and directing DOC's operational work programme is limited. DOC has a separate business planning system that drives delivery of work on the ground that, for practical reasons, does not operate in sync with management planning or its timeframes. This wide scope has also resulted in an overly complex planning system, with too much detail, that does not effectively drive the core decisions about what matters in the conservation system.

23. An improvement in the conservation management planning settings will support more efficient and effective concession processing. As of September 2024, more than a third of concession applications on-hand at DOC were more than a year old.

24. As part of the wider reform package, there are a number of proposals for changes to the concessions processes, allocation, and terms and conditions to improve conservation and other outcomes. The changes proposed in this RIS are a key component in realising the gains for concessions that can be made from changes in the management planning system.

Outdated and overlapping plans impact public and business activities on conservation lands

25. Outdated plans are impacting the effectiveness of DOC's concessions system. One of the key functions of planning documents is to inform statutory decision making, including concessions and other authorisations. However, plans are not keeping up to

[7] Environmental Defence Society. 2023. Independent review of the Conservation Management Planning System, Independent Review of the Conservation Management Planning System | EDS and Department of Conservation. 2021. Management Planning system review - Findings and recommendations report.

date with evolving economic activities and opportunities, and some contain overly prescriptive criteria for concessions.

26. Outdated plans ultimately impact decision-making on concessions applications, which can only be granted if they are consistent with the relevant planning documents. Consequently, some new activities that are compatible with conservation outcomes cannot happen This results in the loss of economic and social benefits for visitors, or recreational and business users, or local communities, or iwi and hapū, as well as potentially lost revenue for the Crown (which could be used to support achievement of conservation outcomes).

> **EXAMPLE – Fiordland National Park Management Plan**
>
> The Fiordland National Park Management Plan is seven years overdue for review.
>
> In addition to setting limits for activities such as guiding and aircraft, it includes prescriptive requirements for how concessions are allocated and how many concessions can be granted per limit. This outdated approach significantly inhibits the ability for new concessions to be granted.
>
> There is an opportunity for plans to be updated with limits that will effectively manage cumulative effects on PCL but without imposing unnecessary restrictions on the number of operators or creating bespoke concessions processes.

27. Overlapping plans, or areas covered by more than one plan, can also cause difficulties when they do not take a consistent approach or have conflicting guidance. For example, guiding is not dealt with consistently across different plan types, nor in the national policies. Processing concession applications for guiding in areas that are covered by overlapping plans is significantly more complex and contributes to lengthy concession processing times. Overlapping plan jurisdictions also creates inefficiencies for DOC when updating plans. For example, work on the Westland Tai Poutini NPMP, which was being developed alongside the Aoraki NPMP, had to be paused due to inconsistent aircraft provisions in the West Coast CMS, which needed to be reviewed first (because the NPMP cannot derogate from the CMS).

28. There is an opportunity to create a more streamlined, purposeful and flexible planning system, that will support improved outcomes for those people, businesses, communities and government across PCL, by:
    a. setting a clear purpose for what plans do and don't do;
    b. simplifying the structure of the planning system; and
    c. streamlining the processes for keeping plans up to date.

Ambiguity about giving effect to Treaty principles

29. DOC's obligation to give effect to Treaty principles is articulated in section 4 of the Conservation Act. In addition, there are Treaty settlement commitments, and other agreements with iwi and hapū. While the Treaty settlement legislation and agreements will include specific obligations, the section 4 directive is a 'general clause' that requires the DOC give effect to Treaty principles when interpreting or administering conservation legislation.

30. There is no legislative specification as to how section 4 of the Conservation Act will definitively operate in management planning processes. While DOC tends to engage

with Treaty partners during all management planning processes, this is not directly required in the Conservation Act. Instead, DOC engages with Treaty partners to comply with the general obligation at section 4 of the Act, to give effect to Treaty principles. There are a range of views about what section 4 requires in a management planning processes, which results in an ongoing ambiguity about how to give effect to Treaty principles.

31. Questions relevant to management planning include:

    a. how much engagement is necessary;

    b. whether Treaty partners can have a role in drafting or approval of management planning instruments'

    c. whether and how much to remunerate for their input, how to deal with overlapping interests; and

    d. how to take on board Treaty partner views. Because section 4 is part of the legislative framework, different views about its application mean that there is a high risk of legal challenge in many such processes.

32. This tends to contribute to lengthy processes and even 'stalemate' scenarios where plan reviews do not progress.

What objectives are sought in relation to the policy problem?

33. The primary motivation for improving the conservation management planning system is not just to improve the efficiency of the system itself, but for the flow on impacts that can be generated by having a better system that can deliver greater benefits to people, businesses, iwi and hapū, and local communities in their activities on PCL (particularly through a more robust, timely and cost-efficient concessions process).

34. The following are the objectives for this work:

    a. **Effectiveness:** delivering on the purpose of the conservation system. Namely, supporting good conservation outcomes through education, regulation, and enforcement, while also supporting other outcomes such as, allowing for recreation, tourism, economic opportunities, or key infrastructure development

    b. **Efficiency:** reducing the time and cost involved in developing, reviewing, and amending statutory planning documents, ensuring they stay up-to-date and reflect current priorities for conservation.

    c. **Good regulatory practice**: ensuring clarity and certainty for the regulator (DOC) and regulated parties, as well as ensuring DOC has the necessary tools, functions, powers, and levels of discretion/flexibility to satisfactorily perform its statutory duties. This includes proportionality, and reduced arbitrage and non-compliance, i.e. removing out of date rules and onerous processes that encourage parties to ignore the system.

    d. **Upholding Treaty obligations:** clarity about the legal requirements for the Minister or DOC to interpret and administer the Conservation Act in a way that gives effect to the principles of the Treaty of Waitangi. It is also about ensuring any changes or new arrangements uphold the intent of Treaty settlements, including redress commitments made by the Crown.

e. **Successful implementation of any changes:** ensuring that the benefits of greater efficiency in management planning and concessions successfully flow through to DOC's day-to-day work and interactions with regulated parties across the conversation system. This will include greater education and enforcement.

35. Improved efficiency, reduced uncertainty, and more timely processes across the development and operation of planning documents aim to deliver better outcomes with more transparent and time-sensitive concession processes. Up-to-date national strategies and plans can better inform decision-making on concessions applications and other activities on PCL. They can also provide clarity on government and local priorities to support balancing any trade-offs between conservation and other interests, as well as consistent in consideration of the use of new technologies or activities.

What consultation has been undertaken?

36. In October 2024, Cabinet agreed to consult on changes to modernise conservation land management [ECO-24-MIN-0235]. The proposals aimed to:
    a. create a more streamlined, purposeful and flexible planning system;
    b. set clear process requirements and timeframes for concessions;
    c. establish how and when concessions should be competitively allocated;
    d. establish standard terms and conditions for concessions;
    e. enable more flexible land exchange and disposal settings; and
    f. provide clarity around Treaty of Waitangi obligations in these processes, including engagement requirements and decision-making considerations.

37. Consultation on these changes took place from November 2024 to February 2025, alongside proposals on charging for access to some conservation land.

38. DOC held 25 regional hui with iwi, as well as 15 stakeholder engagements and four public information sessions during the consultation period. DOC also engaged on the proposals with the Director-General of Conservation's commercial External Advisory Panel and the Concessionaire Reference Group.

Submissions overview

39. In total, more than 5,500 submissions were received on the proposals to modernise conservation land management.

40. Most of the submissions were from individuals – with many using the Forest and Bird's form submissions (87% of total submissions) or using the DOC website submission (80% of 451 website submissions were from individuals), as well as 49% of 'freeform submissions' also coming from individuals.

41. In terms of 'freeform submissions' 11.5% came from Treaty partners and Māori organisations, 11.5% from various recreation and commercial stakeholders, 11% from concessionaires, 9% from statutory bodies, 5% from environmental NGOs and conservation groups and 3% from councils. In addition, 20 % of website submissions were from conservation groups, tourism businesses, and Treaty partners.

Type of submissions	Number of submissions	Proportion of total submissions
Forest and Bird form submission	4,837	87 %
Website submission	451	8 %
Freeform submission	277	5 %
Total submissions	**5,565**	

42. About a third of freeform submissions (98 individual submitters) did not engage directly with the proposals in the discussion document. Instead, they expressed support for other submissions, support for protecting conservation values, or that the Crown should not treat Treaty partners differently to others.

43. Feedback from website submissions responded to high-level questions from the discussion document, and generally did not engage with specific parts of the proposals.

44. Approximately 1,300 people who used the Forest and Bird form submission also provided personalised comments, expressing concerns about climate change, a lack of safeguards to protect nature, the sale of land, and that the discussion document was too focused on managing commercial interests.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

45. Options for change will be compared to the status quo using the following criteria:

Conservation and other interests	Local communities, iwi and hapū, key stakeholders, and the public can contribute to the development of objectives and policies for achieving conservation and other outcomes on public conservation lands. This relates to the effectiveness objective around delivering on the purpose of the conservation system. As well as local participation and public input, it also includes clarity of purpose, proportionality, and science informed choices.
Regulatory stewardship	Increasing the clarity, consistency, and durability of the policies, guidance, and plans with improved clarity on the balance of national and local conservation values. More broadly supporting regulatory coherence across frameworks governing public conservation land management and decision-making processes (including concessions). This relates to the objective of good regulatory practice.
Government costs and efficiencies	Streamlining the processes for developing and administering planning instruments, delivering clarity of objectives, and improving the efficiency of government oversight of activities in public conservation lands, including impact on the • time and cost to make, review or amend statutory planning documents; and • time to make and provide DOC decisions on concessions. This relates to the objective of efficiency.
Compliance burden	Minimising costs to parties who contribute to the development of conservation planning instruments and reducing decision-making complexity for parties whose activities need to align with these instruments (reducing time and costs for concession processes). This relates to the objectives of efficiency and successful implementation (lower costs make implementation more achievable).
Treaty of Waitangi	Certainty about performing statutory functions regarding Treaty principles. Ensuring consistency with Treaty settlement commitments and other obligations. This relates to the objective of upholding Treaty obligations.

46. In evaluating options in this RIS, the contribution to conservation outcomes is weighted more heavily than contribution to other outcomes. This reflects the overarching purpose of the conservation regulatory system (see s.6, Conservation Act 1987[8]).

47. Similarly, criteria on Treaty of Waitangi will be considered in the context of existing legislative frameworks. For example, section 4 of the Conservation Act 1987 requires DOC to interpret and administer the Conservation Act (e.g. processing concessions) in a way that gives effect to the principles of the Treaty of Waitangi. Submissions noted that proposals for improving management planning efficiency and making things easier

8 For example, DOC can foster the use of natural and historic resources for recreation and tourism is only to the extent that this is not inconsistent with conservation of those resources (s.6(e) of the Conservation Act 1987).

should not limit DOC's ability to give effect to Treaty principles. There are also existing Treaty settlements that provide for specific input and processes to planning, and the RIS evaluation of criteria has assumed that existing Treaty settlements will be carried over in full (see discussion below in Treaty of Waitangi section).

What scope will options be considered within?

48. The Government has set some boundaries for this work. The Government is not considering changes to:

    a. The purpose of the conservation system, and the primacy of achieving conservation outcomes compared to enabling other outcomes through conservation policies and processes (e.g. economic outcomes);

    b. The purposes for which PCL is held, and the requirement that any use of or activities on PCL must be consistent with those purposes; or

    c. Institutional structures.

49. Consequently, this RIS does not consider an option of wide-ranging legislative reform to radically streamline the legislative settings for conservation (which currently exist across multiple Acts). An amalgamation of legislation governing PCL management into a single Act would take significant resourcing, public engagement, and time. Instead, the policy work looks at options for refining and rationalising land management aspects across existing legislative settings.

Treaty of Waitangi

50. The Government's Treaty obligations relating to conservation are reflected in section 4 of the Conservation Act, specific commitments in Treaty settlement legislation, and agreements with iwi and hapū (e.g. relationship agreements and protocols).

51. The Minister's approach to resolving ambiguity relating to section 4 is to:

    a. retain section 4 as a general, operative clause in the Conservation Act;

    b. add specific measures to clarify what is (or is not) required to give effect to Treaty principles in particular processes or decisions; and

    c. make it clear that complying with these specific measures will be sufficient to comply with section 4 in relation to the relevant processes or decisions.

52. This approach may evolve during drafting based on legal advice about how best to achieve the Government's desired outcome. The Legislation Design and Advisory Committee's guidelines advise caution about the interaction between new legislation, existing legislation, and the common law.[9] Not properly understanding and addressing these interactions can make the law more confusing, undermining the policy objective.[10]

[9] Legislation Guidelines (2021 edition), Guidelines 3.1 – 3.5.

[10] As seen in Court of Appeal and Supreme Court cases about the apparent inconsistency between the plain words of section 58 of the Marine and Coastal Area (Takutai Moana) Act 2011 and that Act's purpose (section 4) and Treaty provisions (section 7). *Re Edwards Whakatōhea* [2023] NZCA 504 at [416] and *Whakatōhea Kotahitanga Waka (Edwards) and Ors v Te Kāhui and Ors* [2024] NZSC 164.

53. Any changes that would not uphold Treaty settlements are out of scope.[11] This means options that allow for bespoke arrangements where needed to accommodate existing settlement commitments in law are explicitly in scope of option design. This is still being worked through with post-settlement governance entities.

54. This RIS focuses on the general settings for the new system and does not comment on the impact of proposals on various settlements. How to provide material equivalence for redress in the context of system reform will be covered in future policy decisions following engagement with PSGEs.

What options are being considered?

55. There are a number of aspects that can be adjusted to improve the processes and administration of the key land management tools used by DOC. This analysis examines two key components within the existing land management system, where adjustments and streamlining of processes can improve efficiency for the government and support achieving conservation and other economic, social, and cultural outcomes.

56. The options for change across these two areas are evaluated separately, with the final analysis identifying packages of preferred options based on the best combination of planning processes and approach in each area.

57. The two key areas, with different options considered under each of these areas, covered in this RIS are:

Section A	Structure and purpose of the planning system
Section B	Process for preparing and amending planning documents

[11] Conservation has more Treaty settlement commitments than any other portfolio. In addition to commitments in settlement legislation, the Government intends to uphold any rights under Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

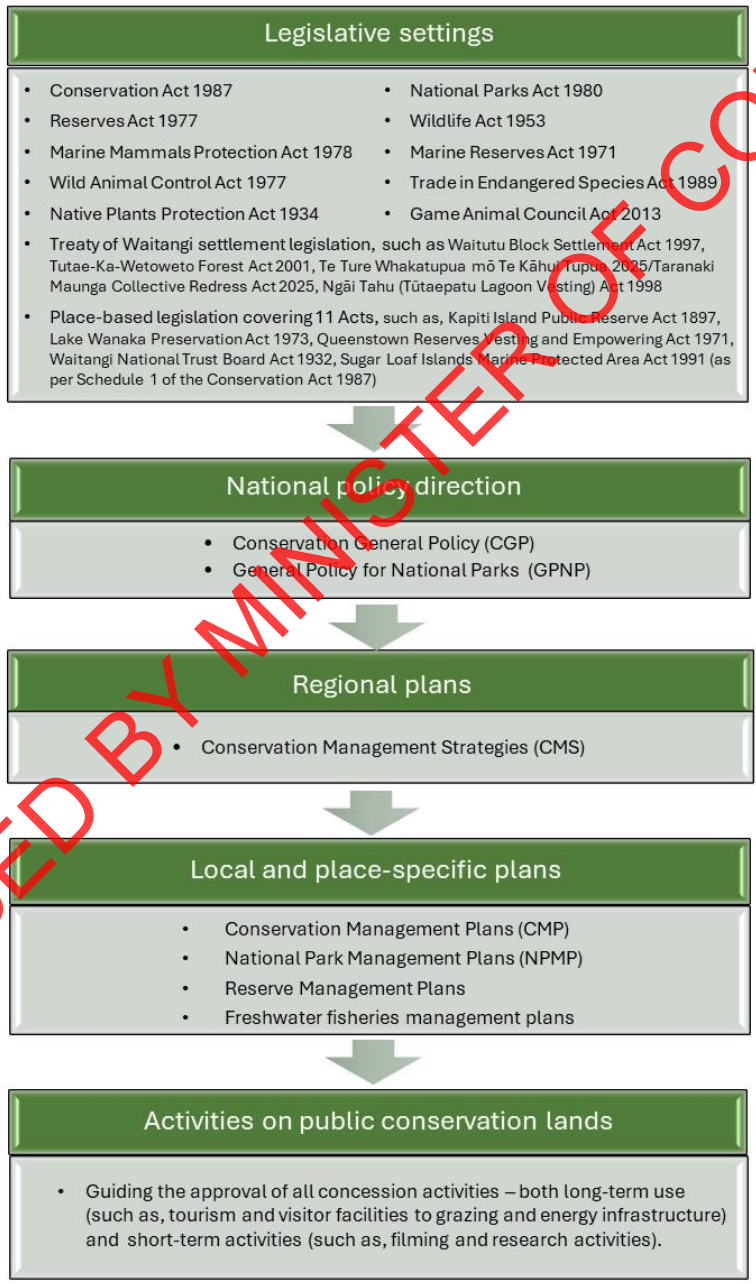
Section A: Structure and purpose of the planning system

What options are being considered?

Option A1 – Status Quo

58. There are currently two national-level instruments – Conservation General Policy (CGP) and General Policy for National Parks (GPNP). These instruments set national direction for how DOC and others fulfil their responsibilities under conservation legislation. This overarching structure is underpinned by a hierarchy of plans to cover regional, local, and place-specific areas. The issues with this existing complex structure were canvassed earlier in the RIS.

Conservation management planning framework



Option A2 – Single national policy with clearer guidance for management plans and concessions

Single national statement instead of two statements

59. This option proposes replacing the two existing national policy statements covering general conservation and national park management (CGP and GPNP) with a single **national conservation policy statement (NCPS)**. This will provide a clear statement on national direction to guide planning at local/regional level, and provide clearer articulation of matters to be considered in determining land use (particularly through concessions). It would also resolve planning issues in national parks, where decisionmakers would no longer have to consider two planning documents (CGP and GPNP which are not necessarily aligned with one another).

60. The NCPS would be secondary legislation, applying to all land administered by DOC and set national level policies. Specifically, it would:

    a. provide for classes of activities to be permitted in advance;

    b. exempt an activity, at a national level, from requiring a concession;

    c. define types of Crown activities that do not need a resource consent[12] (currently area management plans can define such activities, and to ensure national consistency on exemptions for the same types of activities, these could be defined in the NCPS);

    d. designate certain activities as prohibited;

    e. support consistent consideration of concessions applications by setting out matters that must be considered as well as imposing conditions or requirements for specific activities at a national level;

    f. specify the types of content that can (and cannot) be included in management plans (e.g. restricting the ability for plans to set limits given they can only regulate the behaviours of concessionaries and not the public); and

    g. promote a level of consistency in the scope, function, and content of local and regional area plans by establishing a single, simple template that must be used.

61. Of the freeform submitters who engaged with the proposal to merge the current two policy statements into a single document, 48 expressed support while 13 opposed it. This support was conditional that simplification across national and local/regional plans did not result in watering-down any existing conservation protections.

62. While more freeform submitters expressed support, only 76 of the DOC website submitters supported the proposal, while 120 did not. The remaining 51 who engaged with the proposal were either unsure or had no comment. It is important to note that the DOC website submitters were responding to a question which included the introduction of area plans as well as the NCPS.

[12] The Resource Management Act 1991 (s.4) states that a land use resource consent is not required for work of the Crown on conservation land, where that work is consistent with a management plan and does not have significant effects beyond the land boundaries. It is proposed that the ability to specify activities exempt from a consent is maintained for area plans, and extended to the NCPS as there are many of the same types of activities across the country where it would be appropriate for exemption.

63. Treaty partners may be concerned with the NCPS taking a more active role in regulating activities, and its ability to direct the content or matters in local and regional management plans. It may raise concerns amongst PSGEs that Treaty settlement redress will be undermined by diminishing the role of local and regional plans. Expectations of the interaction between NCPS and local and regional plans, and engagement on the development of the NCPS will need to be worked through in the engagement with relevant iwi and PSGEs.

Single instrument enables national level policies for greater efficiency in managing activities on PCL

64. The NCPS would establish greater consistency of policies and clarity regarding the allowable types of activities on PCL that will enable the concessions system to be freed-up for more complex applications. It would also enable faster decision-making within the concessions regime. This would improve the timeliness and efficiency of the concessions system by:

    a. reducing volumes of concessions;

    b. improving the timeliness of decision-making; and

    c. reducing costs for both applicants and government in not having to process concessions for low-risk and prohibited activities.

65. Of the freeform submitters who engaged with this proposal, 59 expressed support and 11 disagreed with the proposal. However, 87 of the DOC website submitters agreed while 89 did not. The remaining 67 DOC website submitters who engaged with the proposal said that they were either neutral or unsure.

66. The NCPS would determine the range of activities that can be addressed at a national level (and area level) across the following three concession classes:

Concession Class	Description
Acceptable (or permit-exempt) activities	Activities that do not need a permit because of the minimal impact the activity would have on conservation value (such as, news media filming by a person with a handheld camera on formed tracks and carparks, or collecting air samples for research).
Pre-approved activities	Activities that need a 'simplified' permit as they are low-risk and currently tend to be routinely approved (such as commercial transport in formed carparks, or small-scale commercial filming with one or two people on formed tracks). The simplified permit process (such as, a proforma permit from the DOC website) will enable the imposition of basic conditions for specified pre-approved activities as well as enabling high-level oversight and monitoring of activity levels. This oversight will allow DOC to manage any cumulative impacts and impose conditions on the permitted activity to manage or mitigate any adverse impacts accordingly.

Prohibited activities	Activities that would not be granted a concession as the type of activities would be inconsistent with the purpose for which the land is held, or the effects cannot be reasonably avoided, mitigated or remedied.

67. Standard conditions could be imposed for a range of 'acceptable activities' and 'pre-approved activities' (for example, to manage activity monitoring), as well as specific conditions to manage possible impact of cumulative risks for some activities (for example, conditions that restrict pre-approved activities to specific months or during certain hours of the day).

68. If problems emerge, certain specific activities covered by these three classes of concessions could be withdrawn outside of the standard planning process (subject to appropriate constraints and tests). For example, if there are concerns with volume (cumulative effects) or unforeseen effects of a particular activity, the Minister could have a power to put a temporary hold on those activities.

69. During consultation in November 2024, submitters were supportive of enabling activity classes in statutory planning documents and agree that it will result in more efficient concession processing[13]. However, many supported a cautious and careful process to determine which activities should be enabled with this tool. Many submitters also raised the risk of complications around integrating Treaty settlement obligations into a national process.

Criteria for determining activities covered by the three concession classes

70. The criteria for identifying permit-exempt (acceptable) activities, pre-approved activities and prohibitions covered by a national policy statement, were partially assessed in separate earlier 2022 RIS (refer Regulatory Impact Statement: Targeted amendments to concessions processes - 11 November 2022 - Regulatory Impact Statement - Department of Conservation).

71. The 2022 RIS envisaged that the Minister of Conservation, through regulation, would authorise specific activities on PCL, removing the need for an individual concession application. While the mechanism for exempting activities from the concession system has changed (now being authorised by NCPS instead of via regulation), the criteria for decision-making on exempt activities remains identical.

72. The criteria for designating a class of activities as exempt from requiring a permit (i.e. acceptable activities) via the concessions system, will be informed by those in the 2022 RIS[14]. In summary they are:

    a. the activity would not require an interest in land (for example, it would not require exclusive use);

[13] This aligns with the general support for a similar proposal consulted on in 2022 to exempt certain permit activities through national level regulation and to pre-approve activities.

[14] Refer pages 19–20 of Regulatory Impact Statement: Targeted amendments to concessions processes - 11 November 2022 - Regulatory Impact Statement - Department of Conservation Detailed discussion of the proposal relating to individual concession applications is pages 18–38

b. the activity is consistent with the purposes for which land is held (assessed at a land type level);

c. it is reasonable to forgo the collection of any royalties, fees, or rents from the activity; and

d. the risk of cumulative effects from the activity is low.

73. The proposed criteria of pre-approved activities build on the above criteria, and could cover types of activities where:

a. the activity would not require any corresponding rights over the land (for example, it would not require exclusive use or access rights);

b. the activity is consistent with the purposes for which land is held;

c. adverse effects from the activity (including any impact of cumulative effects) can be avoided or mitigated through conditions; and

d. it is reasonable to continue to collect any fees, rents and/or royalties from the activity.

74. The criteria for determining when the NCPS would prohibit specific activities may be when:

a. an activity is inconsistent with the purpose for which the land is held at a land classification level; OR

b. the effects of the activity cannot be reasonably avoided, mitigated, or remedied.

Option A3 - Streamline overlapping place-specific plans, to deliver one plan per area

75. This option proposes establishing a clearer purpose and role for area plans, streamlining their content and removing existing overlaps.

76. The primary function of the area plans will be to establish conservation outcomes for places to guide regulatory decision-making on PCL. The single plan for each area would enable clear objectives and policies that are specific to the local context to be set, that will also reflect national direction (as outlined in the two national policy statements for conservation and national parks).

77. Of the freeform submitters who engaged with this proposal, 37 expressed support and 13 disagreed with the proposal.

78. While more freeform submitters expressed support, only 76 of the DOC website submitters provided support and 120 did not. The remaining 51 who engaged with the proposal were either unsure or had no comment. Again, it is important to note that the DOC website submitters were responding to a question which included the introduction of area plans as well as the NCPS.

Rationalising and formalising the content and structure of area plans

79. The high-level content of a rationalised single plan for each area would be set out in legislation. A legislative 'template' or content descriptor will support a more consistent approach in each area plan as well as ensuring more concise plans that limit the

inclusion of extraneous matter[15]. Each area plan would clearly set out the area it covers and would be required to contain:

Area Plan Content	Description
Place-based objectives and policies	Establish objectives that recognise and reflect local context (for example, the protection and preservation of specific historic buildings or specific natural features in an area). These objectives will in turn guide statutory decision-making on concessions and other authorisations relating to activities in the area.
Core conservation values	Provide concise and specific descriptions of the key conservation values that have been identified for the area (for example, the importance of particular species or habitat in an area, or the cultural significance of particular places). These values will inform the specific place-based objectives in an area plan.
Local direction on national policy statements	Each area plan would continue to be subject to general policy (reflected in the two national policy statements under the status quo), but each plan should reflect any specific aspects in those national statements that apply to the area.

80. Formalising an appropriate length and standard structure for an area plan is expected to enhance the plan's ability to influence decision-making generally, by improving the ability for stakeholders and the regulator to navigate the plan and understand key local conservation outcomes in the area.

Removing the overlap of plan coverage by establishing clear area plan boundaries

81. This option proposes to eliminate instances where multiple plans or strategies apply to a single area. These would be replaced with a single layer of area-based plans. For example, a national park would only be covered by its own area plan – currently it can be covered by a national park management plan (NPMP) and a conservation management strategy (CMS)[16].

82. A single layer of area plans will generate planning efficiencies – by allowing all relevant policies and guidance for an area to sit in one place. It will also make it easier to update plans in response to emerging conservation changes, as well as new economic activities and opportunities.

[15] Many local and place-specific plans contain a lot of material that do not support regulatory decision-making, such matters as:

- policies that are near facsimiles of the Conservation General Policy and other planning documents, but with minor tweaks or adjustments for no clear localised reason;
- repeating legislative provisions;
- prescribing limits on activities, without clear rationale; and
- long stocktakes of values (biodiversity, historic, recreation, cultural) in a format that is not local-specific to support key decisions (such as granting a concession).

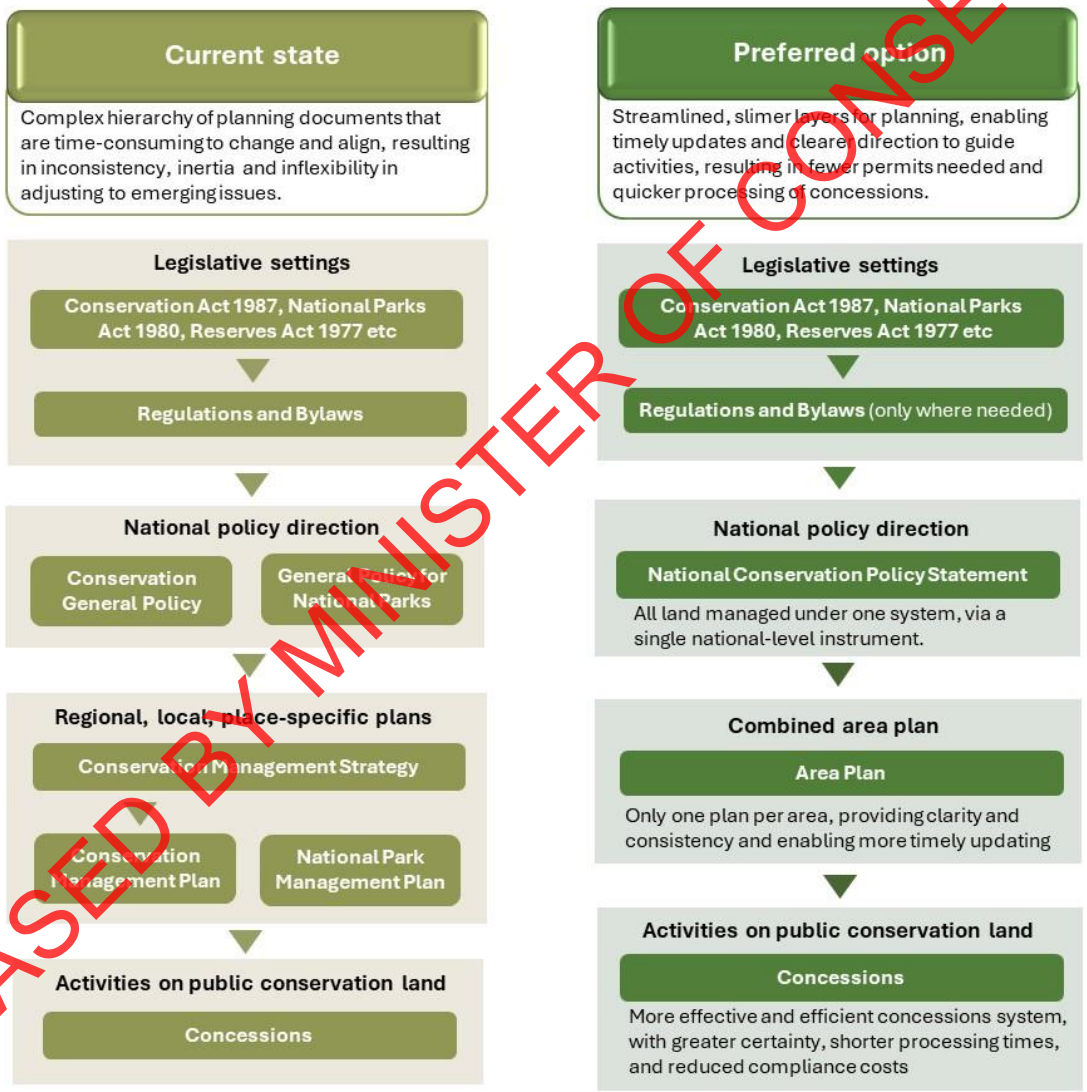
[16] For example, Kahurangi National Park is currently covered by the Nelson/Marlborough CMS and West Coast Tai Poutini CMS.

83. Establishing a single layer of plans will require decisions on where the exact boundaries will fall. Final boundaries will be determined by the Director-General[17] except where there are specific requirements set out in Treaty settlement redress.

84. This enables the system to be flexible ensuring that the most efficient and sensible approach can be taken as context shifts. Examples of changing context include the introduction of new Treaty settlement commitments, or the addition or removal of conservation land from Crown ownership.

Option A4 - Streamline both national and place-specific plans (Preferred)

85. This option proposes implementing both Option A2 and Option A3 – streamlining and simplifying the management planning structures at both the national level, and at regional, local, and place-specific areas. The proposed structure is set out below:



[17] Currently the Director-General of Conservation has the power under the Conservation Act 1987 to determine the boundaries of conservation management strategies (CMSs), while National Parks Act 1980 dictates that each national park must have a national park management plan (NPMP), which determines the boundaries by default.

How do the options compare to the status quo?

	Option A1 – Status quo	Option A2 – Streamline national policy instruments	Option A3 – Streamline place-specific plans	Option A4 - Streamline both national and place-specific plans (Preferred)
Conservation and other interests	0 A hierarchy of national policies and management plans that can overlap and have inconsistent approaches causing confusion.	+ Having national level policies and guidance in one document means that only one set of policies is developed for protected areas. This reduces the likelihood of inconsistent approaches to conservation values across national parks and the rest of the protected area network	+ Area plans would provide local conservation outcomes to support the preservation and protection of conservation values in the areas they cover. Having one plan per area will support clearer guidance for protected areas.	++ Combines the advantages of Options A2 and A3 by providing clarity on the national direction for key conservation and other interests, while preserving the ability for additional local values to also be reflected in area plans,
Regulatory stewardship	0 Management plans have unclear purposes leading to different views on what they should be trying to achieve.	+ A single national policy statement will provide a more coherent, transparent, and integrated regulatory system. It will enable government to be more strategic in direction-setting. It will enable more timely changes in direction to reflect changing government priorities, and conservation and other interests. The NCPS will define the content and matters that can (and cannot) be considered in management plans, ensuring greater coherence of planning between national, regional, and local plans.	+ An area plan template improves clarity about the scope of the content and make plan review and development more efficient. A consistent structure across all area plans supports public and stakeholder engagement with the area plan.	++ Combines the advantages of Options A2 and A3, ensuring an integrated planning system, providing a single consistent national direction while also flexibly supporting place-specific issues via area plans. The reduced hierarchy of instruments supports improved system stewardship at a national and regional/local area, by enabling more timely and integrated updates to planning

	Option A1 – Status quo	Option A2 – Streamline national policy instruments	Option A3 – Streamline place-specific plans	Option A4 - Streamline both national and place-specific plans (Preferred)
				documents to maintain relevance to emerging issues.
Government costs and efficiencies	0 Inability for plans and policies to create classes of activities where significant efficiencies can be gained.	+ Establishing activities that are permit-exempt (acceptable), pre-approved, and prohibited will reduce application volumes in the concessions system. This will allow some DOC resources to be freed up to focus on more complex and/or high-risk applications. This in turn will speed up the decision-making process and supporting greater efficiency.	+ The narrower focus of plans will make it easier for plans to be updated and provide clearer direction for regulatory decision-making.	++ Combines the advantages of Options A2 and A3.
Compliance burden	0 Large suite of documents and concessions for people to input to and for concessionaires to understand.	+ Having one set of national level policies to guide planning documents in one document and enabling classes of activities to be permitted in advance, prohibited, or be pre-approved will provide clarity, consistency, and improve timeliness for concession applicants. The reduction in volume of concession applications by filtering out low-risk applications will enable quicker processing by the regulator on the remaining, more complex applications.	+ Removing overlapping guidance and/or policies can make regulatory decisions more consistent, and clearer for stakeholders when making concession applications. However, moving to a single layer of area plans and developing new boundaries will require a multi-year process and may result in some temporary confusion for stakeholders and public during transition.	++ Combines the advantages of Options A2 and A3.

	Option A1 – Status quo	Option A2 – Streamline national policy instruments	Option A3 – Streamline place-specific plans	Option A4 - Streamline both national and place-specific plans (Preferred)
Treaty of Waitangi	**0** Large suite of documents and concessions for Treaty partners to input to and for concessionaires to understand.	**+** Treaty partners may be concerned with the NCPS taking a more active role in regulating activities and the ability to direct the content or matters in local and regional management plans. However, introducing classes of concessions will reduce the amount of input required on individual concessions.	**+** The reduced number of plans and improved clarity with standardised structures should facilitate improved engagement with iwi/hapū.	**+** Combines the issues identified under Option A2 and A3.
Overall Assessment	**0**	**5**	**5**	**9**

Key: *Compared to the status quo* ++ *much better* + *better* **0** *about the same* – *worse* – – *much worse*

Section B: Process for preparing, amending, and approving planning documents

What options are being considered?

Option B1 – Status Quo – Current process for developing, reviewing, and updating planning documents

(a) National general policy statements

86. Each national policy statement has a different statutory process to amend, revoke and update it:

    a. National Parks– Approved by the NZCA[18]

    b. Conservation – Approved by the Minister of Conservation (the NZCA have statutory role to advise the Minister)[19]

87. The Director-General of Conservation is responsible for preparing drafts, consulting with statutory bodies, and running the public submissions process for both national-level policy statements.

(b) Regional, local, and place-specific plans

88. Each plan type has its own detailed process for the development and review of plans that are prescribed in either the Conservation Act or National Parks Act. Appendix 1 sets out the detailed legislative requirements for developing, reviewing, and amending the various plans.

89. The Director-General of Conservation is responsible for developing and reviewing each area's Conservation Management Strategy and Plan (CMS and CMP), in consultation with conservation boards[20] and others.

90. Under some Treaty settlement legislation, the drafting and revision of plans must be done in consultation with the affected Post-Settlement Governance Entity (PSGE). The process for making a National Park Management Plan (NPMP) requires public notification of the intent to draft before the Director-General begins preparation of the consultation draft.

91. After the various plans are drafted, they are all publicly notified, and communities have an opportunity to provide written submissions and have their submissions heard in public

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18 The New Zealand Conservation Authority is an independent statutory body, established under the Conservation Act 1987 (s.6A). It advises the Minister of Conservation and the Director-General on conservation priorities at a national level, and is responsible for preparing and approving statements of general policy for national parks (and associated management plans) [Refer s.18(1)(a) & (b) and s.44 of the National Parks Act 1980]. Membership comprises people appointed following consultation with the Ministers of Māori Affairs, Tourism, and Local Government, a representative of Ngāi Tahu (requirement under Te Rūnanga o Ngāi Tahu Act 1996), and appointments nominated by various environmental NGOs and from the public. [Refer s.6D Conservation Act 1987].

19 The NZCA has a statutory role to advise the Minister of Conservation on statements of general policy prepared under the Conservation Act 1987 as well as the Wildlife Act 1953, the Marine Reserves Act 1971, the Reserves Act 1977, the Wild Animal Control Act 1977, and the Marine Mammals Protection Act 1978). [Refer s.6B of the Conservation Act 1987].

20 Conservation boards are independent bodies that enable local communities and iwi to contribute to the management of conservation areas.

hearings. There is a 40 working day timeframe for public submissions and hearings for CMSs and CMPS, and a two-month timeframe for NPMPs.

92. Following public engagement, the NZCA and/or relevant conservation board usually have responsibility for reviewing, amending, and approving plans. The NZCA can also consult further with anyone they think is appropriate.

93. The Minister of Conservation provides comment before plans are approved and may request that the draft be revised. In some cases, Treaty settlement legislation also provides a co-approval role for affected PSGEs or enables PSGEs to provide final submissions on plans before they are approved.

Option B2 – Minister approves both national and area plans

(a) Process for National Conservation Policy Statement (NCPS)

94. The Minister would be responsible for approving the NCPS following public consultation and impact analysis. The Minister would be able to initiate the amendment of the NCPS at any time. Ministerial approval of a NCPS would allow clearer and more consistent decisions. It sets government policy at a national level and should align with government's roles and responsibilities, similar to National Direction in the Resource Management system.

95. Of the freeform submissions that engaged with this option, 21 supported and 23 opposed the proposed process for establishing the NCPS. Treaty partners, environmental NGOs, and statutory bodies opposed this option; while concessionaires, industry stakeholders, and councils supported this option.

96. Most of DOC website submissions strongly opposed this option. 107 opposed, while 56 supported the proposed process for statutory documents. The remaining 73 submissions were neutral on this option. Again, it is important to note that the DOC website submission form asked for responses to the proposed processes for making, reviewing and updating both the NCPS and area plans.

Preparing the NCPS

97. The Director-General would be responsible for preparing the draft NCPS, which reflects the status quo for the general policies. The Director-General would not be required to consult with the NZCA, which differs from the status quo.

98. Submissions from iwi, the NZCA, conservation boards, and environmental NGOs suggested that the NZCA and/or iwi should have a role in drafting the NCPS (with some submissions proposing iwi co-draft the NCPS). Submitters considered this would improve policy development and give effect to the principle of partnership in the Treaty.

99. Establishing a co-drafting or substantive drafting role for iwi would require the formation of a Māori-led representative group (with legislative and institutional arrangements on representation, nomination processes, substitution of members, dispute resolution process and so forth). However, the key driver for streamlining the national policy direction process is to improve its timeliness and responsiveness – co-drafting would potentially add significantly to timeframes for development and revision of the NCPS.

100. The preferred approach to meet the concerns raised in submissions is for the NZCA and iwi to be given the statutory obligation to review and provide comment on the draft NCPS at

the drafting stage. The Director-General may then revise the draft prior to public notification. This added step (of a minimum of 40 working days) would marginally extend the time to draft the NCPS, but may reduce the issues to be worked through after public engagement.

101. The public consultation period would enable key stakeholders (conservation boards, Fish and Game, environmental NGOs) as well as iwi and hapū to provide input on the draft NCPS. A minimum timeframe for public consultation of 40 working days will be retained. Conservation boards would have the equivalent role that they do now in policy statements namely reviewing and providing feedback on the draft as part of public consultation.

102. Some Treaty settlements have relationship agreements in place that require specific consultation on changes to conservation policy in the rohe or takiwā of the PSGE. There will also be a requirement for the Director-General to ensure that all iwi are appropriately engaged in the NCPS process. The intent of all settlement requirements will be upheld.

Approving the NCPS

103. The Minister of Conservation would approve the new National Conservation Policy Statement. This, in part, retains the status quo in relation to the Conservation General Policy. Although the NZCA approves the General Policy for National Parks, given the status of the NCPS is setting national direction, it is not appropriate for anyone other than a Minister to approve the NCPS.

104. The Minister must receive advice from the Director-General on the impacts of the NCPS, including on Māori rights and interests, before any NCPS is approved. The Director-General would be required to prepare a summary of submissions and an impact analysis for the Minister to consider as part of the approval process.

105. Most submitters who engaged with the Ministerial approval proposal did not support it. Submitters thought the removal of the NZCA from various stages of the proposed process would water down their role as a check on Ministerial approval. Submitters raised concerns that this would make the NCPS subject to unpredictable Ministerial changes from short term political cycles.

106. In recognition of the NZCA's role in providing an independent voice and its existing statutory function in relation to providing advice to the Minister on the general policy statement for conservation, the NZCA would have an explicit role in providing advice on the final draft.

107. It is proposed that following submission analysis and revision of the NCPS, the final revised draft would be provided to the NZCA and iwi, and they would have 30 working days to provide comments to the Minister. The Minister would be required to have regard to the NZCA's comments and respond to them as part of the Ministerial approval process. This additional 'check' by an independent body of standing will ensure the Minister explicitly considers any matters raised by the NZCA. However, the Minister would not be bound to give effect to their views. This would preserve the Government's role as regulator, with the Minister being responsible for setting the national policy direction.

108. The Minister may request changes before approving the NCPS and direct the Director-General to make changes.

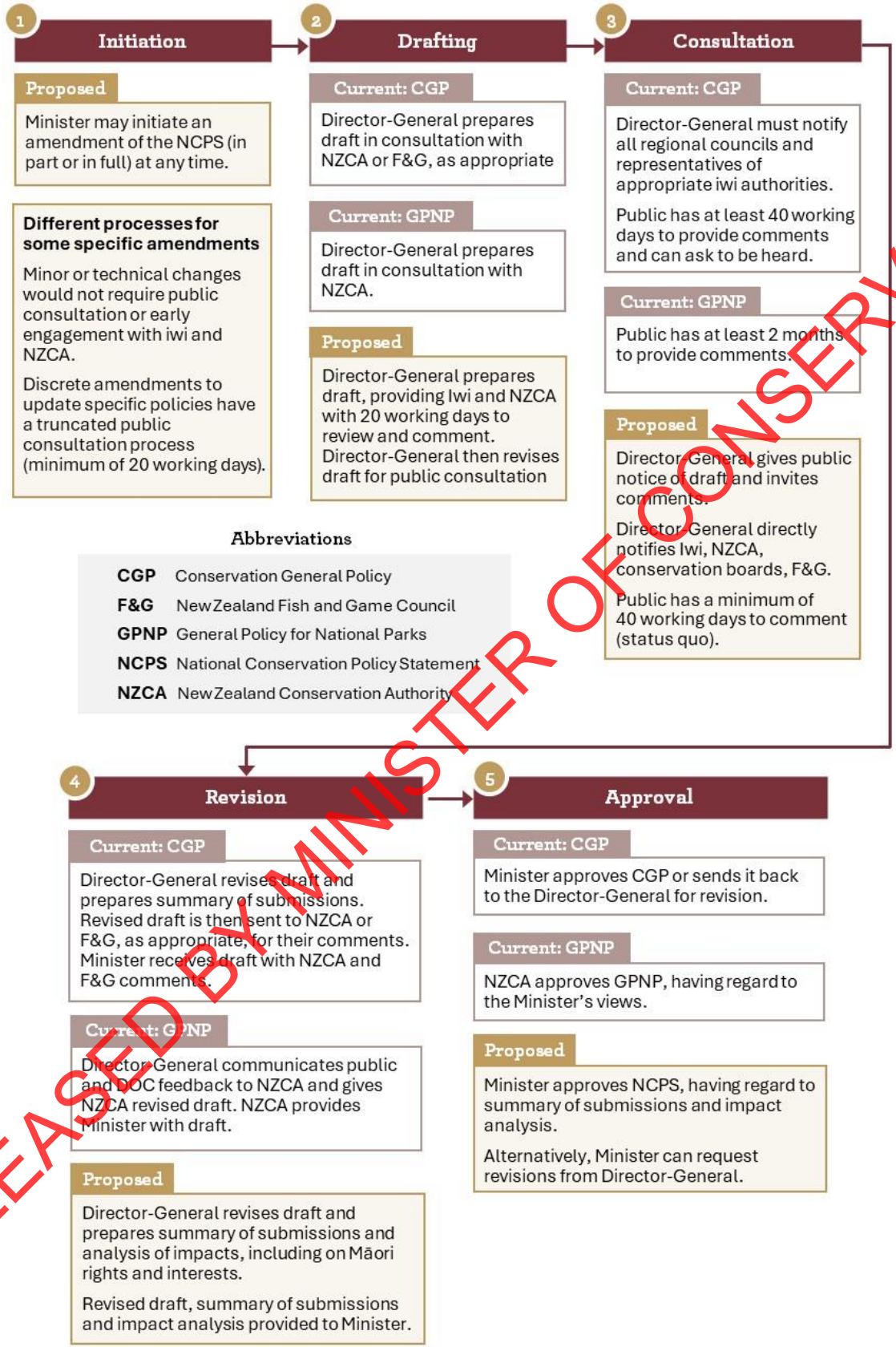
Amending the NCPS

109. The Minister of Conservation would be able to amend the NCPS at any time. There is no specific timetable or period for reviewing and amending the NCPS. Updates would remain at the discretion of the Minister. This is like the status quo for the general policies where there is no legislated timeframe for review.

110. Minor or technical amendments, where the change would have no more than a minor effect or correct a technical error, would not require public consultation. Given that there is no public consultation on these matters, drafts of the proposed minor changes would not need to be shared with iwi or the NZCA.

111. Enabling the Minister to make changes to the NCPS for minor and technical reasons without having to undertake the full consultation process for preparing the NCPS would ensure the policy statement remains up to date by correcting minor errors in technical specifications, cross-references to other statutory documents, changes in titles/names, or correcting errors in application to area plans.

SUMMARY FLOWCHART OF THE NCPS DEVELOPMENT – CURRENT AND PREFERRED PROCESS



(b) Process for area plans

112. Streamlining the existing place-specific plan types (CMS, CMP, and NPMP) into one set of area plans means there will only be one process rather than the existing three different processes. The current processes for each of the three plans are outlined in Appendix 1.

113. The NZCA and conservation boards approve the existing three types of plans. The NZCA includes representatives from Ngāi Tahu, environmental NGOs, and those recommended by Ministers for Tourism, Local Government, and Māori Development. They are responsible for approving CMSs, NPMPs, and (in some cases) CMPs.

114. Conservation boards are independent bodies that enable local communities and iwi to contribute to the management of conservation areas. They are responsible for the approval of most CMPs (unless they are referred to the NZCA for approval). Notably, the role for approving CMPs is already affected by the gradual phase out of CMPs except for those developed under Treaty settlement.

115. Despite approving planning documents (which set rules for the Minister to be bound by as the regulator), neither the NZCA nor the conservation boards are accountable for ensuring the objectives and policies set out in plans are implemented operationally or given effect to through regulatory decision-making. This can mean the inclusion and approval of content or conditions in plans that make it harder for DOC to perform its regulatory functions or do not align with its operational budget.

Preparing the area plans

116. The preparation stage is where most of the current timeframes for planning document reviews are being drawn out. This ultimately slows the responsiveness of the system to emerging conservation issues and new opportunities for activities on PCL. The proposals seek to speed up drafting by:

    a. clarifying the purpose and content of area plans;
    b. setting a timeframe of four months for drafting within the 12-month timeframe (with specific timeframes for other stages); and
    c. clarifying the role of Treaty partners at the drafting stage.

117. It is proposed that the Director-General will be responsible for preparing the area plan (as they will be for the NCPS). Prior to beginning work on developing the area plan, the Director-General will seek the views of relevant iwi and conservation board(s) on what types of objectives and policies should be included in the area plan.

118. Following preparation of the draft area plan, and prior to public consultation, the Director-General would again consult with iwi and conservation board(s) on the objectives and policies. To ensure that consultation with these parties does not unreasonably slow the preparation of an area plan, it is proposed that an area plan must be publicly notified with four months of the Director-General initiating the area plan process.

Treaty partnership in the area plan process

119. It is important that the new statutory process makes explicit the role of iwi in area plans. Many existing Treaty settlements include bespoke requirements relating to engagement – the intent of which will be upheld. Outside of these existing settlement processes there is an opportunity for the new streamlined system to provide greater consistency and certainty about how DOC will give effect to Treaty principles in the area plan process.

120. There are three options for clarifying the role for iwi in area plan process:

    a. consultation: legislation makes explicit that iwi must be consulted during the drafting, as well as on any revisions to an area plan after public consultation (preferred);

    b. co-drafting: iwi representative body and the Director-General draft area plans together, including any revisions made after public consultation; and

    c. co-approval: iwi representative body and the Minister approve the final area plan.

121. For all options, the specific steps required to engage with iwi would be drafted into the legislation. The legislation would make it clear what steps are required to give effect to section 4 of the Conservation Act for the purpose of area plan processes. Otherwise, there will still be ambiguity around what section 4 requires.

122. **Consultation** during drafting and revision of an area plan will provide an efficient approach to ensuring Treaty partners input to the development of a plan, and this is DOC and the Minister's preferred option. The views of relevant iwi on what types of objectives and policies should be included in the area plan would be sought during drafting. Following preparation of the draft area plan, and prior to public consultation, the Director-General would consult with iwi on the draft objectives and policies. The process will not prescribe the methods for engagement with iwi, enabling greater flexibility for iwi to determine how they wish to engage during the area plan process. It also enables DOC to be responsive to the 'form' of engagement.

123. Feedback on this proposed approach to the preparation of area plans was mixed with roughly half expressing support (similar to the feedback on the NCPS process). Those who supported the proposals believed that they struck the right balance regarding giving effect to the Crown's Treaty obligations while creating a process that could be completed in a timely manner. Some environmental NGOs and stakeholders from the recreation and tourism sectors felt there should be a greater role for them in the process.

124. While this option will provide procedural certainty relating to engagement with iwi and hapū, consultation, particularly without a co-approval approach, will be seen as a narrow application of section 4. It may be seen as a weakening of Treaty and conservation protections and could cause damage to Māori-Crown relations. **Co-drafting** delivers a partnership approach to developing an area plan. However, it creates significant tension with a drive for efficiency. It has the potential to slow down the drafting of planning documents. Co-drafting generally requires more rounds of engagement as the parties seek to reach a consensus. This will be particularly complicated where there are many iwi in an area. Based on experience, DOC does not recommend this option as it is not considered workable without significant work on "circuit breakers" to resolve disagreement between DOC and Treaty partners, or Treaty partners themselves. Delays to management planning processes have often occurred where the parties do not agree on whether the draft is acceptable to progress to the next step in the process.

125. Several submissions – from iwi and Māori organisations, conservation boards, NZCA, and some environmental NGOs – proposed that area plans be co-drafted with iwi and hapū. Co-drafting of plans takes place now, where specifically provided through settlement redress (e.g. the Te Hiku conservation management strategy).

126. **Co-approval** of a plan (possibly in conjunction with co-drafting) is another option that provides greater partnership in the development of area plans. In areas with multiple iwi there would need to be a representative body set up to make this workable. The same issues outlined above for co-drafting would occur for co-approval where the Minister may not be able to reach agreement on the final form of the area plan. This would result in further negotiations to reach consensus, slowing down the process. A circuit-breaker may also be needed, such as the Minister having a veto, which would negate the positives of co-approval.

Opportunities for iwi and conservation bodies to guide the area plan

127. Following public consultation on an area plan, there will further opportunities for iwi, conservation boards, and the NZCA to provide input.

128. The Director-General will analyse public submissions and revise the area plan. This revised draft will be provided to the relevant iwi, conservation board, and the NZCA for comment. They would have two months to provide comments prior to the final draft being provide the Minister for approval.

129. The feedback during this stage will be provided to the Minister to support the advisory role that these bodies will play in the new planning system.

Specific timeframes to ensure area plans are completed in a year

130. To ensure there is certainty and clarity to support efficient planning, it is important that area planning processes are not unreasonably drawn-out. Accordingly, it is proposed that the legislation specifies the maximum timeframes the various stages of developing an area plan:

    a. drafting and public notification – must be completed within four months of the Director-General initiating the plan process;
    b. consultation – minimum of 40 working days (two months) for public consultation; and
    c. revision – total of five months, with three months for the Director-General to revise the area plan and two months for iwi, the NZCA and conservation board(s) to comment.

131. The Minister of Conservation, at the request of the Director-General, could extend timeframes on area plan development at their discretion but must give a reason for the extension and set a new reasonable timeframe. It is also proposed these timelines could be truncated for some types of revisions to an area plan (see below).

Approving all area plans

132. Under the proposed changes, the Minister of Conservation would approve all area plans. This strengthened role aims to ensure regulatory consistency between the nationally set policy and local application in area plans and will also support faster decision-making.

133. Under the proposed changes, the functions and roles of statutory planning documents are more clearly oriented towards guiding regulatory decision-making and concessions, and the need for a coherent set of regulatory policies across the framework. Accordingly, it is more appropriate for the Minister to be the decision-maker, than the NZCA and conservation boards as present, since the Minister also makes the regulatory decisions.

134. The majority of submitters were not in favour of Ministerial approval due to the removal of what is seen as an important check and balance within the current planning system. This mirrors the feedback and concerns raised in the submissions regarding the Ministerial approval of the national policy statement. The rationale cited for the NZCA's approval currently is the NZCA can influence ministerial decision-making, including on concessions decisions, and 'depoliticise' conservation regulation.

135. Given the regulatory nature of the area plans, it is not appropriate for final approval of key planning documents to reside outside of the Ministerial system when the Minister is also the consent giver who is bound by those plans and is held accountable for the outcomes of the system. The NZCA will provide a 'check and balance' on the area plans through a formalised advisory function.

136. The new proposed approach for the development, consultation and revision of an area plan provides multiple points for ensuring iwi, conservation boards and the NZCA input into those decisions is provided for through the process for preparing the plan prior to approval.

137. The Director-General will provide the Minister the comments from the relevant iwi and conservation board(s) for consideration when deciding whether to approve the plan or request revisions. The conservation boards and the NZCA also have the option of providing written feedback directly to the Minister, prior to approval of an area plan.

138. The Director-General must prepare an impact analysis report for the area plan, including impacts on Māori rights and interests, to support the Minister's consideration on approving an area plan.

139. Some Treaty settlements stipulate bespoke approval requirements for the affected PSGE, such as requiring a CMP to be co-approved by the PSGE either with local conservation boards or the Minister. These bespoke roles for PSGEs are intended to be upheld where applicable, which means material equivalence will need to be provided (e.g. by grandparenting existing arrangements into legislation to uphold their rights).

140. Other Treaty settlements require PSGEs' representation on local conservation boards. Changes to the approval roles of those independent bodies will accordingly have an impact on some Treaty settlement redress. Further engagement is needed with affected PSGEs to determine the options for upholding settlements.

Reviewing and amending the area plans

141. Currently, conservation planning documents are required to be reviewed in full every 10 years. The discussion document suggested this would not change for area plans. The case to conduct a full review every 10 years is not clear – the main benefit of a review deadline is to ensure that the documents are prioritised for update and stay current.

142. However, the current 10 year review requirement has not resulted in up to date plans; 80% of plans are overdue for review, some by over 10 years. The statutory process for updating these documents means reviews can take several years and some plan updates have taken up to 10 years to complete. The 10 year review also leads to expectations that the entire plan needs rewriting which makes the process much more resource intensive and cumbersome.

143. The determining factor on whether plans remain up to date is more about the simplicity, speed and efficiency of the process to do so, than an arbitrary legislative deadline. The

intention of this reform is to be nimbler, making more frequent amendments to keep documents up to date where issues arise (which is likely to be earlier than within 10 years). Plans would be amended on an 'as needed' basis.

144. There are currently about 18 CMSs and 13 NPMPs and expected to be around 21 area plans through settlements. So even with removing CMPs, there may be around 50 area plans (however, a large amount of PCL is covered by only 11 of them). Full reviews of all of them every 10 years will be burdensome with little benefit.

145. Amendments at the discretion of the Director-General would be a more efficient way of addressing problematic outdated policies, and accordingly specific legislative timeframes for review are not proposed. However, there is likely to be a need for small updates to area plans to maintain their relevance in a changing environment. A shortened review process is proposed to enable partial updates of discrete aspects of an area plan.

146. Generally, all amendments would follow the standard 12-month process for approval in terms of engagement with iwi, conservation boards and the NZCA, public consultation, revision and approval.

147. Given the overarching aim for streamlining planning processes and ensuring area plans are up-to-date and respond to emerging issues, a truncated approach is proposed for minor and technical or targeted amendments, as follows:

Type of amendment	Modified consultation process
Minor errors or technical changes	Minor or technical amendments – where the change would have no more than a minor effect or correct an error – would not require public consultation. Accordingly, proposed changes would not be consulted on with iwi, conservation boards or the NZCA.
Inconsistency with the NCPS	Amending an area plan where it has become inconsistent with the NCPS would not require public consultation, as consultation would have occurred for the NCPS amendment. Changes would also not be consulted on with iwi, conservation boards or the NZCA. Public notice of the amendment would be required.
Discrete and targeted policy change	Targeted or discrete policy changes would involve matters such as refining the definitions of activities, updates to specific policies, visitor limits, or adjusting the types of activities specified in one of the three category of concession classes (permit-exempt, pre-approved or prohibited). Public consultation, together with statutory-required engagement with iwi, conservation bodies and the NZCA, would be required, but with shorter timeframes (given the changes would be discrete). The shorter timeframes would be specified in legislation.

148. Amendments that are discrete and targeted to update specific policies or limits will follow the same process for development of an area plan, but with the following shortened timeframes:

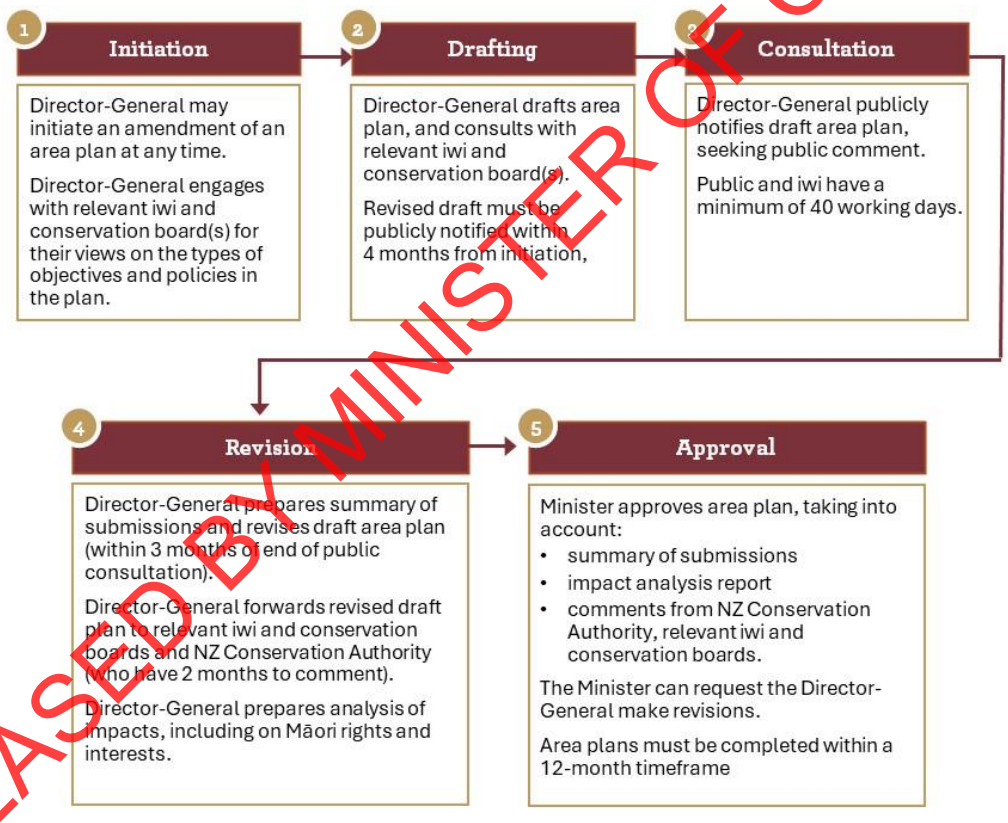
a. Drafting and public notification – must be completed within two months of the Director-General initiating the plan process (compared to four months normally)

b. Public consultation – minimum of 20 working days (compared with normal 40 working days)

c. Revision – total of two months, with one month for the Director-General to revise the area plan and one month for iwi, conservation bodies and the NZCA to comment (compared to normal process of five months for revision, including two months for external comment).

149. The policy intent is to ensure that area plans remain current and accurately reflect emerging changes in activities on PCL. Undertaking a full consultation process of 12 months to make minor changes to better define an activity or adjust the conditions of a pre-approved activity would add enormously to the compliance cost of area plans, and potentially risk consultation fatigue with the public and key interest groups. Whether the shortened timeframes for discrete amendments will be seen as reasonable to the public, iwi, and key advisory bodies will ultimately depend how they view whether amendments are 'minor and discrete'.

SUMMARY FLOWCHART OF THE PREFERRED PROCESS FOR AREA PLANS



Option B3 – Approvals are split between Minister (national) and the NZCA (area plans)

150. This option is the same as Option B2 except it the Minister would not have an approval role for area plans. This is not a recommended approach as it creates a disconnect between government's policy leadership and on-the-ground implementation.

151. Under this option, approval of area plans would sit with the NZCA. This would reflect the NZCA's current role in approving the existing conservation management strategies and plans and the national park management plans.

152. This approach would align with most submissions on the discussion document, which opposed changes to the role of the NZCA.

(a) Process for National Conservation Policy Statement (NCPS) – approval by the Minister of Conservation

153. The process for the development, approval, consultation, and revision of the NCPS would remain the same as outlined in Option B2.

154. The issues raised in terms of removing the NZCA's approval role in relation to the NCPS were outlined in the previous Option B2. There is also a variation that would retain the NZCA's specific role in relation to approving a national policy direction for national parks. This could take the form of either:

    a. separate General Policy for National Parks; or
    b. approval for components of the NCPS relating to national parks.

155. Retaining the NZCA's role by having a separate national parks policy direction under either of the two options would undermine the premise for streamlining and amalgamating the national policy direction into a single instrument which submissions supported.

156. Giving the NZCA a role in endorsing or approving of policies related to national parks, within the context of the combined NCPS would give them a stronger approval role than the status quo. Because the NCPS will cover a range of policies that apply to all conservation land, including national parks, the NZCA would effectively have approval of both national and general conservation matters. It would undermine the effectiveness and coherence provided by a single national policy statement if a standalone chapter for national parks is introduced.

157. From a Treaty perspective, iwi and hapū may not view an approval role for the NZCA as desirable, unless iwi Māori had equivalent representative roles on the NZCA. Currently only the Ngāi Tahu Treaty settlement provides for a Ngāi Tahu representative to have an entrenched role on the NZCA, and given the current size of the NZCA, group decision-making processes could become unwieldy if more members were added. The NZCA would need additional resources and capabilities to enable them to provide a more comprehensive Māori perspective in the approval process for a national parks policy statement.

158. Given the difficulties in providing a separate role for the NZCA, it is proposed that the Minister has standalone responsibility for approval of the NCPS. Iwi and the NZCA would have specific and significant roles in providing advice to the Director-General and Minister at specific stages of its development (as set out in Option B2).

(b) Process for area plans – approval by the NZCA

159. Under this option, the NZCA could have either co-approval or sole approval for the area plans. This reflects the NZCA's current role in approving local and regional plans and strategies.

160. Allowing the NZCA to retain its current approval powers would effectively be a retention of the status quo. An explicit approval role for the NZCA would compromise the ability of the Government to set the regulatory rules around use of PCL.

161. Introducing co-approval of area plans would slow down the process for approval as two or more stages may be required to try and achieve consensus. It is also likely that a circuit-breaker would be required if consensus cannot be reached, further lengthening the time take to consult, revise and approve an area plan. One option would be the Minister having the power to approve in the event of a disagreement on approach; this would effectively negate the benefits of introducing co-approval.

162. Co-approval would reduce the regulatory effectiveness that is the goal of streamlining the national and area plans as it would limit the ability of government to implement changes in national direction for conservation and other outcomes at the local and regional level. Given the objectives of the reform to increase efficiency, coherency, timeliness and responsiveness, retention of the NZCA as an approving body for the area plans would risk undermining those objectives.

163. As noted in discussion for Option B2, most submitters were not in favour of Ministerial approval of the area plans, due to the removal of what they saw as an important check and balance in the system to ensure decisions regarding conservation land are carefully considered.

164. Given the objectives of the reform to increase efficiency, coherency, timeliness and responsiveness, retention of the NZCA as an approving body for the area plans would risk undermining those objectives.

How do the options compare to the status quo?

	Option B1 – Status Quo	Option B2 – Minister approves both national and area plans (Preferred)	Option B3 – Split approval between the Minister (NCPS) and the NZCA (area plans)
Conservation and other interests	**0** Current processes provide for iwi, stakeholder, and public input. The NZCA and conservation boards have substantial role of being involved in approving plans and National Parks General Policy.	**0** The process for national policy statement and area plans provides multiple opportunities for iwi, conservation boards and the NZCA, stakeholders, and the general public to input to the development of both the national direction and translating this direction into the development of local conservation and other outcomes. However, there is no approval role for conservation boards and the NZCA.	**0** Splitting approval undermines the ability for the government's national direction on conservation and other outcomes to be reflected consistently across all local/regional level area plans.
Regulatory stewardship	**0** Plans lack a clear purpose and around 80% of plans are overdue for review. They are cumbersome to navigate, and the same place sometimes has overlapping and conflicting policies.	**+ +** The Minister of Conservation has final approval of the NCPS and area plans, which will create a clearer and more consistent application across the multiple planning documents. Truncated statutory timeframes across the various stages of plan development for minor and specific limited refinements to plans will support greater responsiveness to changing circumstances – especially with flexibility on the timing for reviews and amendments (rather than fixed 10-yearly reviews).	**0** Risk that the national policy direction and area plans are not aligned (similar to status quo), increasing confusion on the nature of activities that can occur on conservation lands, and limiting the gains that could be achieved in the concession system through integration across planning processes and approvals.

	Option B1 – Status Quo	Option B2 – Minister approves both national and area plans (Preferred)	Option B3 – Split approval between the Minister (NCPS) and the NZCA (area plans)
Government costs and efficiencies	0 Plan review processes are protracted and frequently stalled. There are multiple and differing views about what plans should cover resulting in extended consultation and delays in finalising plans. Complexity and uncertainty for decision-makers contributes to slow decision-making.	++ Statutory timelines for development, consultation, and Ministerial approval will improve the efficiency for taking policy statements and plans from initiation to implementation. Reduced timeframes will make them more cost-effective to develop and maintain, although some additional resourcing may be required to support iwi, conservation boards and the NZCA to effectively engage with the additional stages for input/consultation.	+ Retaining an approval role for the NZCA will not necessarily result in efficiency gains associated with reforming the planning process. The Minister approving a single NCPS will result in some gains, but the current risk remains of the national direction not being translated into area plans. Statutory timeframes may lead to efficiency gains, but additional resourcing may be required to achieve them. Given the independence of the NZCA, there is no mechanism for government to ensure adherence to the timeframes.
Compliance burden	0 Complexity and uncertainty for applicants in some cases about how their activities need to align with the framework of plans and policies. Slow decision-making as a result of this, increases costs for applicants.	++ Clarity in national policy direction, which is reflected across multiple area plans, will support improved understanding of the future conservation outcomes and types of activities, supporting the effectiveness of the concession system.	+ Stakeholders will face the same level of compliance costs as the current system, although there may be some efficiency gains arising from the imposition of statutory timeframes.
Treaty of Waitangi	0 There is ambiguity about how to give effect to Treaty principles in particular processes or decisions. Different views	0 More certainty about what is required to give effect to section 4 in a process to develop national policy. However, this certainty is provided by narrowing the application of section 4, 9(2)(f)(iv) [redacted]	0 Only one iwi is currently represented on the NZCA, so this option does not strengthen iwi involvement at a broad level. More certainty about what is required to give effect to section 4 in a process to develop national policy.

	Option B1 – Status Quo	Option B2 – Minister approves both national and area plans (Preferred)	Option B3 – Split approval between the Minister (NCPS) and the NZCA (area plans)
	mean that there is a high risk of legal challenge in the planning processes.	9(2)(f)(iv) [redacted] Requirement to consider Treaty rights and interests.	However, this certainty is provided by narrowing the application of section 4, 9(2)(f)(iv) [redacted]
Overall Assessment	**0**	**6**	**2**

Key: *Compared to the status quo* ++ *much better* + *better* 0 *about the same* – *worse* –– *much worse*

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

165. The preferred options identified above are:

    a. **Option A4** – Streamline both national and place-specific plans

    b. **Option B2** – Minister approves both national and area plans

166. Streamlining the planning and processes for development, drafting, consulting, and approving the NCPS and area plans provides the greatest gains in terms of efficiency for government planning, affected parties (especially those using the concessions system), and achieving conservation and other outcomes.

167. Combining the national conservation and national parks policy statements into a single instrument (Option A1) will provide more clarity about the national direction in terms of achieving conservation outcomes and balancing them with other economic, social and cultural outcomes, as the national policy statement is reflected in the values and objectives of area plans.

168. The new NCPS will introduce 'class concessions' of low-risk activities that are either exempt from needing permits or pre-approved for permits with specific conditions, and high-risk activities that are prohibited from conservation lands.

169. These changes will free-up the concessions system, enabling the regulator (DOC) to more effectively consider new and novel concession applications and reducing compliance costs on individuals, communities, and businesses wishing to undertake activities in public conservation land. This will have flow-on gains in terms of transparency and consistency of decision-making for people wanting to undertake tourism and recreational and other activities.

170. The introduction of statutory timeframes for the development of area plans, together with specified roles for engagement with iwi, the NZCA, and conservation boards during the process for drafting, developing, consulting, revision, and approval, improves the certainty, clarity, and transparency of the planning process (Option B2). The statutory timeframes will also ensure that area plans are updated in a timely manner, and together with an option for a truncated process for making minor adjustments, will ensure that plans continue local values and environmental conditions.

171. The Minister being the final approver of both a single NCPS as well as all area plans (Option A4), ensures that the government direction is translated across the regulatory system, while also enabling that direction to be modified to reflect the local values and conditions in an area. This combines the gains from both Options A2 (national instruments are streamlined) and Option A3 (place-specific plans are streamlined) with the additional gains of delivering an integrated and seamless planning process that reflects combined local and national objectives.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

172. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
DOC	• Immediate implementation costs – communicating changes to regulated parities, establishing new planning processes, and ensuring Treaty settlements continue to align with any new planning processes. • Medium-term implementation costs – process to transition to one area plan with work to reduce overlapping boundaries across area plans. Costs will be staggered over time to minimise disruption. • Significant work over the next three years to address backlog of outdated plans.	*Low*	*Medium*
Concessionaires (including applicants)	• There are no additional costs to concession operators arising from the changes proposed in this RIS.	*Low*	*High*
Iwi and hapū	• Costs (including time) of participating in making or amending NCPS and area plans, if greater than costs of updating two existing general policies and raft of place-specific plans. • Costs of engaging with DOC on the identification of potential concession classes (activities that will be pre-approved, permit-exempt, or prohibited), if greater than costs of engaging on relevant individual applications (likely to be lower however).	*Low*	*Medium*
NZCA and conservation boards	• There should be no additional costs to these bodies arising from the change in role in the planning process, but the statutory timeframes for the different stages of input may result in lumpy cost impacts in financial years.	*Medium*	*Low*
Public (including environmental NGOs)	• There may be changes to what activities are allowed on conservation land, which could result in different conservation outcomes. This will depend on the policies and rules that become part of the framework.	*Low*	*High*
Total monetised costs	• Implementation costs for DOC and for ensuring that parties with key roles in feeding into plans (iwi and the NZCA) can effectively input, especially within the statutory timeframes.	*Low*	*Low*

Affected groups	Comment	Impact	Evidence Certainty
	• Costs of establishing processes and supporting other parties to input the planning process are not yet known.		
Non-monetised costs	• Additional time may be required by environmental NGOs and other groups to engage in the initial national policy statement and area plans.	*Low*	*Low*
Additional benefits of the preferred option compared to taking no action			
DOC	• Reduced planning costs – only need to make and update one national-level instrument, using a clearer and more efficient process. • Greater clarity for concession decision-making. • Reduced number of concession applications to process on case-by-case basis. • Greater alignment between national direction and area plans.	*High*	*Low*
Concessionaires (including applicants)	• Costs of the statutorily defined engagement steps in the new process should be lower than the current costs of approving a national parks policy statement and place-specific plans. However, the tighter statutory timeframes and requirements to engage across stages may limit these body's ability to spread engagement costs.	*Medium*	*Low*
Iwi and hapū	• Improved transparency and consistency of engagement with statutorily specific input across all stages of the planning process, both in setting the national policy direction and all area plans. • Reduced engagement with DOC will be required on high-volume, low-complexity concession applications. • Greater transparency of concessions decision-making.	*Medium*	*Low*
NZCA and conservation boards	• Reduced role in approving planning documents will enable greater engagement at different stages of development of national and area plans.	*Medium*	*Medium*
Public (including environment NGOs)	• Greater clarity on how and when planning documents will be updated, enhancing public engagement in the process. • There may be changes to what activities are allowed on conservation land which could result in benefits for the public, but this will depend on the policies and rules that become part of the framework.	*Low*	*Medium*

Affected groups	Comment	Impact	Evidence Certainty
Total monetised benefits	• Main monetised benefits relate to DOC having fewer high-volume, low-complexity concession applications to process, with the introduction of class concession under the NCPS. This will make existing applications faster to process, and result in cost-savings to concessionaires for activities that are permit-exempt ('acceptable'). • Monetised benefits cannot be estimated.	*Medium*	*Low*
Non-monetised benefits	• All parties/public have greater clarity and certainty about what activities are allowed or prohibited, improving the efficiency of the concessions system for both applicants and DOC. • There are social benefits of removing unnecessary regulatory barriers to use of public conservation land. • Non-monetised benefits cannot be estimated.	*Medium*	*Low*

Section 3: Delivering an option

How will the proposal be implemented?

173. The development of an integrated planning system – comprising the NCPS and area plans (preferred option) – would be given effect by way of an amendment Bill. Parts of the Conservation Act will need to be rewritten to give effect to these proposals. Substantial changes will be needed to the National Parks Act 1980 and Reserves Act 1977, and there may be consequential changes needed in other conservation laws.

174. Once legislation is implemented, DOC would be responsible for the initial and ongoing implementation. DOC will ensure it has the necessary systems, processes and resources to deliver the new planning system, as well as establishing new processes for monitoring compliance and enforcement.

175. Additional operational guidance and regulations may be necessary to give effect to the proposals. It is likely that at least three years of intensive work will be required to bed in the new system.

National Conservation Policy Statement (NCPS)

176. The first NCPS would be drafted alongside the Bill, enabling it to be operative on commencement of the Act (superseding the existing Conservation General Policy and General Policy for National Parks).

177. Developing the NCPS together with the Bill will eliminate the need for the government to engage on a process to draft the NCPS following the passage of legislation. This will speed-up the timing for the new system coming into effect, as well as give the public and stakeholders the benefit of seeing the content of, and providing feedback on, the first NCPS at the same time as its empowering provisions and overarching framework in the Bill.

Area plans

178. The entry into force of the NCPS and new legislation concurrently will enable DOC to work on transitioning the place-specific plans within the new planning structure.

179. Within 12 months of commencement the existing place-specific plans (i.e., the conservation management strategies, national park management plans, the conservation management plans) will be translated into single layer area plans.

180. This process would not include consultation, as the new area plans would simply be translated to reflect the new legislative framework. The process would involve removing errors, making the plans consistent with the NCPS and legislation, and moving things between plans to ensure there is a single layer.

181. Initial area plan boundaries will be determined by the Director-General but will generally default to the existing CMS boundaries. There will be some exceptions for national parks, which will default to those boundaries, but with an option for adjacent parks or PCL to creating a single area plan where this would support more effective management. There may also be some cases where straightforward, uncontentious boundary changes that improve efficiency and can be made with little disruption. Current management plans that

are surplus to the new system (for example because they duplicate material due to overlapping areas or cover matters now included in the NCPS) would be revoked.

182. The Director-General will have the power to determine the boundaries of the new area plans, as they currently have for CMSs. The implementation process will need to address how statutory carve-outs and bespoke arrangements for iwi and hapū to ensure that existing Treaty settlements will work in practice, and the extent of any adjustments to the final design of the new systems and planning processes across area plans.

How will the proposal be monitored, evaluated, and reviewed?

183. DOC will be responsible for monitoring, evaluating, and reviewing any changes. DOC will monitor the successful implementation of the new management planning system by tracking:

    a. the translation process from old management plans to new area plans, which is planned to occur within 12 months of commencement of the Act;

    b. progress on development of new priority plans that need significant amendment beyond a simple translation process (e.g. Fiordland National Park and other plans that will be identified as needing significant review or amendment);

    c. issues with provisions in area plans or the NCPS as they arise, and alerting relevant decision-makers when they reach thresholds that warrant amendment (these issues may be identified in a range of ways, including through regular interactions with Treaty partners, stakeholders, and through monitoring of regulatory decision-making); and

    d. the timeframes for developing and amending area plans more generally (discussed above in "Reviewing and amending the area plans"), including the use of any timeframe extensions.

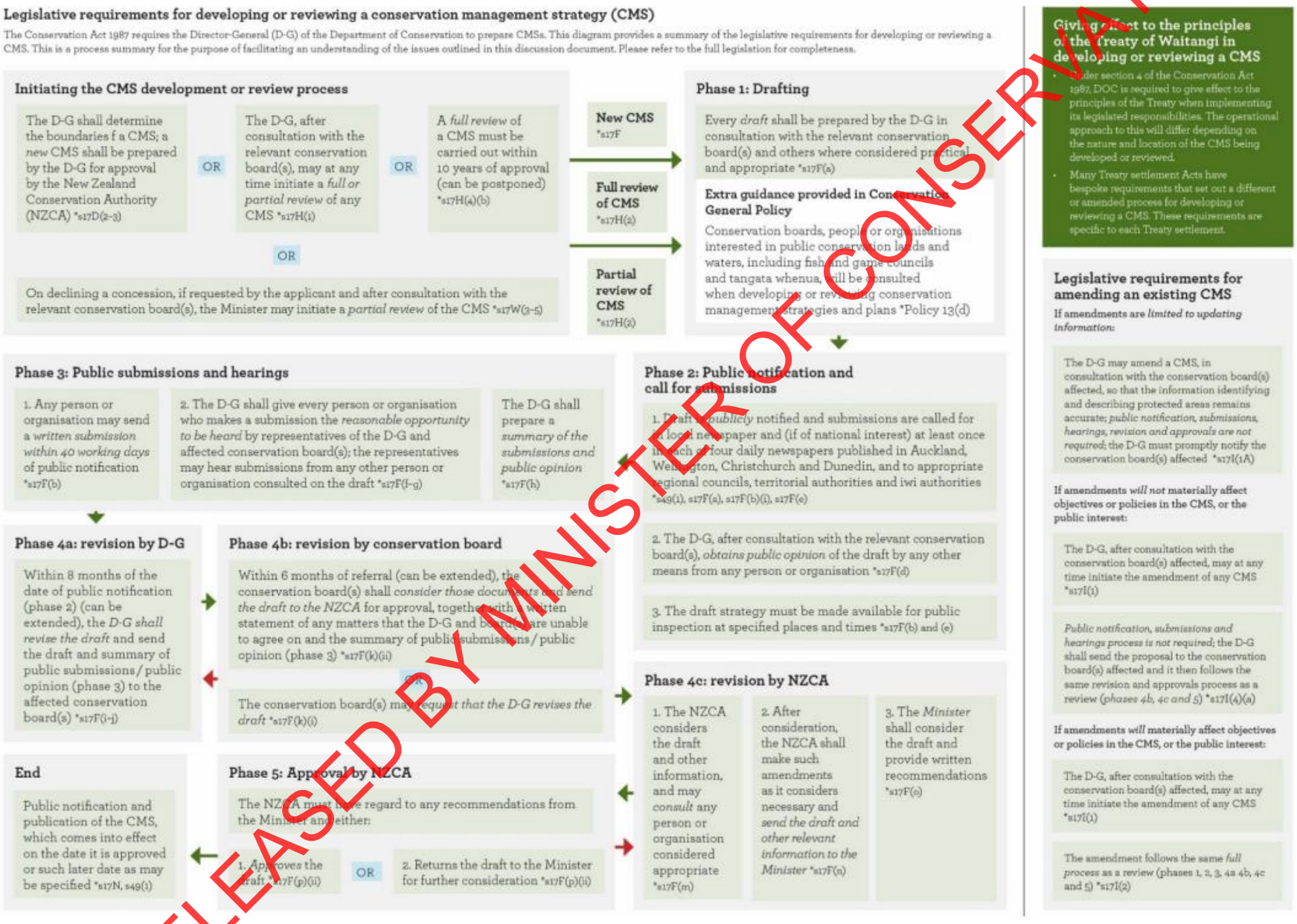
184. The information from monitoring will be included in DOC's usual accountability reporting (e.g. annual report) and will be used to inform any future policy development or legislative change to further improve the conservation management planning system.

185. A key outcome emerging from the streamlining of conservation management planning will be unjamming the concessions system and delivering shorter processing times for permissions and concessions for businesses and community groups.

186. The introduction of 'class concessions' will support quicker processing times by exempting low-risk activities, or pre-approving permits with conditions for such activities. DOC actively monitors application numbers and processing times, and this will continue to be a metric in assessing the efficiency of the new system.

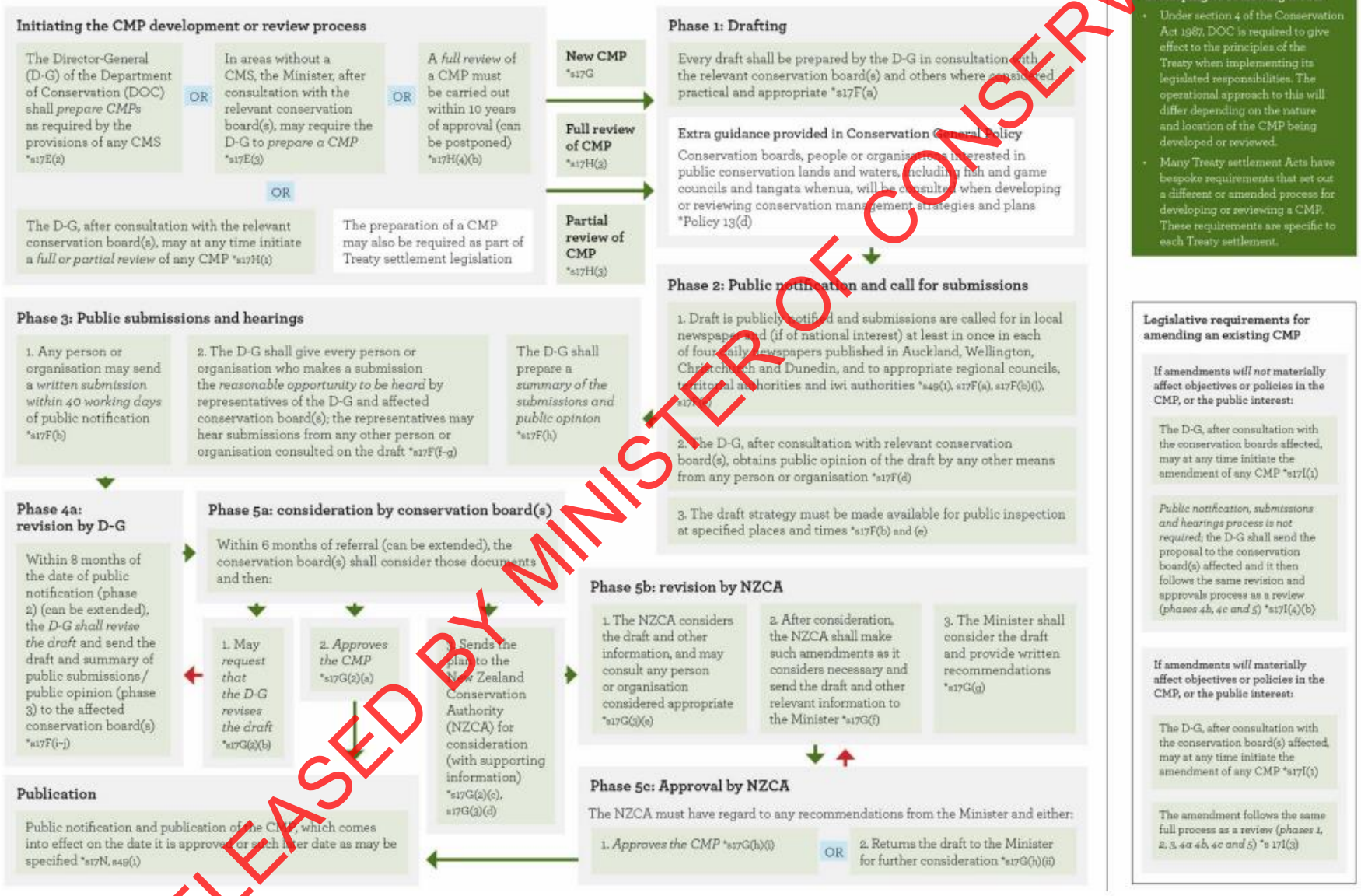
187. Monitoring and oversight of the new class concessions regime will be undertaken as it will be essential to build trust in the new approach to some low-risk activities. Timely monitoring is key to be able to adjust conditions on any pre-approved permits or remove an activity from the 'permit-exempt' category if conditions change. Ongoing concession monitoring will continue. DOC needs to ensure sufficient resourcing for this, including cost recovery where appropriate. This ongoing compliance monitoring may reveal whether there is a positive impact on illegal operators.

APPENDIX 1: Current process for making or amending CMS, CMP and NPMP



Legislative requirements for developing or reviewing a conservation management plan (CMP)

This diagram provides a summary of the legislative requirements for developing or reviewing a CMP under the Conservation Act 1987. This is a process summary for the purpose of facilitating an understanding of the issues outlined in this discussion document. Please refer to the full legislation for completeness.



Legislative requirements for developing or reviewing a national park management plan (NPMP)

An NPMP is required for each national park. This diagram provides a summary of the legislative requirements for developing or reviewing an NPMP under the National Parks Act 1980. This is a process summary for the purpose of facilitating an understanding of the issues outlined in this discussion document. Please refer to the full legislation for completeness.

Initiating the NPMP development or review process

An NPMP shall be *prepared for each* national park; where a new national park is created, *an NPMP shall be prepared within 2 years* *s45(1), s45(5)

OR

The Director-General (D-G) of the Department of Conservation (DOC) and the conservation board(s) affected shall *review* the NPMP so that it takes account of increased knowledge or changing circumstances; an NPMP may be *reviewed* in whole or in part *s46(1), s46(2)

OR

A *full review* of an NPMP must be carried out within 10 years of approval (can be postponed) *s17H(4)(b)

New NPMP *s45, s47

Full review of NPMP *s46, s47

Partial review of NPMP *s46, s47

Phase 1: public notification of intent to review

The D-G, in consultation with the relevant conservation board(s), shall give notice of the intent to prepare or review the NPMP in a local newspaper and in daily newspapers in Auckland, Hamilton, Wellington, Christchurch and Dunedin, including an invitation for written suggestions on the proposed plan *s47(1)

Phase 2: Drafting

Every *draft* shall be prepared by the D-G in consultation with the relevant conservation board(s) *s47(2)

Extra guidance provided in General Policy for National Parks

When developing or reviewing an NPMP, DOC will consult the relevant conservation board(s) and tangata whenua and seek written comments from, and have regard to the views of, interested people and organisations, including fish and game councils *Policy s12(a)

Phase 3: Public notification and call for submissions

1. Draft is *publicly notified* in local newspaper and (if of national interest) at least once in each of four daily newspapers published in Auckland, Wellington, Christchurch and Dunedin, and to appropriate regional councils, territorial authorities and iwi authorities *s47(2)(a)

2. Notice is given in writing to all persons and organisations who made written submissions in phase 1 (intent to review NPMP) *s47(2)(b)

3. The *draft NPMP must be made available for public inspection* at specified places and times *s47(2)(c)

Phase 4: Public submissions and hearings

1. Any person or organisation may send a *written submission within 2 months* of public notification *s47(2)(a-b)

2. The D-G shall give every person or organisation who makes a submission the *reasonable opportunity to be heard* by representatives of the D-G and affected conservation board(s) *s47(3)

Phase 5b: revision by D-G

After considering submissions, the *D-G shall revise the draft* and send the draft to the affected conservation board(s) *s47(4)

Phase 5a: revision by D-G

The conservation board(s) shall consider the revisions and send the draft to the NZCA for approval, together with a written statement of any matters that the D-G and conservation board(s) are unable to agree on *s47(5-6)

OR

May request that the D-G revises the draft *s47(5)

Phase 5c: revision by NZCA

1. The NZCA considers the draft and supporting information *s48(1)

2. The NZCA shall make such *amendments* as it considers necessary and *send the draft to the Minister* *s48(1)

Phase 5d: Views of the Minister

The NZCA, before approval, must have regard to the views of the Minister *s48(2)

Phase 6: Approval and publication

The plan comes into effect on the date it is approved by the NZCA or such later date as may be specified by the NZCA *s49(3)

Every plan must be available for public inspection, free of charge, at DOC's Head Office and at other places as determined by the relevant conservation board(s) *s48(4)

Giving effect to the principles of the Treaty of Waitangi in developing or reviewing an NPMP

- Under section 4 of the Conservation Act 1987, DOC is required to give effect to the principles of the Treaty when implementing its legislative responsibilities. The operational approach to this will differ depending on the nature and location of the NPMP being developed or reviewed.
- Some Treaty settlement Acts have bespoke requirements that set out a different or amended process for developing or reviewing an NPMP. These requirements are specific to each Treaty settlement.

Legislative requirements for amending an existing NPMP

If amendments *will not* materially affect objectives or policies in the NPMP, or the public interest:

The D-G shall send the proposal to the conservation board(s) affected and it shall then follow the same revision and approvals process as a review (*phases 5b, 5c and 6*); public notification, submissions and hearings are not required *s46(5)

If amendments *will* materially affect objectives or policies in the NPMP, or the public interest:

The amendment follows the same process as that of a review, including full public notification, submissions and hearings (*phases 1, 2, 3, 4, 5a, 5b, 5c, 5d 6*) *s46(4)

Regulatory Impact Statement: Modernising the concessions framework

Department of Conservation
Te Papa Atawbai

Decision sought	Cabinet decisions on changes to concessions legislation
Agency responsible	Department of Conservation
Proposing Ministers	Hon Tama Potaka, Minister of Conservation
Date finalised	17 June 2025

This proposal seeks to:

- streamline concessions processing and improve regulatory practice in the concessions system
- address ambiguity about how to give effect to Treaty principles in concessions processing
- improve cost recovery settings for concessions processing and increase returns to the Crown.

Summary: Problem definition and options

What is the policy problem?

Processing concessions is an increasingly lengthy and burdensome process not just for the Department of Conservation (DOC), but also applicants and Treaty partners. The settings under which concessions are processed do not promote efficiency or good regulatory practice, requiring individual decision-making.

There is significant ambiguity about how to give effect to Treaty principles, which is required by the Conservation Act 1987 (the Act). This ambiguity has impeded or slowed most major concession decisions in recent years, leading to protracted and costly processes. There are also no specific roles for Treaty partners. For example, while DOC tends to engage with Treaty partners on most concession applications, this is not specified in the Act. Instead, DOC engages with Treaty partners to comply with the general obligation in section 4 of the Act.

In addition, some Treaty settlements established relationship instruments, which might include concession decision-making frameworks or consultation and engagement expectations.

There is also ambiguity associated with the cost recovery settings for concessions processing and there is an opportunity to strengthen those settings and improve returns to the Crown.

In addition, management plans, which set the rules under which concessions are granted, are largely outdated, sometimes containing contradictory rules. A companion RIS details a proposal to address the issues with management planning.

What is the policy objective?

The proposal aims to provide:

- greater scope for simplification and standardisation of concession decisions, price-setting and contractual terms.
- flexibility where needed for efficient regulatory decisions, but reducing discretion where ambiguity has slowed processes.

What policy options have been considered, including any alternatives to regulation?

Options have been considered for each sub-problem as follows:

Improving efficiency and regulatory practice in how concessions are processed

(Implementing the change options as a package is the preferred option)

Triage	• Broaden the grounds for declining an application within the first 10 working days and allow an incomplete application to be returned at any time. • Clarify that applications are required to be made in a specified form or include certain information.
Assessment	• Pause processing a concession application until an interim payment is received. • Create a statutory timeframe within which an applicant should provide further information, after which the application can be returned.
Public notification	• Eligible applications only need to be notified if there is an intent to grant them. • Clarify that public notification is not required for grazing licences. • Clarify that the Minister can determine when a hearing would be appropriate.
Decision-making	• Set statutory timeframes for making decisions on concession applications.
Reconsideration	• Clarify that applicants must submit a reconsideration request within 20 working days of the concession decision and a request can only be submitted once. • Require the Minister to process a reconsideration within 30 working days. • Clarify the scope of a reconsideration.

Simplifying and standardising price-setting and contractual conditions

(Implementing the change options as a package is the preferred option)

Terms and conditions	• Strengthen the Minister's ability to set standard terms and conditions for concessions.
Concession pricing	• Set standard prices for concessions.
Transitions and term end	• Allow concessions to be transferred to a new operator. • Limit how long concessionaires can continue on old terms and conditions after a decision has been made on a new application.

Addressing ambiguity about how DOC gives effect to Treaty principles in concessions decisions

- Engagement remains a matter for operational discretion (status quo).
- Engagement is only required for notified applications and must take place before notification.
- Clarify when engagement with Treaty partners is not required.
- Engagement remains a matter for operational discretion, plus Treaty partners must provide feedback on individual concession applications within 20 working days ***(preferred option)***.

Addressing ambiguity about when cost recovery can commence in concessions processing

- Enable charging a lodgement fee for a concession application.
- Option above, plus clarify when the Director-General can require interim payments ***(preferred option)***.

Non-regulatory options have been considered in some instances. However, making operational improvements within an environment of fiscal restraint and continued growth in concession applications will not be sufficient. The legislative rules for concessions need to be modernised to enable more efficient granting of concessions.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

The combination of changes to concession processes described above will provide benefits over the status quo, including supporting more confident decision-making, more consistent outcomes for conservation and a fairer return to the Crown for allowing private commercial activities on Public Conservation Land (PCL). For regulated parties, the changes will provide faster regulatory decisions and more certainty about outcomes.

What consultation has been undertaken?

Public consultation on potential changes to concessions settings took place from November 2024 to February 2025. More than 5,500 submissions were received.

Overall, submitters agreed concession processing times are too long. Support for the concessions processing proposals was generally positive.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes.

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

The main monetised and non-monetised costs are for DOC in transitioning to the new system, but more streamlined concessions processing settings will reduce DOC's processing costs over the medium term. There should be no additional costs for applicants or for Iwi/hapū as a result of the concessions process changes. However, the tighter statutory timeframes for consultation and other processes may result in the timing of costs being more concentrated in some periods.

Benefits (Core information)

Process changes will encourage more consistent and robust decisions about activities that can be undertaken on PCL and support faster processing. This will benefit all parties.

Balance of benefits and costs (Core information)

Greater certainty and clarity provide a more robust foundation for day-to-day management of activities on PCL, supporting a more efficient process regarding permissible activities for local communities, businesses, Iwi and hapū and the public.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

The new processes and approach to conservation land management require legislative change to implement.

Limitations and Constraints on Analysis

Cabinet priorities for Conservation portfolio

In October 2024, Cabinet agreed on a range of potential changes to the concessions system on which to seek feedback from the public [ECO-24-MIN-0235 refers]. Following public consultation, the Minister of Conservation has agreed to progress a package of options for final policy approval.

The scope of this RIS largely reflects the Minister's decisions about what options to take forward, though discounted options are also noted for some potential changes.

Timeframe limitations

The Minister of Conservation intends for Parliament to enact legislation in the current term. This has limited the time and resources available for analysis following public consultation. Due to the tight timeframes for policy analysis, some options in this RIS were developed after the public consultation process and there has been no opportunity to engage on them.

Data and information limitations

Known data issues relating to concession processing mean it is hard to understand or track performance. Beyond regulatory performance, there are also limits to what is knowable in terms of the broader regulatory environment. For example, DOC does not know the scale of latent economic development/tourism opportunities that are potentially hindered by current regulatory settings and for which there is supply in the market.

Assumption that objectives sought can be achieved within current scope of work

The Government is not considering changes to the purpose of the conservation system and the primacy of achieving conservation outcomes, compared to enabling other outcomes through conservation rules and processes (e.g. economic outcomes).

Other fundamental aspects of the conservation system that are not changing are the purposes for which PCL is held, and the requirement that any use of or activities on PCL must be consistent with those purposes. The proposals also do not involve any changes to how the effects of a proposed activity on PCL, or the use of PCL are assessed.

The proposals do not amend section 4 of the Act but are intended to support effective implementation of section 4 by clarifying its application to concessions processes through the addition of specific provisions/measures. Drafting will make it clear that complying with these specific measures will be sufficient to comply with section 4 (in relation to the relevant processes).

A key assumption in preparing this RIS is that the nature and extent of change sought can be achieved within the scope described above.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:

9(2)(a)

Eoin Moynihan
Policy Manager – Regulatory Systems Policy
17/06/25

Quality Assurance Statement	
Reviewing Agency: Department of Conservation, Ministry for Primary Industries, Ministry of Business, Innovation and Employment	**QA rating:** Partially meets
Panel Comment: The Regulatory Impact Assessment Panel of officials from multiple agencies has reviewed the Regulatory Impact Statement (RIS). The Panel considers that the RIS partially meets the Quality Assurance criteria. The requirements were not fully met because of the limited engagement undertaken on certain options. Further detail is also needed on real world impacts of issue.	

Structure of this RIS

1. This regulatory impact statement (RIS) is structured around eight different opportunities which contribute to an overarching policy opportunity: amendments to conservation concession processes can enable a more efficient and effective concession system.

Modernising the process for individual concessions		
Section 1: Diagnosing the policy problem		Pg 6-22
Section 2: Options to address the problem.	Improve the efficiency of concessions processing and lift regulatory practice: • Options to improve how concession applications are triaged. • Options to improve the assessment stage. • Options to improve the public notification process. • Options to improve the decision-making process. • Options to improve the reconsideration process.	Pg 22-39
	• Options to clarify Treaty partner engagement.	Pg 40-45
	• Options to simplify and standardise price-setting and contractual conditions.	Pg 46-55
	• Options to improve cost recovery.	Pg 55-59
Section 3: Delivering an option.		Pg 60

2. This RIS should be read alongside the RIS on modernising management planning and land exchanges and disposals.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem?

3. Under the Conservation Act 1987 (the Act), the Department of Conservation (DOC) is responsible for managing public conservation land (PCL), protecting biodiversity, enabling recreational and economic activities, advising the Minister of Conservation and advocating for conservation.

4. DOC manages nearly a third of the country's land mass (over 8 million hectares). This includes native forests, tussock lands, alpine areas, wetlands, dunelands, estuaries, lakes and islands, national forests, maritime parks, marine reserves, nearly 4,000 reserves, river margins, some coastline, and many offshore islands.

5. DOC is the lead agency in the conservation regulatory system and has a key role in protecting and supporting ecosystems and encouraging sustainable tourism. In doing so, DOC works with a network of statutory organisations, community groups, Iwi, hapū, Māori organisations, private landowners, regional councils and non-government organisations (NGOs).

6. DOC faces growing challenges in meeting its statutory responsibilities. These include increasing cost pressures driven by growing wages and inflation, funding shortfalls for maintaining DOC's visitor network amid growing visitor numbers, ageing infrastructure, and repair costs following extreme weather events and natural disasters. DOC's annual budget is around $650 million, which is roughly 0.45% of core Crown spending.

7. Meanwhile, biodiversity is under threat, and these threats are growing. Recent examples include the global spread of avian flu, and incursions of sea spurge, caulerpa seaweed and golden clams. Native wildlife is also at serious risk of extinction. This country has one of the highest proportions of threatened species and one of the highest extinction rates in the world. Despite all we are doing to try to protect and restore habitats and assist species, nearly 4000 native species are either at risk or threatened with extinction.

An overview of concessions

8. Any activity on PCL requires authorisation in the form of a concession from the Minister of Conservation, with some exceptions.[1] This means a wide range of activities are regulated through concessions, such as grazing, guiding and other tourism businesses, visitor accommodation, energy infrastructure, filming and research activities.

9. The concessions system helps DOC ensure activities on PCL and other uses of PCL are compatible with the overriding purpose of conservation.[2] It also helps ensure services and facilities provided for visitors are appropriate and of a suitable standard, and that activities do not conflict with visitor enjoyment and recreation.

10. The concessions system has four key regulatory objectives:

- **Delivering effective land management**: The concessions system is responsible for ensuring any activities maintain the values of PCL. It enables DOC to control which activities can occur, assess any adverse effects, and apply any conditions necessary for activities to take place.

- **Providing well-governed access opportunities**: Appropriate private use and development of PCL needs an enabling mechanism. A clearly regulated environment gives legitimacy to that use, provides a reasonable level of certainty and clarifies responsibilities.

- **Securing public benefit from private use and development**: A royalty is paid when the use of PCL results in commercial gain. DOC generally refers to these royalties as activity fees. Securing a fair return to the public for the use of a public asset is the basis for charging activity fees.

- **Clarifying public and private entitlements and responsibilities**: A concession agreement clarifies entitlements and responsibilities for both parties in situations where both DOC and the concessionaire have interests and duties relating to the activity.

Statutory framework for concessions

11. Part 3B (sections 170 – 17ZJ) of the Act sets out the statutory framework for concessions,

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1 These exceptions are recreational activities without any specific gain/reward; activities carried out by the Minister of Conservation or DOC in exercising functions, duties or powers under any law; activities authorised by conservation legislation; and activities to save or protect life or health, to prevent serious damage to property, or to avoid actual or likely adverse effect on the environment.

2 The Conservation Act defines 'conservation' as preserving and protecting natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

including:

- the Minister of Conservation's decision-making, condition-setting and fee-collection powers
- the process for considering an application
- factors that must be considered in determining if a concession can be granted
- the Minister's responsibilities to monitor and enforce concession agreements.

12. Section 4 of the Act applies to all of DOC's work under conservation legislation, and therefore to administering concessions.

13. Section 4 requires the Act to "be interpreted and administered as to give effect to the principles of the Treaty of Waitangi." This is one of the strongest Treaty principles clauses in New Zealand legislation. Section 4 requires anyone working under the Act (or any of the associated Acts listed in schedule 1 of the Conservation Act) to give effect to the principles of the Treaty of Waitangi when interpreting or administering anything under those Acts.

14. All Treaty principles apply, but the principles of partnership, informed decision-making, and active protection are most frequently relevant to concessions management.

15. A concession may be in the form of a permit, easement, licence or lease:

Type of concession	*Purpose*	*Examples*	*Term*
Permit	Gives the right to undertake an activity that does not require an interest in the land	Guiding, filming, aircraft landings, research	Up to ten years
Easement	Grants access rights across land e.g. for business, private property access or public work purposes	Ability to access utilities through PCL	Up to 30 years (or 60 years in exceptional circumstances)
Licence	Gives the right to undertake an activity on the land and a non-exclusive interest in land	Grazing, beekeeping, telecommunications infrastructure	
Lease	Gives an interest in land, giving exclusive possession for a particular activity to be carried out on the land	Accommodation facilities, boat sheds, storage facilities	

16. When deciding whether a concession can be granted, DOC assesses:

- if the activity is consistent with the purpose for which land is held, the Act and other statutory tests (e.g. for some concessions, can it take place off PCL), relevant statutory planning documents, DOC's own land management goals for the area

- if the effects of the activity can be understood, and if there are any methods to avoid, remedy or mitigate these effects (referred to as an 'effects assessment')

- it against Treaty rights and interests and sometimes consults with Iwi, hapū and whānau at place.

17. While concessions are granted in the name of the Minister of Conservation, applications are administered by DOC acting under delegation. DOC typically receives more than 1,500 concession applications each year and manages more than 4,000 ongoing concessions. A concession gives a concessionaire:

    - a legal right to carry out their activity on PCL alongside obligations that go with it

    - a formal relationship with DOC, so both parties are aware of their obligations

    - security of tenure for the term of the concession, provided the conditions of the concession are complied with.

The Minister can tender the right to make a concession application

18. Section 17ZG(2)(a) of the Act allows the Minister (or his delegate) to tender the right to make a concession application, invite applications, or carry out other actions that may encourage specific applications.

19. This mechanism is often used for concession opportunities where there are limits on the opportunity (i.e. carrying capacity) or where multiple parties have expressed an interest in the opportunity.

20. In some cases, DOC may tender the right to apply for an already defined opportunity (including any environmental or social conditions that will be attached to the concession). The purpose of the competitive process in these cases is to determine the most appropriate concessionaire(s) or allocate limited supply among multiple potential operators. Tendering guiding opportunities where a limit has been set out in the National Park Management Plan is an example of this.

21. In 2022, Cabinet agreed to amend the Act to provide the Minister of Conservation with the ability to return a concession application in favour of initiating any competitive allocation process, as opposed to only when the Minister considers a tender may be appropriate (ENV-22-MIN-0059). The Minister has agreed to progress this proposal as part of the wider reforms in this package.

22. This proposal has been further refined to clarify the timeframe for DOC to make the initial decision to return the application (20 working days).

Terms and conditions can be set in contractual concession agreements

23. Section 17X of the Act provides the Minister with the ability to set conditions in contractual concessions agreements at the time of granting a concession. These conditions can relate to the activities or any relevant facility or structure as well. The conditions that can currently be imposed cover:

    - the carrying out of an activity and where it can take place

- the payment of rents, fees or royalties (provided in section 17Y), compensation for any adverse effects of the activity, the ability to set a bond and a waiver or reduction of any rent, compensation or bond
- the restoration of the site and the removal of any structure or facility at the expense of the concessionaire
- periodic reviews of the conditions
- a covenant on any transfer, sublease, sublicence, or assignment of a concessions
- the payment of any fees relating to the preparation of the concession document.

24. There are standard conditions that are generally applied to concessions. For instance, DOC has templates with standard conditions for guiding permits, telecommunications infrastructure, easements, leases and licences. These conditions are available to the public prior to lodging applications and have previously been available directly from the DOC website.

25. For concessions that involve fixed infrastructure, common 'make good' provisions are applied. Some conditions are also set on a case-by-case basis to manage unique aspects of certain activities.

Term lengths are also set in contractual concession agreements

26. Section 17Z of the Act sets out limits on the term lengths based on concession types. The following table describes these current limits.

Type of concession	Term length
Permit	May be granted for a term not exceeding 10 years.
Easement	May be granted for a term not exceeding 30 years.
Lease	May be granted for a term not exceeding 30 years, or for a term not exceeding 60 years when the Minister of Conservation is satisfied that there are exceptional circumstances.
Licence	

27. While leases and licences can currently be granted for 60 years under 'exceptional circumstance', there are no policy settings that determine what 'exceptional circumstances' are.

Rents, fees and royalties are set in contractual concession agreements

28. Section 17X of the Act allows the Minister to charge concessionaires a rent, fee or royalty as part of their lease, license, permit or easement. DOC refers to these charges collectively as activity fees. The purpose of activity fees is to ensure that there is a return to conservation where somebody undertaking an activity is benefitting from the use of PCL.

29. The method for setting the fee depends on the nature of the concession activity and the scale of their activity. Tourism-related activities are generally charged on a percentage of

revenue or per person basis. Non-tourism activities such as telecommunications infrastructure, grazing and easements are usually charged a fixed monthly or annual fee.

30. Activity fees may be set at the market value, having regard to any factors that mean the concession is more valuable or less valuable than comparable opportunities. For example, a grazing license may have more strict contractual conditions placed on it than a standard private transaction.

31. Rents, fees and royalties imposed under Part 3B of the Act must be reviewed at least once in every three years.

Compliance and enforcement mechanisms are set in contractual concession agreements

32. Compliance and enforcement conditions and the ability to use step-in powers are set in concession contracts. For example, DOC's General Licence and Lease and License Concession Documents provide for the conditions where DOC may terminate a concession, either in whole or part.

33. Once a concession is active, DOC's regulatory role includes monitoring the concession and ensuring compliance with each concession's contractual obligations. DOC can observe and check the concession's progress or quality over time to ensure that concessionaires are meeting their contractual obligations, to detect risk and to confirm there are no adverse effects from the concession on the environment or visitor experience.

A concessionaire can transfer their interest in a concession in limited situations

34. Under section 17ZE of the Act, a concessionaire can transfer their interest in a concession to another party, if approved by the Minister of Conservation and if it is permitted within the concessionaire's concession document. Section 17X also enables the Minister to impose a covenant whereby if a concession is transferred to a new owner, both the outgoing and incoming concessionaires are bound by the same conditions as the original concession.

35. A concession cannot be sold (including as part of business sale, for example), but concessionaires can apply to DOC to transfer their concession to the new owner. In most instances, the sale of a business that includes a concession to operate happens solely between the incoming and outgoing concessionaire, without DOC's involvement until an application is made to transfer the concession.

36. Operators are generally expected to remove any structures or facilities at the end of the term and to remediate the land unless the Minister permits them to leave them behind. Where structures or facilities are left behind, these are considered to be surrendered to the Crown. The Crown is not obliged to pay the operator for those assets and is free to re-let or re-licence them to new operators. In some situations, the Crown can be under an obligation to remove infrastructure (e.g. if required to remove redundant infrastructure from protected areas by a statutory planning document).

37. DOC does not own some of the major concession assets on conservation land. In effect, the operator needs to make a return on its investment during the life of the concession. If the concession is cut short, perhaps because of poor performance or a change in the law, the risk lies with the operator.

What is the policy problem or opportunity?

Concessions settings do not promote efficiency or consistent regulatory practice

38. The concessions framework does not allow for broadly similar concessions to be dealt with in a consistent way. The framework also provides little standardisation or guidance, including few statutory timeframe requirements.

39. This is compounded by operational issues, including capacity constraints within DOC, poor data to understand performance, technology constraints which require significant manual data entry, an operating model with distributed responsibilities and a risk-averse regulatory culture, which leans towards protection over proportionality.

40. As a result, most applications get approached on a case-by-case basis and in bespoke ways.

41. Processing concessions is an increasingly lengthy and burdensome process not just for DOC, but also applicants and Treaty partners (who are generally consulted on all applications, unless they have indicated this is not needed). As of April 2025, there are nearly 1,000 current applications, of which 10% are more than a year old.

42. While concession applications can vary greatly in nature and scale, delays in processing applications reduce certainty for concessionaires (including applicants), Treaty partners, businesses, infrastructure partners and the public. Businesses that operate on PCL need certainty to make the kinds of investments needed to provide quality services for New Zealanders.

43. Significant delays in processing applications can limit or prevent the efficient use of PCL. Faster, more consistent and robust decisions about activities that can be undertaken on PCL can support increased economic activity, where appropriate from a conservation perspective.

44. Unique and bespoke approaches to applications contribute to inconsistent approaches to monitoring and compliance, limiting DOC's ability to consistently monitor how concessions meet conservation objectives. There is an opportunity to strengthen DOC's monitoring and compliance role through increased standardisation, where appropriate.

45. In recent years, many organisations and entities in the conservation system have expressed that wide-ranging changes are needed to the concessions system. Previous governments have also attempted to make targeted changes to improve conservation management and concessions processes.

46. The Minister of Conservation is developing targets for DOC to meet when processing concession applications, and a range of operational improvements are underway such as a technology upgrade.

47. As of April 2025, DOC's monthly concession processing rate has doubled compared to April 2024 and the backlog is reducing, but application volumes are rising.

48. However, making operational improvements within an environment of fiscal restraint and continued growth in concession applications will not be sufficient. The legislative rules for concessions need to be modernised to enable more efficient concessions processing.

Regulatory decision-making could be strengthened at the triage stage

49. There is an opportunity to address the inefficiencies associated with the triage process and improve regulatory decision-making at the initial stage of an application.

50. Currently, the Minister can only return an incomplete application within the first ten working days of receiving it and can only decline an application that is obviously inconsistent within the 20-day period after that. There is also no ability for the Minister to decline applications at an early stage for previous non-compliance with the conditions of a concession, or where the Crown may have plans for that land.

The assessment process has no statutory timeframes or stop clocks

51. There is an opportunity to address the inefficiencies associated with the assessment process.

52. Currently, DOC has no ability to pause processing an application that has incurred overdue processing fees. There are also no statutory timeframes for an applicant to provide further information to support an application.

There is an opportunity to streamline the public notification process

53. There is an opportunity to address inefficiencies in the public notification process.

54. Currently, the Minister must publicly notify every application for a lease or a licence for a term (including renewals) of more than 10 years. The Minister may publicly notify any other application for a licence, permit or easement if, having regard to the effects, he or she considers it appropriate to do so.

55. Public notification is intended to support input on concession applications that are likely to have impacts on conservation values and that will be of significant public interest, given the property rights involved.

56. Prior to 2017, if a preliminary decision was to grant an application, and it met the criteria for notification, DOC would publicly notify an "intention-to-grant". In 2017, the Resource Legislation Amendment Act replaced the public notification of an 'intent to grant' with public notification of an application for a concession. The change meant that DOC would not notify an "intention-to-grant" and instead take no position on the application before notification. Submissions are considered as part of the assessment, and at hearings the Director-General is a neutral listener rather than testing an intended course of action.

57. The 2017 change has not achieved the desired process efficiencies. The public can invest significant time in opposing applications that may be declined or promoting conditions that DOC already planned to include.

58. The requirement to run hearings for every notification process is also inefficient. Hearings can come at significant additional cost to DOC, applicants and Treaty partners and can be poorly attended.

There are inefficiencies in the grazing license process

59. Grazing is typically undertaken on conservation land that is assessed by DOC as suitable for that purpose (i.e. grazing pasture that has little to no conservation values and where

the impact of the grazing will have little to no impact on the surrounding environment).

60. The majority of applications for grazing licences are for ten-year terms to avoid triggering public notification. As at May 2025, all active concessions for grazing are for eight to ten-year terms. This results in system inefficiencies, when it is likely that grazing will continue for longer periods.

The decision-making process has no statutory timeframes

61. There are currently no statutory timeframes for the Minister to make decisions on concession applications. Statutory timeframes can drive faster processing times and provide applicants with more certainty about when their application may be processed.

62. Statutory timeframes are common in other regulatory systems. Examples from other systems include:

- The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 includes an end-to-end time for non-notified marine consents (50 working days after a complete application is received).
- The Building Act 2004 requires councils to grant or decline a complete application for a building consent within 10 or 20 working days depending on the type of application.
- The Hazardous Substances and New Organisms Act includes end-to-end timeframes for rapid assessments (albeit uses step-specific timeframes for other types of assessments).

Reconsideration settings lack clarity and create administrative churn

63. Under current settings, the Minister has broad discretion to decide whether to reconsider an application. There is lack of clarity about what matters the Minister should consider when deciding to undertake a reconsideration. There are also no statutory timeframes for applicants or the regulator and no limits on the number of times an applicant can ask for the same decision to be reconsidered.

64. This ambiguity can lead to applicants unreasonably challenging a reconsideration decision (for example, until the desired outcome is gained). It also creates administrative churn and resource wastage for DOC.

There is ambiguity about how DOC gives effect to Treaty principles in concessions decisions

65. The Act does not prescribe any process or specific requirements for giving effect to Treaty principles in concessions management. The operational approach will differ based on the factual context, including the Treaty partners, the locations in question, and the nature of the activity. Some Treaty settlements also have bespoke requirements and processes outlining how DOC and the relevant Iwi or hapū will manage concessions.

66. The *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation* Supreme Court decision in 2018 highlighted shortcomings in DOC's approach to giving effect to the principles of the Treaty of Waitangi, as required by section 4 of the Act. The Supreme Court stated that, "in applying s 4 to a decision relating to a concession application, DOC must, so far as is

possible, apply the relevant statutory and other legal considerations in a manner that gives effect to the relevant principles of the Treaty".[3] The decision also emphasised the importance of the factual context in determining how Treaty principles might influence particular decisions, and the need to reconcile Treaty interests with other values and the broader statutory regime.

67. The *Ngāi Tai ki Tāmaki* case was specifically about a concession decision but provided a strong directive to DOC to improve how it gives effect to the principles of the Treaty of Waitangi more broadly. In March 2022, the Options Development Group (convened by the then-Director-General of Conservation) highlighted the importance of the active protection principle in conservation "particularly when DOC is granting concessions, and the need to take the interests (including the economic interest) of tangata whenua into account."[4]

68. The Government does not have a clear policy position on how aspects of the *Ngāi Tai ki Tāmaki* decision is to be implemented, including when 'preference' for Treaty partners would be appropriate for concessions on economic or other grounds. More generally, it has been left up to statutory decision-makers (Minister or DOC on delegation) to determine how Treaty principles might influence particular decisions, which requires a balance of Treaty partner interests and views with other considerations in a way that is compliant with the law.

69. This means there is ongoing ambiguity about how to give effect to Treaty principles and a range of divergent views and competing interests in different situations. This pervades statutory processes and decision-making and creates ongoing tension in areas where Treaty partners consider the current law or policy settings do not provide for their interests to be actively protected. Because section 4 is part of the legislative framework, different views about its application mean that there is a high risk of legal challenge in many such processes.

70. Reflections on how DOC gives effect to section 4 in concessions processes were a common theme in engagement with whānau, hapū, and Iwi on the Options Development Group's draft proposals. Many shared concerns around how hapū and Iwi are engaged in concession decisions.

71. Some whānau, hapū, and Iwi are overwhelmed by the volume of emails they receive relating to concessions in their rohe, while others expressed concern that they were not being asked to contribute to the process. There is also unease relating to whether or not the right people are currently being involved at the right stage of the concession process.

The concession framework is not suited for the commercial realities of managing concessions on an ongoing basis

Terms and conditions

72. Negotiating terms and conditions can often prolong concession processing timeframes,

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3 *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation* [2018] NZSC 122 at [53].

4 Partial reviews of the Conservation General Policy and General Policy for National Parks regarding the Treaty of Waitangi, Options Development Group, March 2022. The Options Development group statement was directed by reflections on Ngāi Tai ki Tāmaki, the Waitangi Tribunal's report *Ko Aotearoa Tēnei* (Wai 262), and the Whales case (refer *Ngāi Tahu Māori Trust Board v Director-General of Conservation* [1995] 3 NZLR 553).

increases costs to the applicant and DOC, and it can lead to inconsistent outcomes for conservation and the Crown's management operators who undertake the same activity.

There is uncertainty about when a longer concession term may be appropriate

73. While leases and licences can currently be granted for 60 years under 'exceptional circumstance', there are no policy settings that determine what 'exceptional circumstances' are. This is assessed on a case-by-case basis. The Ombudsman has determined 'exceptional circumstances' to be extremely limited in practice.

74. Decision-makers have been dependent on operational policy to guide these decisions. However, the public are not aware of what determines granting an 'exceptional circumstance' and they have not contributed to what that determination is.

75. There are trade-offs between shorter and longer concession terms. Longer concession terms can provide transparency to operators by setting clearer expectations, offer more certainty to operators, and encourage maintenance and further investment. Frequent renewals of short-term contracts are less efficient.

76. However, shorter terms offer benefits like the ability to foster competition among concessionaires and preserve flexibility for the regulator over a longer time horizon (e.g. to change the mix of activities in protected areas over time). Shorter terms also mean less reliance on in-term monitoring, and potentially also regulation of contracts, as longer contracts are inherently more complex to account for more variables over the life of a contract.

There is no process to guide the transfer of assets

77. Uncertainty around concession transfer arrangements and asset valuation can create a chilling effect on investment and innovation. DOC has also faced specific, high-profile challenges, 9(2)(f)(iv) [redacted]

78. In addition, despite remediation clauses, DOC faces risks of stranded assets following the end of a concession, and uncertainty about the potential for a future concession may affect operators' willingness to invest.

79. DOC's practice has varied over the decades and there have been inconsistent approaches to certain matters. For instance, imposing make-good requirements or requiring that an incumbent operator is reimbursed for its assets.

80. The default position in current concession templates is as follows. Operators are expected to remove their infrastructure at the end of the term and to remediate the land unless the Minister permits them to leave the assets behind. Where assets are left behind, the Minister is not obliged to pay the operator for those assets and is free to re-let or re-licence them.

81. It is difficult to assess the scale of the risk: since there are many variables which amplify or ameliorate the impact. For instance: the risk may only become evident towards the end

of the term; business failure may occur without much warning; the scale of loss to the Crown may depend on whether a new operator can be located promptly.

The process to review concession fees is onerous and inefficient

82. The requirement to review all concession fees every three years creates an administrative burden for DOC, as many concessions have bespoke fees and it is currently a manual process to review each concession.

83. Many concessions are based on a percentage of revenue, meaning that the return adjusts to inflation and changes in demand. However, a change in methodology is seen as a variation to the contract.

84. When undertaking a rent review DOC is limited to the charging method set out in the contract. DOC is not able to change a fixed fee to a fee based on percentage of revenue without the agreement of the concessionaire (which generally does not occur where this would result in a higher fee).

There is ambiguity about when cost recovery can commence in concessions processing

85. A cost recovery model is already applied in the concession regime, as the economic benefits of obtaining a concession accrue primarily to the applicant.

86. There is ambiguity about when DOC can commence invoicing for the costs associated with processing an application. Cost recovery generally occurs at the end of the application process and there have been instances when applicants have returned to another country before the end of the application process or have applied for a concession without real intent to use that concession.

87. Ensuring cost recovery mechanisms appropriately charge applicants supports delivery of a more efficient and effective concessions system.

Cabinet priorities for the Conservation portfolio

88. In August 2024, Cabinet agreed the following priorities for the Conservation portfolio [ECO-24-MIN-0154 refers]:

- Update the conservation regulatory system by progressing legislation to improve performance in processing concessions and permissions.
- Target investment in high conservation value areas to restore key degraded habitats, support recovery of native species and maximise carbon storage on PCL.
- Generate new revenue and build a more financially sustainable conservation system by 2026 and develop a plan to partner for investment in protecting high value conservation domains in 2025.
- Build positive working relationships with Iwi/hapū to make the most of their strong and long-term commitment to the environment.

89. The proposal in this RIS largely contributes to the first priority above of fixing concession processes and also provides an opportunity to advance work relating to the fourth priority of improving working relationships with Iwi and hapū.

90. This proposal is part of a wider set of reforms to conservation land management settings. A companion RIS details proposed changes to streamline and modernise the management planning system, provide more flexibility in land exchange and disposal settings and establish amenities areas.

How is the status quo expected to develop?

91. Without changes to concessions processes, the shortcomings described above are expected to continue or worsen in the coming years.

92. Namely, the backlog in concessions applications would be expected to remain (or grow further), there will continue to be inconsistent practice in concessions decision-making and uncertainty as to what Treaty principles might require in concession decisions.

What objectives are sought in relation to the policy problem?

93. There are five broad objectives for this work. These are guided by the purpose of the concessions system outlined on page 7 (i.e. to ensure that any activities undertaken on PCL support its values and provide a fair return to the public for its use):

- **Effectiveness**: this objective relates to the purpose of the conservation system, which is supporting conservation by educating, regulating and enforcing for good outcomes, while also supporting other outcomes, such as allowing for recreation, tourism, economic opportunities or key infrastructure development.
- **Efficiency**: this means reducing the time and cost involved in processing concessions on all parties involved. This includes concessionaires, applicants, Treaty partners, stakeholders, researchers, businesses, local government, the public and DOC.
- **Good regulatory practice**: this includes ensuring clarity and certainty for the regulator and regulated parties. It also includes ensuring DOC has the necessary tools, functions, powers and levels of discretion/flexibility to satisfactorily perform its statutory duties.
- **Upholding Treaty obligations**: this means having clarity about the legal requirements for the Minister or DOC to interpret and administer the Act in a way that gives effect to the principles of the Treaty of Waitangi. It is also about ensuring any changes or new arrangements uphold the intent of Treaty settlements, including redress commitments made by the Crown.
- **Successful implementation of any changes**: processing concessions is a significant parts of DOC's day-to-day work and how regulated parties interact with the conservation system. Poor implementation of any changes could mean that the intended benefits are not able to be realised.

What consultation has been undertaken?

Submissions overview

94. In total, more than 5,500 submissions were received on the proposals.

95. Most of the submissions were from individuals – with a large number using the Forest and Bird's form submissions (87% of total submissions) or using the DOC website submission

(80% of 451 website submissions were from individuals), as well as half of standalone submissions coming from individuals.

96. In terms of 'unique submissions' 12% came from Treaty partners and Māori organisations, 12% from various recreation and commercial stakeholders, 11% from concessionaires, 9% from statutory bodies, 5% from environmental NGOs and conservation groups and 3% from councils. In addition, 20% of website submissions were from conservation groups, tourism businesses and Treaty partners.

Type of submission	**Number of submissions**	**Proportion of total submissions**
Forest and Bird form submission	4,837	87 %
Website submission	451	8 %
'Unique' submission	276	5 %
Total submissions	**5,564**	

97. Approximately 2% of submissions (98 individual submitters) did not engage directly with the proposals in the discussion document, instead expressing support for other submissions, or support for protecting conservation values, or that Crown should not treat Treaty partners differently to others.

98. Feedback from website submissions responded to high-level questions from the discussion document and generally did not engage with specific parts of the proposals.

99. Approximately 1,300 people who used the Forest and Bird form submission also provided personalised comments, expressing concerns about climate change, a lack of safeguards to protect nature, the sale of land and that the discussion document was too focused on managing commercial interests.

100. Submitters were generally supportive of the proposed changes to concessions processing.

101. There was mixed feedback in response to proposals relating to statutory timeframes. Those who supported the proposals believed they could encourage efficiency. However, some also said additional resourcing would be needed to support DOC's processing of applications on time. Those who opposed the proposals suggested they may not favour small operators without administration support.

102. There was also mixed feedback about the proposed 20-working day timeframe for Treaty partner feedback. While concessionaires expressed their support, Treaty partners including Pou Taiao (Iwi Leaders Forum) disagreed, with the view that the Crown deciding when engagement should take place does not reflect partnership. Some stated that Iwi or hapū should be the ones to decide when they are engaged with.

103. Submitter feedback on the proposals included in the discussion document is provided under each option below.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

104. Options for change will be compared to the status quo using the criteria below:

Effectiveness	• First order: contribution to conservation outcomes, including ensuring that conservation values and the effects of the concession activity are well managed through the concession process. • Second order: contribution to other outcomes in section 6 of the Conservation Act 1987 (allowing for recreation, tourism, economic opportunities or key infrastructure development).
Efficiency	• Time and cost for concessionaire to obtain concession decisions. • Time and cost to regulator (DOC) to assess, approve and regulate concessions.
Good regulatory practice	• Clarity for regulated parties about concessions. • Certainty for regulated parties about concessions. • Flexibility for the regulator in making concession decisions (including commercial decisions where required). • Consistent regulatory decision-making.
Consistency with Treaty obligations	• Certainty about performing statutory functions in a manner that gives effect to Treaty principles, consistent with section 4 of the Conservation Act 1987 (noting the interpretation of section 4 may evolve as a result of clarifying and codifying its application). • Consistency with Treaty settlement commitments and other obligations.
Successful implementation	• Feasibility. • Ease of implementation, including time and costs.

105. When it comes to effectiveness, contribution to conservation outcomes is weighted more heavily than contribution to other outcomes. This reflects the purpose of the conservation regulatory system.

106. In addition, some options may only be able to be assessed for direct impacts at this stage, rather than indirect impacts, making it hard to draw conclusions about effectiveness. For example, the Government is considering changes to the concessions framework, but the effectiveness of concessions in achieving conservation and other outcomes will ultimately also depend on what rules are set through changes to the planning system (i.e. how any new framework or processes are used).

107. Some of the criteria, and relationships between criteria, are founded in law. For example, section 4 of the Act requires DOC to interpret and administer the Act (e.g. process concessions) in a way that gives effect to the principles of the Treaty of Waitangi. In relation to effectiveness and contribution to outcomes other than conservation, the Act also sets out that fostering the use of natural and historic resources for recreation and tourism is only to the extent that this is not inconsistent with conservation of those resources.

108. There are likely to be trade-offs between the criteria in the table above, and they will need to be carefully balanced when analysing each set of options. For example, significant resourcing increases could be applied to speed up concession processing but would also increase the cost of doing so. There are also likely to be differing views on how to balance the objectives.

109. Options will be assessed in this RIS using the most relevant criteria for the policy problem/opportunity. This means different combinations of criteria may be used when assessing particular options.

What scope will options be considered within?

110. The Government has set some boundaries for this work. The Government is not considering changes to:

- the purpose of the conservation system, and the primacy of achieving conservation outcomes compared to enabling other outcomes through conservation rules and processes (e.g. economic outcomes)
- the purposes for which PCL is held, and the requirement that any use of or activities on PCL must be consistent with those purposes.

Approach to Treaty obligations

111. The Government's Treaty obligations relating to conservation are reflected in section 4 of the Act, specific commitments in Treaty settlement legislation, and agreements with Iwi and hapū (e.g. relationship agreements and protocols).

112. The Minister's approach to resolving ambiguity relating to section 4 is to:

- retain section 4 as a general, operative clause in the Act
- add specific measures to clarify what is (or is not) required to give effect to Treaty principles in particular processes or decisions
- make it clear that complying with these specific measures will be sufficient to comply with section 4 in relation to the relevant processes or decisions.

113. This approach may evolve during drafting based on legal advice about how best to achieve the Government's desired outcome. The Legislation Design and Advisory Committee's guidelines advise caution about the interaction between new legislation, existing legislation and the common law. Not properly understanding and addressing these interactions can make the law more confusing, undermining the policy objective.

114. Any changes that would not uphold Treaty settlements are out of scope. This means options that allow for bespoke arrangements – where needed to accommodate existing settlement commitments in law – are explicitly in scope of option design.

Issues out of scope due to phasing of work

115. Any options that relate to the next phase of work on concessions are out of scope. This includes:

- institutional arrangements across the conservation system (e.g. conservation governance reform or alternative institutional arrangements for managing concessions)

- rationalising aspects of the conservation system e.g. integrating multiple land classification and management regimes.

Options to improve the efficiency of the concessions process and lift regulatory practice

Options to improve the efficiency and effectiveness of the triage process

116. These options are intended to address the inefficiencies associated with the triage process and improve regulatory decision-making at the initial stage of an application.

117. The change options below are not mutually exclusive and can be implemented as a package. Implementing options Two and Three as a package is the preferred option.

Option One – Status Quo

118. Under the status quo, the Minister can only return an incomplete application within the first ten working days of receiving it and can only decline an application that obviously does not comply with, or is inconsistent with the Act, any Conservation Management Strategy (CMS), Conservation Management Plan (CMP) or National Park Management Plan (NPMP) within the 11th and 30th working day after receiving an application.

119. There is no ability for the Minister to decline applications at an early stage for previous non-compliance with the conditions of a concession, even in instances of serious or repeated non-compliance. There is also no ability to decline applications in instances where the Crown may have plans for specific areas of PCL and the Minister needs the ability to decline upfront any applications to undertake activities on that land. 9(2)(f)(iv) [redacted]

Option Two – Broaden the grounds for returning an application

120. This option proposes to amend the Act to allow the Minister to decline applications upfront:

- If it is clear that the application will not meet statutory requirements, i.e. the application obviously does not comply with, or is inconsistent with, the Act or any statutory planning document (currently the general policies, CMS, CMP and NPMPs; in future the NCPS and area plans). This is the status quo.

- If the applicant has a history of serious or repeated non-compliance with concession conditions, including if the applicant owes money to the Crown in relation to current or previous concessions.

- Where the Crown may have plans for specific areas of public conservation land and the Minister needs the ability to decline any applications to allow for those plans to be implemented.

- If the application is incomplete.

121. DOC does not currently systematically monitor compliance with concession conditions. Patchy information about non-compliance may mean it is unfair in practice for only some applications to be declined for previous non-compliance, compared to undetected non-compliance.

122. This option may increase the amount of information DOC needs to request from applicants and analyse during the initial review phase. The establishment of a standard application fee (see below option) would assist in meeting some of the additional costs for DOC to analyse this information.

123. All of the submitters who provided feedback on this proposal supported it. Some submitters expressed other criteria for the Minister to consider when declining applications, including if applicants have a criminal record, a record of financial malpractice or if the applicant is unable to appropriately remediate the site from any damages following the concession term.

124. The discussion document included a proposed ground to allow the Minister to decline an application upfront where the applicant clearly lacks financial viability, for example the ability to pay fees associated with getting or using the concession. We have not included this ground in the proposal as it would not be possible to assess an applicant's financial viability from the information provided in the application. We instead propose specifying that non-compliance includes if the applicant owes money to the Crown in relation to current or previous concessions.

Option Three – Clarify that applications are required to be made in a specified form or include certain information

125. This option would clarify that concession applications can be required to be made in a specified form or include certain information in addition to what is already required by the Act.

126. At present, applications can vary in terms of quality and completeness, even though the law requires certain information to be included in them. This option will clarify that applications can be required to be made in a specified form or include information in addition to what is already required by law.

127. For example, applications involving fixed assets and significant structures require financial due diligence. This change would support requiring applicants to provide the necessary information to allow for financial due diligence.

128. This option was not included in the discussion document.

How do the options compare to the status quo?

	Option One – Status Quo	Option Two – Broaden grounds for declining an application	Option Three – Clarify that applications are required to be made in a specified form or include certain information
Effectiveness	0	+ Unclear of impact on conservation outcomes. Indirect contribution to other outcomes in section 6 (i.e. expectation of faster processing may support business certainty etc).	+ May support higher quality of applications overall and assist in assessment. Indirect contribution to other outcomes in section 6 (i.e. expectation of faster processing may support business certainty etc).
Efficiency	0	++ Clearer tests for declining an application upfront will make it faster for the applicant to know when their application has been declined and take pressure off the system to focus on processing other applications.	+ Providing more clarity upfront about what is required to be included in an application may support more efficient processing and reduce time and costs for DOC and applicants.
Good regulatory practice	0	+ Provides clarity and certainty for DOC and applicants.	+ Provides clarity and certainty for applicants about what is required to be included in their application.
Consistency with Treaty obligations	0	0	0
Successful implementation	0	+ May be some initial work to establish additional operational guidance. Will require faster triage of applications than currently occurs, which may require some changes to resourcing. Likely to be more efficient going forward.	+ May be some initial work to establish additional operational guidance – likely to be more efficient going forward.
Overall assessment	0	5	4

Options to improve the efficiency of the assessment process

129. The change options below are not mutually exclusive and can be implemented as a package. Implementing options Two and Three as a package is the preferred option.

Option One – Status Quo

130. Under the status quo, there would continue to be regulatory constraints on DOC's ability to speed up concession processing. There would continue to be operational ambiguity about certain steps in the process.

Option Two – Pause processing a concession application until an interim payment is received

131. This option would enable the Minister (or their delegate) to pause consideration of a concession application in the situation that:

- the Director-General has made a written demand under s60 of the Act for payment (to recover costs incurred to date in considering the application), and
- the requested payment has not been received within 28 days of receiving the written notice.

132. Consideration of the application can recommence once the payment has been received.

133. This option was not covered in the discussion document.

Option Three – Create a statutory timeframe within which an applicant should provide further information

134. At present, when DOC needs further information from an applicant to process their application, they are given a reasonable period to provide the information. If this information is not provided, the application is not processed any further.

135. This change would create a default statutory timeframe for applicants to provide further information: 10 working days.

136. One submitter suggested that this proposal will likely put pressure on some small operators who do not have administrative support. Some other submitters also said that time limits relating to requests for further information must consider providing appropriate time for Treaty partners to respond.

137. This option would also allow for the Minister to provide a longer time period if they consider the nature and scope of the request warrants it (as long as it is reasonable). The Minister can return an application after this timeframe has elapsed.

How do the options compare to the status quo?

	Option One – Status Quo	Option Two - Establish a statutory timeframe within which an applicant should provide further information	Option Three- Pause processing a concession application until an interim payment is received
Effectiveness	0	+ Unclear of impact on conservation outcomes. Indirect contribution to other outcomes in section 6 (i.e expectation of faster processing may support business certainty etc).	+ Ensures that costs associated with lodging applications are covered by users of the concession system and $ available for conservation outcomes.
Efficiency	0	++ Statutory timeframes are likely to drive faster processing times.	+ Discourages applications from those without intent/ability (e.g. financial means) to get or undertake the concession. Reduces churn.
Good regulatory practice	0	+ Provides clarity and certainty for DOC and applicants.	+ More certainty for DOC and for regulated parties. Common in many regulatory systems.
Consistency with Treaty obligations	0	0	+ Supports better cost recovery, including to remunerate Iwi to participate in concession processes
Successful implementation	0	+ May be some initial work to establish additional operational guidance – likely to be more efficient going forward.	+ Can be collected using systems already established to recover application costs after they are incurred. Will be some additional processing costs for DOC.
Overall assessment	0	5	5

Options to improve public notification

138. The change options below are not mutually exclusive and can be implemented as a package. Implementing options Two, Three and Four as a package is the preferred option.

Option One – Status Quo

139. Under the status quo, the Minister must publicly notify every application for a lease or a licence for a term (including renewals) of more than 10 years. The Minister may publicly notify any other application for a licence, permit or easement if, having regard to the effects, he or she considers it appropriate to do so.

Option Two – Applications to be publicly notified when the Minister has the intention to grant a concession

140. This option proposes that applications would be publicly notified when the Minister has the intention to grant a concession. The same subset of activities requiring notification would be retained.

141. Prior to 2017, if a preliminary decision was to grant an application, and it met the criteria for notification, DOC would publicly notify an 'intention-to-grant'. In 2017, the Resource Legislation Amendment Act replaced the public notification of an 'intention-to-grant' with public notification of an application for a concession. The change meant that DOC would not notify an 'intention-to-grant' and instead take no position on the application before notification. Submissions are considered as part of the assessment, and at hearings the Director-General is a neutral listener rather than testing an intended course of action.

142. Just over half of the submissions that engaged with this option were opposed to it. While concessionaires expressed their support, Treaty partners, Environmental Non-Government Organisations and some conservation boards disagreed with the proposal because they consider that it limits public engagement on concession applications.

143. While this option would mean that less applications are notified, it also means that the public will not waste time participating in concession processes for applications that DOC will decline anyway. Currently, the public can invest significant time in opposing applications that may be declined or promoting conditions that DOC already planned to include. The proposal may also support participation in notification processes by providing the public with DOC's assessment of the application prior to the submission process (i.e. to support a more informed submission).

144. This option would not preclude the Minister making a different decision to the one notified (i.e. a decline) following the submissions process.

Option Three – Clarify that public notification is not required for grazing licences

145. This option will remove grazing licences from the set of activities requiring public notification. Grazing is typically undertaken on conservation land that is assessed by DOC as suitable for that purpose (i.e. that has little to no conservation values and where the impact of the grazing will have little to no impact on the surrounding environment).

146. Applicants for grazing licences sometime request terms shorter than ten years to avoid triggering public notification, causing system inefficiencies.

147. This proposal was not covered in the discussion document.

Option Four – Clarify that the Minister can determine when a hearing would be appropriate

148. This option will provide the Minister with the discretion to determine when a hearing would be appropriate for any application that will be notified.

149. At present, any person or organisation may request to be heard by the Director-General in relation to their submission. Hearings can come at significant additional cost and can be poorly attended. The participation benefits of notification can be obtained through a written submission process alone, with the discretion to hold hearings for applications with greater public interest.

150. This proposal was not covered in the discussion document.

How do the options compare to the status quo?

	Option One – Status Quo	Option Two – Application to be publicly notified when the Minister has the intention to grant a concession	Option Three – Clarify that public notification is not required for grazing licences	Option Four – Clarify that the Minister can determine when a hearing would be appropriate
Effectiveness	0	+ Notifying at the intent to grant stage means that submitters can be more informed about the potential conservation impacts/mitigations of a proposal.	+ Grazing is typically undertaken on conservation land that is assessed by DOC as suitable for that purpose. This will free up resources for public notification for activities that may have a higher impact on conservation values.	+ Would free up resources to allow more focus on hearings for activities that may impact on conservation values.
Efficiency	0	+ Reduces time for people submitting on applications that are unlikely to be approved and DOC to undertake notification processes for applications that are unlikely to be approved.	+ Applicants for grazing licences sometime request terms shorter than ten years to avoid triggering public notification, causing system inefficiencies. Likely to impact a small number of applications.	+ Reduces processing cost and time to DOC and applicants. Likely to impact a small number of applications.
Good regulatory practice	0	+ More certainty for applicants, submitters and DOC.	+ More certainty for applicants, submitters and DOC.	+ More certainty for applicants, submitters and DOC.
Consistency with Treaty obligations	0	0 No change to how DOC upholds Treaty obligations as a result of this option.	0 No change to how DOC upholds Treaty obligations as a result of this option.	0 No change to how DOC upholds Treaty obligations as a result of this option.
Successful implementation	0	+ Less time/cost for DOC to administer	+ Less time/cost for DOC to administer	+ Less time/cost for DOC to

		notification processes.	notification processes.	administer hearing processes.
Overall assessment	0	4	4	4

Options to streamline decision-making

Option One – Status Quo

151. Under the status quo, there would be no statutory timeframes for assessment of concession applications. There would only be operational targets for concessions processing.

Option Two – Establish an end-to-end timeframe for decisions on applications *(preferred option)*

152. This option would establish the following end-to-end statutory timeframes for the Minister to make a decision on a concession application:

- One-off applications: 10 working days.
- Permits (other than one-off applications): 80 working days.
- Non-notified licenses and easements (other than one-off applications): 140 working days.
- Notified licences and leases: 180 working days.

153. The statutory timeframe starts when the Minister accepts a complete application and the applicant pays the lodgement fee. It concludes when the Minister makes the decision to grant or decline the application.

154. This specific option was not covered in the discussion document. However, the discussion document included an option to introduce a timeframe for DOC to triage applications and noted that other timeframes for DOC could be considered.

155. There was mixed feedback from submitters in response to the other proposals relating to statutory timeframes. Many submitters generally supported the intent of these proposals and believed they could encourage efficiency. However, some also said additional resourcing would be needed to support DOC's processing of applications on time.

156. This option will allow the Minister to extend the application timeframe at their discretion, and at any point in the process. More substantial engagement and processing are sometimes necessary to support decision-making for some complex applications. It is not possible to anticipate in advance the types or categories of applications where this may be needed, which is why we consider a general discretion for the Minister to extend timeframes is more appropriate. This aligns with the ability for the Minister to specify longer timeframes for Treaty partner engagement on applications, or for the applicant to provide further information.

157. If the Minister is extending a timeframe, they must provide reasons for the extension to the applicant.

158. The processing clock will be paused in some situations, largely to reflect steps in the process that can contribute to delays and that are beyond DOC's control. This is the approach taken in the resource management system for consenting timeframes. One key situation that we do not recommend the clock be paused in is Treaty partner engagement. Time for Treaty partner engagement has been factored into the recommended end-to-end timeframes.

159. The processing clock would be paused when:

- the applicant requests their application be put on hold
- further information is requested from the applicant and a timeframe longer than ten days is provided to the applicant
- a report is commissioned or advice is sought on matters raised in relation to the application (excluding Treaty partner engagement)
- interim payments have not been settled by the specified deadline.

160. Existing performance monitoring and reporting can be used to monitor how often extensions are used and any trends in their use over time.

161. These timeframes would also apply to applications for variations or extensions to concessions under section 17ZC(2).

162. We recommend setting these timeframes and the circumstances where the clock can be paused in primary legislation, rather than using the existing regulation-making powers under section 48. Setting timeframes in primary legislation is more stable than setting them in regulation and will support a more transparent process with public scrutiny.

Defining a one-off concession

163. Many applications are processed in a much shorter time than those provided for in Option Two. We have also included a timeframe for a one-off concession to reflect current operational practice.

164. As an indication of what could be a one-off concession, DOC operational policy defines a one-off concession as:

- being for a period of no longer than three months
- having only minor environmental effects
- having clearly defined limits
- not involving permanent structures; and
- not taking place in the same location more than once in three years.

Discounted option – Establishing prescribed timeframes for each step of the process

165. This option has been discounted, as using end-to-end timeframes avoids the need to specify the exact order in which steps must take place in the application process, which preserves operational flexibility.

How do the options compare to the status quo?

	Option One – Status Quo	Option Two - Establish end-to-end timeframes for concessions processing *Preferred option*
Effectiveness	0	+ Faster processing of permits may allow more time for more complex applications with more significant conservation impacts. Indirect contribution to other outcomes in section 6 (expectation of faster processing may support business certainty etc).
Efficiency	0	++ Statutory timeframes are likely to drive faster processing times.
Good regulatory practice	0	++ Provides clarity and certainty for concessionaires.
Consistency with Treaty obligations	0	0 Statutory timeframes for overall processing may drive more compressed Treaty partner engagement for some applications. While the proposal includes flexibility to allow for a longer engagement period where necessary, some Treaty partners may consider that this option does not reflect partnership (this was raised during consultation).
Successful implementation	0	0 Aligns with timeframes for DOC's new operational targets for concessions processing.
Overall assessment	0	5

Options to improve clarity in the reconsideration process

166. The change options below are not mutually exclusive and can be implemented as a package. Implementing options Two, Three and Four as a package is the preferred option.

Option One – Status Quo

167. Under the status quo, the Minister would retain the general discretion to decide whether to reconsider an application. There would be no clarity about what the Minister should consider when deciding to undertake a reconsideration. There would be no timeframes and no limits on the number of times an applicant can ask for the same decision to be reconsidered.

168. Applicants may continue to unreasonably challenge a reconsideration decision (for example, until the desired outcome is gained). The administrative churn and resource wastage associated with reconsideration applications would remain.

Option Two – Clarify that applicants must submit a reconsideration request within 20 working days of being notified of the concession decision and a request can only be submitted once

169. In 2022, Cabinet agreed to amend the Act to require applicants to submit a reconsideration application within 20 working days of a decision on a concession (ENV-22-MIN-0059). This change was not enacted due to changes in government and government priorities.

170. The current Minister of Conservation now seeks to make this change as part of current reforms to the law relating to concessions. After further analysis the timeframe for applicants to return an application has been adjusted from the timeframe previously agreed by Cabinet to 20 working days. This better aligns with the timeframe for an applicant to sign a concession (one month).

171. There was majority support from submitters for the proposal to require requests within 20 working days.

Option Three - Require the Minister to process a reconsideration within 30 working days

172. This option would require the Minister to complete a reconsideration within 30 working days or any longer timeframe specified by the Minister.

173. This specific option was not covered in the discussion document. However, the discussion document included two options to impose statutory time limits on DOC:

- Reconsideration applications must be accepted or declined by DOC within 20 working days.
- If accepted, DOC has a further 20 working days to complete the reconsideration.

174. There was broad support for these two options from submitters. Submitters also suggested that DOC may need additional time to process complex reconsiderations.

175. After further analysis we have combined these two timeframes into one, as the operational steps to consider whether to process a reconsideration may overlap with the

steps to assess the request itself. We have also added an extension provision to allow for more complex reconsideration requests.

Option Four – Clarify the scope of a reconsideration

176. This option proposes to amend the Act to clarify that as part of the reconsideration, the Minister may not consider any information that was not considered by the decision-maker, unless:

- the information existed at the time the decision was made and would have been relevant to the making of that decision; and
- in all the circumstances it is fair to consider the information.

177. This is common in other appeal or reconsideration processes (for example the visa application process under the Immigration Act). Inclusion of this ground would streamline the reconsideration process by removing any need for further assessments or Treaty partner engagement. It would not prevent the application from pointing out information DOC had failed to consider (e.g. a relevant policy in an area plan), allowing for the reconsideration process to be used to correct errors or oversights.

178. If the applicant wishes to provide new information, this should be considered as a new application.

179. This option was not covered in the discussion document.

How do the options compare to the status quo?

	Option One – Status Quo	Option Two - Require reconsideration requests to be submitted within 20 working days and to only be submitted once	Option Three - Require the Minister to process a reconsideration within 30 working days	Option Four – Clarify scope and purpose of a reconsideration
Effectiveness	0	+ Indirect contribution to conservation outcomes and other outcomes in section 6 (i.e reduces time spent on frivolous applications - can be focused on priority applications and ensuring the effects of those activities are well managed).	+ Unclear of impact on conservation outcomes. Indirect contribution to other outcomes in section 6 (i.e expectation of faster processing may support business certainty etc).	+ Will ensure that processing time is focused on priority/more complex requests and ensuring the effects of those activities are well managed.
Efficiency	0	++ Reduces time and costs for DOC and regulated parties in submitting/processing reconsideration applications that will likely result in same decision.	++ Expectation of time for DOC to process a reconsideration – likely to drive faster processing times.	++ Reduces time and costs for DOC and regulated parties in submitting/processing reconsideration applications that will likely result in same decision. Frees up tome for priority reconsideration requests or other processing.
Good regulatory practice	0	++ Provides clarity and certainty for concessionaires and the regulator.	++ Provides clarity and certainty for concessionaires and the regulator.	++ Provides clarity and certainty for concessionaires and the regulator. Common in other

				appeal or reconsideration processes (for example the visa application process under the Immigration Act).
Consistency with Treaty obligations	0	0	0	0
Successful implementation	0	0 Aligns with new operational policy and process.	0 Aligns with new operational policy and process.	0 Aligns with new operational policy and process.
Overall assessment	0	5	5	5

What options are likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

180. The preferred package of options to strengthen concessions processing is as follows:

Triage	• Broaden the grounds for returning an application. • Clarify that applications are required to be made in a specified form or include certain information. • Enable the ability to return a concession application within 20 working days to initiate a competitive allocation process.
Assessment	• Pause processing a concession application until an interim payment is received. • Create a statutory timeframe within which an applicant should provide further information.
Public notification	• Applications to be publicly notified when the Minister has the intention to grant a concession. • Clarify that public notification is not required for grazing licences. • Clarify that the Minister can determine when a hearing would be appropriate.
Decision-making	• Establish an end-to-end timeframe for decisions on applications: o One-off applications: 10 working days. o Permits (other than one-off applications): 80 working days. o Non-notified licenses and easements (other than one-off applications): 140 working days. o Notified licences and leases: 180 working days.
Reconsideration	• Clarify that applicants must submit a reconsideration request within 20 working days of being notified of the concession decision and a request can only be submitted once. • Require the Minister to process a reconsideration within 30 working days. • Clarify the scope of a reconsideration.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

181. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

182. Amending the concessions process to clarify expectations, streamline some steps and introduce new statutory timeframes will encourage more consistent and robust decisions about activities that can be undertaken on PCL and support faster processing of concessions (compared to the status quo).

183. A clearer more consistent concession process will provide more certainty for concessionaires (including applicants), DOC and Treaty partners.

184. There will be set up costs for DOC in transitioning to the new system, but more streamlined concessions processing settings will reduce DOC's processing costs over the medium term. There should be no additional costs for applicants or for Iwi/hapū as a result of the proposed changes.

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
DOC	• Immediate implementation costs – communicating changes to regulated parties, establishing new operational policy and processes. • In the medium term costs will reduce as efficiency gains are realised.	*Low*	*Medium*
Concessionaires (including applicants)	• There are no additional costs to concession operators arising from the option.	*Low*	*High*
Iwi and hapū	• There are no additional costs to Iwi and hapū as a result of these changes.	*Low*	*Medium*
Total monetised costs	• Economic costs have not been monetised due to poor evidence certainty.	*N/A*	*Low*
Non-monetised costs	• Additional set up costs for DOC to establish operational guidance and communicate changes but likely to be more efficient going forward. No additional costs to regulated parties.	*Medium*	*Low*
Additional benefits of the preferred option compared to taking no action			
DOC	• In the medium term, the option will reduce concession processing time and costs for DOC.	*High*	*Low*
Operators	• A clearer more consistent concession process will provide more certainty for operators. • In the medium term, supported by the changes to management planning, the option will support faster decision-making, allowing more activities to be undertaken on PCL.	*Medium*	*Low*
Māori	• Improved transparency in the process and reduced time engaging on applications.	*High*	*Low*
Total monetised benefits	• Economic benefits have not been monetised due to poor evidence certainty.	*N/A*	*Low*
Non-monetised benefits	• More consistent and robust decisions about activities that can be undertaken on PCL and faster processing of concessions compared to the status quo.	*High*	*Low*

Addressing ambiguity about how DOC gives effect to Treaty principles in concessions processing

Option One – Status Quo

185. Under the status quo, DOC will continue to assess when engagement with Treaty partners on a concession application should occur, based on current relationships held at place and in relationship agreements. Note that Treaty partners are invited to respond to applications that require public notification and that would continue under the status quo.

186. This option is likely to mean Treaty partners continue to be engaged on most concession applications, unless they have agreed with DOC the types of concessions they wish to be engaged on.

Option Two – Engagement with Treaty partners is only required for notified applications and must take place before notification

187. Engagement would only be required for concessions that will be publicly notified, given that such applications typically involve activities that may incur more significant impacts on a range of values and/or confer valuable property rights. This would not prevent DOC from engaging with Treaty partners beyond what is required in law, e.g. to ensure informed decision-making.

188. This option was not covered in the discussion document. However, concerns raised by Treaty partners in relation to Option Three are likely to apply to this option. Treaty partners noted (in response to Option Three below) that the Crown deciding when engagement should take place does not reflect partnership. Some stated that Iwi or hapū should be the ones to decide when they are engaged with.

Option Three – Clarify when engagement with Treaty partners is not required

189. This option would clarify that engagement is not required where Treaty partners have said they do not need to be engaged on particular applications or types of applications; or where applications are similar to or only make minor changes to previous or existing concessions.

190. This option would require decision-makers to assess what is "minor" or "similar" based on the circumstances, creating another decision that is subject to challenge. For example, it may be that some applications are similar to currently allowed activities but would still have significantly different potential impacts on Treaty rights and interests, suggesting engagement may still be needed to ensure informed decision-making.

191. While many submitters supported the intent of this proposal, feedback was mixed. Several concessionaires expressed their support for the proposal.

192. Treaty partners including Pou Taiao (Iwi Leaders Forum) disagreed with this proposal on the basis that the Crown deciding when engagement should take place does not reflect partnership. Some Treaty partners stated that Iwi or hapū should be the ones to decide when they are engaged with.

Option Four – Engagement will remain a matter for operational discretion (status quo) plus Treaty partners must provide feedback on a concession application within 20 working days

193. This option proposes that DOC will continue to assess when engagement with Treaty partners on a concession application should occur, based on current relationships held at place and in relationship agreements.

194. Under this option, Treaty partners are likely to continue to be engaged on most concession applications, unless they have agreed with DOC the types of concessions they wish to be engaged on.

195. Where DOC assesses that engagement is required, this option will clarify that Treaty partners must provide feedback on a concession application within 20 working days of receipt of the application.

196. If 20 working days is not reasonable in the circumstances:

- the Minister can specify a longer, reasonable timeframe
- Treaty partners can request an extension to the deadline.

197. This timeframe will not apply in situations where DOC and Treaty partners have agreed a specific timeframe for engagement on concession applications (for example, where a decision-making framework or relationship agreement includes a specific timeframe). If the deadline for Treaty partners to provide feedback has elapsed, decision-making will proceed based on existing information.

198. The proposals to improve the planning process (including proposals to establish classes of exempt or pre-approved activities) and ongoing engagement with Treaty partners will build stronger, enduring understanding of Iwi and hapū interests, reducing the need for extensive responses on individual applications.

199. While many submitters supported the intent of this proposal, feedback was mixed. Several concessionaires expressed their support for the proposal. Some recommended that more flexibility and clearer provision is needed for Iwi and hapū to apply for an extension, or to request further information or support from DOC.

200. Concerns raised by Treaty partners in relation to the other options in this section are likely to apply to this option. Treaty partners noted (in response to Option Three) that the Crown deciding when engagement should take place does not reflect partnership.

Discounted option – Clarifying in legislation when Treaty partner engagement is needed

201. A further option, which DOC has discounted, is not seeking Treaty partners' views where the Minister considers there are no or minimal Māori rights and interests involved, and these are well understood. This is likely to be highly contentious in practice, without providing significantly more operational certainty for DOC.

How do the options compare to the status quo?

Options one, two and three are mutually exclusive. Option four can be implemented alongside any of the options. Options one (status quo) and four are the preferred options.

	Option One – Status Quo	Option Two - Engagement is only required for notified applications and must take place before notification	Option Three: Clarify when engagement with Treaty partners is not required	Option Four – Engagement will remain a matter for operational discretion, plus Treaty partners must provide feedback on a concession application within 20 working days *Preferred option*
Effectiveness	0	0 Unclear of impact on conservation outcomes.	0 Unclear of impact on conservation outcomes.	+ Indirect contribution to other outcomes in section 6 (i.e expectation of faster processing may support business certainty etc).
Efficiency	0	0 Engagement may still be needed for many applications to ensure informed decision-making, limiting process efficiencies.	0 Engagement may still be needed for many applications to ensure informed decision-making, limiting process efficiencies.	++ Clarifying timeframes in statute can support process efficiency.
Good regulatory practice	0	0 Would not provide additional clarity and certainty, given that engagement may still be required.	0 Would not provide additional clarity and certainty, given that engagement may still be required.	++ Supports transparency and clarity for regulated parties, the regulator and Treaty partners.
Consistency with Treaty obligations	0	0 Would not provide additional clarity	0 Would not provide additional	0 More certainty about what is required to give

		and certainty, given that engagement may still be required. Engagement may still be needed for many applications to ensure informed decision-making. There are participation steps/requirements prescribed in the MACA Act and NP Act in relation to "publicly notified applications for concessions". These would not be impacted.	clarity and certainty, given that engagement may still be needed for many applications to ensure informed decision-making.	effect to section 4 in concessions processing. However, this certainty is provided by narrowing the application of section 4, s9(2)(f)(iv) [redacted] Some Treaty settlements and protocols include their own timeframes, and these might be different to what is proposed. These timeframes would not be impacted. Flexibility to extend for more complex applications allows opportunity to support informed decision-making regardless of the application type. However, some Treaty partners may consider that this option does not reflect partnership (this was raised during consultation).
Successful implementation	0	- May just create additional process step with same result. Decision-makers would still consider whether engagement is required beyond what is required in law, e.g. to ensure informed decision-making.	- Would require decision-makers to assess what is "minor" or "similar" based on the circumstances, creating another decision that is subject to challenge.	+ Aligns with existing operational policy.
Overall assessment	0	-1	-1	6

What options are likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

202. Options one (status quo) and four are the preferred options:

- Option One – (status quo) Retain operational discretion to determine when engagement with Treaty partners occurs).
- Option Four -Treaty partners must provide feedback on a concession application within 20 working days.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

203. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

204. Retaining the status quo means that decisions on when to engage will remain a matter for operational discretion. This allows the flexibility for DOC to make operational decisions about engagement based on current relationships held at place.

205. Clarifying statutory timeframes will provide more certainty of process for concessionaires (including applicants), DOC and Treaty partners and support process efficiency.

206. Tighter statutory timeframe for consultation may result in the timing of costs being more concentrated for Treaty partners in some periods. While the proposal includes flexibility to allow for a longer engagement period where necessary, some Treaty partners may consider that this option does not reflect partnership (this was raised during consultation).

207. The wider proposals to improve the planning process (including proposals to establish classes of exempt or pre-approved activities) and ongoing engagement with Treaty partners will build stronger, enduring understanding of Iwi and hapū interests, reducing the need for extensive responses on individual applications.

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
DOC	• Immediate implementation costs – communicating changes to regulated parties, establishing new operational policy and processes.	*Low*	*Medium*
Concessionaires (including applicants)	• There are no additional costs to concession operators arising from the option.	*Low*	*High*
Iwi and hapū	• There are no additional costs to Iwi and hapū as a result of these changes. Tighter statutory timeframe for consultation may result in the timing of costs being more concentrated in some periods.	*Low*	*Low*
Total monetised costs	• Economic costs have not been monetised due to poor evidence certainty.	*N/A*	*Low*
Non-monetised costs	• Additional set up costs for DOC to establish operational guidance and communicate changes but likely to be more efficient going forward. No additional costs to regulated parties.	*Medium*	*Low*
Additional benefits of the preferred option compared to taking no action			
DOC	• The option will provide more clarity for decision-makers and reduce processing time and costs for DOC.	*High*	*Low*
Operators	• A clearer more consistent concession process will provide more certainty for operators. • Supported by the changes to management planning, the new process will support faster decision-making, allowing more activities to be undertaken on PCL.	*Medium*	*Low*
Iwi and hapū	• Improved transparency in the process and reduced time engaging on applications.	*High*	*Low*
Total monetised benefits	• Economic benefits have not been monetised due to poor evidence certainty.	*N/A*	*Low*
Non-monetised benefits	• More consistent and robust decisions about activities that can be undertaken on PCL and faster processing of concessions compared to the status quo.	*High*	*Low*

Options to simplify and standardise price-setting and contractual conditions

208. The change options below are not mutually exclusive and can be implemented as a package. The preferred set of options is indicated in the table on page 50.

Options to strengthen the use of terms and conditions

Option One – Status Quo

209. Under the status quo the Minister would retain the general discretion to set terms and conditions in concession contracts. Without the ability to set terms and conditions in secondary legislation, concession processing timeframes will likely continue to be prolonged, as applicants negotiate bespoke conditions. It is likely that there will continue to be inconsistent outcomes for conservation and the Crown's management operators who undertake the same activity.

Option Two – Enable the Minister to set binding, standard terms and conditions for concessions

210. This option would amend the Act to enable the Minister to set standard terms and conditions which are binding on all relevant concessions.

211. The vehicle for standard terms and conditions could be secondary legislation, as it is likely that terms and conditions will need to be updated periodically. Standard terms and conditions will apply to all concessions granted after standard terms and conditions commence.

212. Most submitters agreed that standard terms and conditions should be regulated. However, some noted that these standard terms and conditions should not limit other terms and conditions from being imposed depending on the circumstances of the application.

Options to clarify when longer term lengths may be appropriate

Option One – Status Quo

213. Under the status quo, the application of the 'exceptional circumstances' test (i.e. when leases or licenses can be issued for 60 years) will continue to be assessed on a case-by-case basis. The Ombudsman has determined 'exceptional circumstances' to be extremely limited in practice.

Option Two – Allow a term corresponding to the useful life of fixed assets and structures associated with the concession, if longer than 30 years

214. This option would amend the Act to replace the current 'exceptional circumstances' test to provide that a concession be issued for a term corresponding to the 'useful life' of fixed

assets and structures associated with the concession, if longer than 30 years. The 'useful life' of fixed assets is a common methodology in accounting practices.

215. This provision would only apply where concessionaires own fixed assets and structures associated with the concession. Further operational guidance would likely be needed on how this is assessed.

216. This option was not covered in detail in the discussion document. However, many submitters who responded on the proposal to clarify when concessions can be granted for more than 30 years opposed it. They were concerned that it would allow for concessions to be more easily granted for more than 30 years. Some were also concerned that it would make it more difficult to reallocate concessions.

217. Most concessionaires supported clarifying when longer term lengths are possible in exceptional circumstances and expressed that longer concession terms should be awarded to infrastructure heavy operations.

Option Three – Option Two, plus a term of up to 60 years for critical infrastructure

218. In addition to option Two, this would allow longer terms (up to the current maximum term in exceptional circumstances) for concessions that provide critical infrastructure.

219. Concessions that meet the 'critical infrastructure' threshold are likely to include three waters (drinking water, stormwater, wastewater, reservoirs) power (electricity or gas pipelines, hydro dams, windmills), transport infrastructure (roads, bridges, wharves, jetties, rail, airports and land spaces), and telecommunications (cell towers or internet cables). These generally provide long-term public benefits.

Discounted option – Replacing the current maximum terms of 30 years and 60 years in exceptional circumstances with 50 years

220. This option would amend the Act to clarify that concessions that have significant assets or provide critical infrastructure can be granted a maximum term of 50 years.

221. This option has been discounted, as our maximum term lengths are already at the higher end when comparing to similar jurisdictions. For example, the United States National Park Service can grant concessions for up to 10 years, or 20 years in limited circumstances. In Victoria, leases can only be granted for up to 21 years.

Options to smooth end-of-term transitions

Option One – Status Quo

222. Under the status quo, there will continue to be uncertainty for decision-makers and applicants about what will happen to fixed assets in a competitive allocation process. Concession contracts will continue to be used on a case-by-case basis to set terms about valuation to support asset transfer. There will remain incentives for concessionaires operating on expired terms to hold out when discussing new terms with DOC.

Option Two – Enable the Minister to transfer or reassign an entire concession and contract

223. This option would amend the Act to enable to Minister to transfer or reassign an entire concession and contract (i.e. liabilities in addition to benefits and conditional transfers).

224. Transfer or reassignment would be subject to the new owner meeting due diligence requirements. Due diligence could take the form of a 'fit and proper person' test; demonstrating ability to meet contractual terms and conditions, including in relation to effects management; or maintaining or improving service levels and costs.

225. DOC could also add update terms and conditions for the concession contract as part of this process. This is based on the current ability for the Minister to set conditions on a concession at the point of granting.

226. The options to set standard terms and conditions relating to asset valuation and compensation will further support smooth transitions between concessionaires following an allocation process.

227. Concessionaries noted that more security and clarity is required at the end of a concessions term. Concessionaires, particularly those with significant infrastructure, also said that situations where they may be forced to sell assets following a competitive process is undesirable and may be unlawful.

How do the options compare to the status quo?

	Options to strengthen the use of terms and conditions		Options to clarify when longer term lengths are appropriate			Options to support end-of-term transitions	
	Option One – Status Quo	**Option Two - Enable the Minister to set binding, standard terms and conditions for concessions** *Preferred option*	**Option One – Status Quo**	**Option Two: Allow a term corresponding to the useful life of fixed assets and structures associated with the concession, if longer than 30 years**	**Option Three: Option Two, plus a term of up to 60 years for critical infrastructure** *Preferred option*	**Option One – Status Quo**	**Option Two - Enable the Minister to transfer or reassign an entire concession and contract** *Preferred option*
Effectiveness	0 It is likely that there will continue to be inconsistent outcomes for conservation and the Crown's management operators who undertake the same activity.	+ Increased standardisation can support more consistent approaches to the management of concessions which may have an overall improved impact on conservation outcomes and DOC's other section 6 outcomes.	0	+ May incentivise future investment in quality infrastructure that supports conservation outcomes. Should ensure that the effects of concessions granted for longer terms are managed appropriately, while contributing to DOC's other functions.	+ Should ensure that the effects of specific concessions that are granted longer terms are managed appropriately while contributing to DOC's other functions.	0	++ Will offer DOC ability to ensure concessions continue to contribute to key conservation outcomes and are well managed throughout transfers, including the reassessment of effects of the activity and the concessionaire's ability to support. May support contribution to other outcomes in section 6
Efficiency	0 Concession processing timeframes will likely continue to be prolonged, as applicants negotiate bespoke conditions.	++ Likely to reduce the time taken for concessionaires to apply for concessions. Likely to reduce the time and cost for DOC to assess, approve and regulate concessions.	0	+ May reduce time and costs for concessionaires due to a more transparent process. Would allow operators to gain a fair return on their investment in an asset. Should provide more clarity for decision-makers on when to approve longer terms and may reduce time and costs for DOC.	++ Should provide more clarity on when to approve longer terms, and may reduce times and costs to DOC. May also create more efficiencies in the permissions system and allow DOC to concentrate its regulation on other concessions that require the status quo term length.	0	++ Will reduce time and costs for incoming and outgoing concessionaires to transfer concessions. Will reduce time and costs for DOC to assess, approve and regulate concessions transfers.
Good regulatory practice	0	++ Improved clarity and transparency for concessionaires and regulated parties. Should support more consistent and higher performing regulatory management of concessions.	0	++ Improves clarity and transparency for applicants and decision-makers. Could rely on advice on the IRD and OAG on an asset's life to improve consistency of decision-making.	- Granting longer terms to permissions with significant asset bases without improving enforcement conditions may expose DOC to further risks. Unclear whether it would hold concessionaires to account to maintain and invest in their assets across the term. Would provide more clarity and certainty for concessionaires of significant assets or those providing long-term benefits.	0	++ May offer greater clarity and certainty for most concessionaires. Allows greater flexibility for DOC to impose additional conditions and reassess a concession as part of the transfer.
Consistency with Treaty obligations	0	0 No change to how DOC upholds Treaty obligations as a result of this option.	0	0 May not be able to be consistently used as some Treaty settlements will take precedence. Some settlements provide for rights of first refusal in relation to leases over 50 years,	0 May not be able to be consistently used, as some Treaty settlements (for example, first rights of refusal after a certain time) will take precedence. Must consider Treaty partners' expectations of effective alienation.	0	+ Drafting of provision in legislation will need to ensure any transfers still uphold statutory functions to give effect to Treaty principles and uphold Treaty settlements.

				including extensions and renewals. These will effectively limit term lengths offered. Longer terms may specifically shut out Treaty partners from certain concession opportunities, though the potential impact of this on Māori rights and interests would need to be assessed based on the facts of a particular situation.			
Successful implementation	0	0 May require a reasonable amount of upfront work to standardise contractual conditions but should support more effective implementation going forward.	0	++ Likely to be easy to implement once guidance and supporting policy established on use of 'life of asset' methodology. Could rely on advice on the IRD and OAG. May take time to develop and embed operational policy to support change.	+ Likely to be very easy to implement once clear criteria of what types of concessions are meet this threshold.	0	+ Option is feasible and likely to be easy to implement as would follow same process as for concession renewal. Would require additional guidance on due diligence requirements. The options to set standard terms and conditions will further support smooth transitions between concessionaires following an allocation process.
Overall assessment	0	5	0	6	4	0	8

Options to modernise the concessions fee framework

228. The change options below are not mutually exclusive and can be implemented as a package. Implementing the change options as a package is the preferred option.

Option One – Status Quo

229. Under the status quo, concessionaires will continue to pay specified rents, fees and royalties to the Minister, which must be reviewed at intervals not exceeding three years. There is an ability to specify fees in regulations, but this has not been used to date.

230. In practice, rents, fees and royalties will continue to be set on a case-by-case basis in concession contracts, with reference to a standard DOC price book. DOC will continue to be engaged in prolonged discussions with concessionaires about activity fees.

231. For active concessions, fees must be reviewed every three years. Fee reviews will likely continue to be of limited benefit as there is no ability to change the charging method set out in the concession contract when a fee review is undertaken.

Option Two – Enable the Minister to set rents, fees and royalties for concessions in secondary legislation, with periodic review

232. The Act requires activity fees for active concessions to be reviewed every three years and allows for regulations to be made fixing fees and levies in respect of any matter under the Act.

233. This option would combine and strengthen existing legislative provisions about setting activity fees to:

- enable the Minister to set rents, fees and royalties for concessions in secondary legislation, including discounts and waivers; and
- require such rents, fees and royalties for specific activities to be reviewed periodically.

234. Periodic review of regulated fees provides the opportunity to ensure that they reflect current market rates. Any changes made to fees following the review will apply to all active concessions.

235. The fees set in secondary legislation could be differentiated by activity type, as is currently the case with the DOC price book. They could also contain a mixture of charging methods, e.g. percentage of revenue or flat fees.

236. While the intention is to regulate all concession activity fees this way, there is scope to retain discretion to set fees other ways (e.g. through negotiation based on DOC operational policy and guidance) for any activities that are not included in secondary legislation.

237. As any changes will apply to all active concessions, we propose the inclusion of a requirement to consult the public on any proposed changes to fees set in secondary legislation. This provides an opportunity for regulated parties and other stakeholders to engage on proposed fees at the activity level.

238. Regulated pricing apply to all concessions after the first secondary legislation containing set fees is made, including active concessions. This means the empowering provision will technically have retrospective effect through the ability to affect existing concessions, the same way the requirement to review fees at the moment has retrospective effect.

239. Many submitters who responded on this proposal expressed their support. Those who supported this proposal said that it would be appropriate for commonly applied for concessions rather than unique activities. Some noted that regulated pricing would likely only work for some activities, and not all of them.

240. Those who disagreed with this proposal said that a one-size-fits-all approach may not adequately reflect the varied and complex values associated with different conservation lands and the variation in different types of activities.

241. Some said that regulated pricing should not apply to complex activities with significant infrastructure. Others also said that regulated pricing should not limit DOC from charging more for an opportunity.

Option Three – Option Two, plus enable the Minister to change the charging method set out in the concession contract when undertaking a rent review

242. While fees for some activities may be suitable for standardisation in secondary legislation, there will remain some activities that require bespoke pricing, for example novel activities.

243. The Minister must continue to review fees other than those covered by regulated pricing every three years (status quo), and the outcome of a review could be that no change is needed.

244. This option will enable the Minister to change the charging method set out in the concession contract when a rent review is undertaken. Any changes made following a rent review will apply to all relevant active concessions.

245. This proposal was not covered in detail in the discussion document. However, general feedback suggested that DOC's approach to concession pricing should be responsive to unforeseen circumstances.

Discounted option – Changing the basis for fees from 'market value' to 'fair return to the Crown'

246. This option has been discounted as further analysis has identified that market value should be retained as the basis for setting concession fees. Market value is a common methodology for setting fees across many regulatory systems.

247. Addressing the ambiguity associated with what constitutes a market rate for concession fees is best addressed through clearer operational guidance about what market value means for specific activities.

How do the options compare to the status quo?

	Option One – Status Quo	Option Two Enable the Minister to set rents, fees and royalties for concessions in secondary legislation, with periodic review	Option Three Option Two, plus enable the Minister to change the charging method set out in the concession contract when undertaking a rent review *Preferred option*
Effectiveness	0	+ Expected to ensure that the Crown will receive a fair return for allowing private commercial activities on PCL. Resources saved can be put towards other Departmental priorities. Standardised terms and conditions can support more consistent outcomes for conservation.	+ Expected to ensure that the Crown will receive a fair return for allowing private commercial activities on PCL. Resources saved can be put towards other Departmental priorities.
Efficiency	0	++ Standard pricing adds efficiency by removing prolonged discussions and haggling with applicants who otherwise may refuse to sign their concession. More efficient processing timeframes will reduce costs to the applicant and DOC.	++ Standard pricing adds efficiency by removing prolonged discussions and haggling with applicants who otherwise may refuse to sign their concession. Clarifying approach to pricing for activities that require bespoke pricing (likely to be a small number of concessions) may speed up processing time.
Good regulatory practice	0	++ Provides greater clarity in advance in terms of what fees will be. Provides certainty to operators that they are not being charged more than another operator to undertake the same activity. It also provides a greater degree of certainty in fees than regular rent reviews. Applying fees to all active concessions will bring concessionaires' fee payments for the same activities in line. It ensures that concessionaires are paying the	++ Provides clarity about pricing settings for activities that require bespoke pricing. Likely to apply to a small number of concessions (e.g. novel activities).

		same fees for the same activity at the same point in time.	
Consistency with Treaty obligations	0	0 No change to how DOC upholds Treaty obligations as a result of this option.	0 No change to how DOC upholds Treaty obligations as a result of this option.
Successful implementation	0	+ May require a reasonable amount of upfront work to determine fee levels and applicable activities but should support more effective implementation going forward.	++ Standardised pricing may require a reasonable amount of upfront work to determine fee levels and applicable activities. Changing rent review settings is likely to be easy to implement, as existing operational process for rent reviews would continue but would require additional guidance on changes to charging methodology.
Overall assessment	0	6	7

What options are likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

248. The preferred package of options is as follows:

Term length	• Allow terms corresponding to the useful life of fixed assets and structures where longer than 30 years. • Allow terms of up to 60 years for concessions involving critical infrastructure.
Terms and conditions	• Strengthen the Minister's ability to set standard terms and conditions for concessions, for example through secondary legislation or another instrument. • Set provisions for smooth transitions of concessions, protection of private property rights, and management of Crown risks when a business is sold, goes under, or a term ends.
Concession pricing	• Set standard prices for concessions through secondary legislation or another instrument, rather than relying on three-yearly fee reviews and lengthy negotiations as at present.
Transitions and term end	• Allow concessions to be transferred in their entirety to a new operator subject to due diligence. • Limit how long concessionaires can continue on old terms and conditions after a decision has been made on a new application.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

249. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

250. The combination of changes to contract management settings described above will provide benefits over the status quo, including supporting more confident decision-making, more consistent outcomes for conservation and a more fair return to the Crown for allowing private commercial activities on PCL.

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
DOC	• Immediate additional costs to communicate changes and establish operational guidance. Medium term - There will be some additional processing costs for DOC but should support more efficient processing and reduced costs in the long run.	*Medium*	*Low*
Current operators	• Additional costs to undertake the valuation of any relevant fixed assets.	*Medium*	*Low*
Total monetised costs	• Economic costs have not been monetised due to poor evidence certainty.	*N/A*	*Low*

Non-monetised costs	• Additional set up costs for DOC to establish operational guidance and communicate changes but likely to be more efficient going forward. Additional costs for some operators to undertake the valuation of any relevant fixed assets.	*Medium*	*Low*
Additional benefits of the preferred option compared to taking no action			
DOC	• Reduced ambiguity improves confidence in decision-making, reduces churn in contract negotiation processes and improves returns to the Crown.	*High*	*Low*
Current operators	• Expected to provide certainty that current operators will receive a fair return on investment in assets.	*Medium*	*Low*
Total monetised benefits	• Economic benefits have not been monetised due to poor evidence certainty.	*N/A*	*Low*
Non-monetised benefits	• More efficient processing of concessions through clearer price settings. Reduces time and costs for incoming and outgoing concessionaires to transfer concessions and provides more certainty for investment.	*High*	*Low*

Options to improve cost recovery in concessions processing

251. The change options below are not mutually exclusive and can be implemented as a package. Implementing options Two and Three as a package is the preferred option.

Option One – Status Quo

252. Under the status quo, applications will be received and checked if incomplete. No upfront payment will be required. People can apply for a concession even if they have no intention or means of getting or executing the concession.

Option Two – Enable the Director-General to charge a lodgement fee for a concession application

253. This option would amend the Act to enable the Director-General to require the payment of a lodgement fee when a concession application is submitted. It would be a fixed upfront fee for a set group of concession types. The lodgement fee would be deducted from the total cost recovery charges invoiced to the applicant, because they would have already paid the lodgement fee.

254. The fee will go towards recovering actual and reasonable costs incurred by DOC in performing its functions, powers and duties in relation to the lodging of a concession application.

255. A cost recovery model is already applied in the concession regime, as the economic benefits of obtaining a concession accrue primarily to the applicant. The costs to government of carrying out its functions and duties and exercising its powers should be fully funded by users of the concession system. This means that the Crown should not subsidise the services provided when a concession application is lodged.

256. The receipt of an application fee is a useful part of formally recognising that an

application has been made. It discourages frivolous applications, including applications from those without the financial means to pay fees associated with getting or using the concession. A lodgement fee can be introduced because we can identify the individuals and businesses who benefit from the concessions system, and we can charge these individuals or entities for the service they receive when they lodge their application.

257. This option was not included in the discussion document.

Option Three – Clarify when the Director-General can require interim payments

258. Section 60B provides a statutory basis for the Director-General to recover costs after the Minister (or delegate) has considered the concession, whether or not the consideration has been concluded.

259. There is an opportunity to address an ambiguity in the legislation, in which it is unclear when interim payments can first be required (i.e. what counts as "considered").

260. This option would clarify that an invoice for payment of costs associated with processing a concession application can first be issued when a complete application has been received (i.e. once initial checks have been completed).

261. This option was not included in the discussion document.

How do the options compare to the status quo?

	Option One – Status Quo	Option Two – Enable the Director-General to charge a lodgement fee for a concession application	Option Three – Clarify when interim payments can be requested
Effectiveness	0	+ Ensures that cost associated with lodging applications is covered by users of the concession system and $ available for conservation outcomes.	+ May increase proportion of costs recovered which will increase $ available for conservation outcomes.
Efficiency	0	+ Discourages applications from those without intent/ability (e.g. financial means) to get or undertake the concession. Reduces churn.	+ May support more efficient processing through improved cost recovery.
Good regulatory practice	0	++ An upfront application fee supports transparency and certainty for regulated parties. Common in many regulatory systems.	+ Provides more clarity to DOC and applicants about when costs can be recovered.
Consistency with Treaty obligations	0	0 No change to how DOC upholds Treaty obligations as a result of this option.	0 No change to how DOC upholds Treaty obligations as a result of this option.
Successful implementation	0	0 Can be collected using systems already established to recover application costs after they are incurred. Will be some additional processing costs for DOC.	0 No/little change as clarifies when existing processes can be undertaken.
Overall assessment	0	4	3

What options are likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

262. Implementing Options Two and Three as a set is the preferred option:

- Option Two – Enable the Director-General to charge a lodgement fee for a concession application.
- Option Three – Clarify when the Director-General can require interim payments.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

263. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

264. This option supports process efficiency through improved cost recovery and also by discouraging applications from those without the intent or ability to get or undertake the concession. An upfront application fee provides more clarity to DOC and applicants about when costs can be recovered.

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
DOC	• Immediate additional costs to communicate changes and establish operational guidance. • Medium term - Can be collected using systems already established to recover application costs after they are incurred but there will be some additional processing costs for DOC.	*Medium*	*Low*
Operators	• There are no additional costs to operators.	*Low*	*High*
Total monetised costs	• Economic costs have not been monetised due to poor evidence certainty.	*N/A*	*Low*
Non-monetised costs	• Additional set up costs for DOC to establish operational guidance and communicate changes but likely to be more efficient going forward. No additional costs to regulated parties.	*Medium*	*Low*
Additional benefits of the preferred option compared to taking no action			
DOC	• The option will provide more clarity for decision-makers and applicants and reduce processing costs for DOC.	*High*	*Low*
Operators	• More clarity for applicants about when costs will be recovered.	*Medium*	*Low*
Total monetised benefits	• Economic benefits have not been monetised due to poor evidence certainty.	*N/A*	*Low*
Non-monetised benefits	• More efficient processing of concessions through improved cost recovery. Increased clarity to DOC and applicants about when costs can be recovered.	*High*	*Low*

Section 3: Delivering an option

How will the proposal be implemented?

265. DOC will be responsible for implementing changes to concessions processes and contract management settings. There may also be changes to how other parties interact with these processes, such as concessionaires (including potential concessionaires), Treaty partners, businesses, researchers, local councils and the public.

Legislation

266. Parts of the Act will need to be rewritten to give effect to the proposals in this paper. The Conservation Amendment Bill holds a category 5 priority on the 2025 Legislation Programme (to be referred to Select Committee within the year).

267. Concessions being processed at commencement will be assessed under the improved legislative framework.

268. The Minister will decide the commencement period(s) for the Bill during drafting, which will determine when any changes come into effect. Other implementation details and arrangements are not yet clear and will be the subject of further work during drafting. The Minister has several potential Cabinet report-backs during drafting which provide an opportunity to resolve any implementation risks or issues.

Upholding Treaty settlements

269. The conservation portfolio has more Treaty settlement commitments than any other portfolio. Many of these commitments embed involvement of Treaty partners in planning and concessions processes and are relevant to the proposals in this paper. Treaty partners' feedback during consultation strongly emphasised the need for the Crown to uphold settlement redress, and to engage meaningfully and in good faith.

270. DOC is currently engaging with post-settlement governance entities and this will continue for several months to come. These conversations will help identify how to provide material equivalence for redress in the context of system reform. For example, there may need to be appropriate carve-outs or grandparenting of bespoke arrangements and processes in settlements.

Operational policy and guidance

271. DOC will ensure it has the necessary systems, processes and resources to deliver the new concessions process, as well as establishing new processes for monitoring compliance and enforcement. DOC will also provide information about the changes to regulated parties.

272. Additional operational guidance may be necessary to give effect to the proposals. This includes operational guidance to give effect to Treaty principles when DOC interprets and administers conservation legislation, in addition to any changes made that relate to, for example, engagement with Treaty partners or considering of Treaty rights and interests in decision-making.

How will the new arrangements be monitored, evaluated and reviewed?

273. DOC will be responsible for monitoring, evaluating and reviewing any changes. In addition, the planned second phase of this work provides a vehicle to make any adjustments if immediately needed.

274. The success of the proposal may not be known for several years. To measure the success or failure of the proposal, several key indicators can be used.

275. A key outcome will be the extent to which the proposal supports faster concessions processing. We would also expect to see shorter processing times for permissions, permits and concessions for businesses and community groups. DOC actively monitors application numbers and processing times, and this will continue to be a metric in assessing the efficiency of the new system.

276. As the proposed new statutory timeframes for concession processing align with DOC's new operational targets, reporting on the statutory timeframes can build on monitoring and reporting processes created for the operational targets.

277. Another key outcome will be the extent to which the concessions framework supports robust effects assessment. DOC currently monitors the extent to which PCL is maintained and improved. We would expect the proposal to support continued maintenance and improvement. This is measured through the level of indigenous dominance: ecological processes are natural – exotic species spread and dominance and ecosystem function (terrestrial, freshwater, marine).

278. A secondary measure will be the extent to which the proposal supports growth in recreation, tourism, economic activity, infrastructure development in some places, where appropriate.

279. The information emerging from monitoring will be included in DOCs usual accountability reporting (e.g. annual report) and will be used to inform any future policy development or legislative change to further improve the concessions framework.

Department of Conservation
Te Papa Atawhai

Regulatory Impact Statement: Competitive allocation of conservation concessions

Decision sought	Analysis produced to inform final Cabinet decisions
Agency responsible	Department of Conservation
Proposing Ministers	Hon Tama Potaka, Minister of Conservation
Date finalised	17 June 2025

The Minister of Conservation wants to make it easier to competitively allocate concession opportunities on public conservation land and clarify what is required to give effect to the principles of the Treaty of Waitangi in these decisions. This also involves defining the circumstances in which major commercial opportunities on public conservation land may (or may not) be contestable.

Summary: Problem definition and options

What is the policy problem?

Competitive allocation of concessions can be an effective mechanism to leverage competitive tension in the market to drive better outcomes for conservation on public conservation land (PCL). However, there is ambiguity about when and how competitive allocation can be used. Concessions can technically be competitively allocated, but the law constrains when or how this can happen.

There is also ambiguity about the role of competitive allocation in giving effect to Treaty principles. Section 4 of the Conservation Act 1987 requires the Act (including concessions processes and decisions) to be interpreted and administered to give effect to Treaty principles, and this obligation is a strong directive.

Treaty partners and concessionaires have markedly different views on what section 4 requires from decision makers. Treaty partners have expressed that section 4 requires the Department of Conservation (DOC) to facilitate their participation in contestable processes for major concession opportunities.

Concessionaires argue that there is a substantially narrower range of circumstances where section 4 would require such an outcome, if at all, and that contestable allocation of concessions with substantial private investment raises concerns about expropriation of private property.

What is the policy objective?

The objective is to ensure the framework for competitive allocation provides for high performing activities on PCL including when significant private investment is needed. This involves making it easier to competitively allocate concession opportunities on PCL where it

makes sense, and clarifying what is required to give effect to Treaty principles in these decisions.

What policy options have been considered, including any alternatives to regulation?

- **Option 1:** Status quo.
- **Option 2:** Make it easier to initiate competitive allocation.
- **Option 2A:** Clarify that competitive allocation is not triggered on Treaty principles grounds.

The Minister of Conservation's preferred option is a combination of options 2 and 2A.

What consultation has been undertaken?

Consultation on changes to competitive allocation took place from November 2024 to February 2025 as part of consultation on a wider suite of changes to modernise conservation land management. More than 5,500 submissions were received, but the majority of submitters used a template that was general and did not engage directly with the proposals.

Of those who provided feedback relating to competitive allocation, there was general support for greater enablement of competitive allocation, with clear criteria. However, submitters expressed more opposition than support for proposed criteria for when and how competitive allocation should be used.

There were divergent views on whether criteria for allocation should grant preference to Treaty partners or incumbent operators.

Treaty partners said competitive allocation is not appropriate in places of high cultural value, and that Treaty partners should be given preference and involved in the co-design of any competitive allocation models.

Concessionaires thought incumbent operators should not need to compete to retain opportunities they have previously held a concession for. Many thought it was unfair for those who have invested heavily in infrastructure to have what was previously their concession competitively allocated. Concessionaires, particularly those with significant infrastructure on PCL, also said that situations where they may be forced to sell assets or businesses following a competitive process is undesirable.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Yes.

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

Outline the key monetised and non-monetised costs, where those costs fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

There may be costs to applicants from preparing applications for competitive allocation processes. In particular, the first applicant may need to prepare a new application if a competitive process is initiated after declining their application. This can be minimised by running competitive processes proactively. There will be costs to Treaty partners from consultation in competitive allocation processes. There will be implementation costs to DOC.

Benefits (Core information)

Outline the key monetised and non-monetised benefits, where those benefits fall (e.g. what people or organisations, or environments), and the nature of those impacts (e.g. direct or indirect)

Putting major opportunities to market maximises value-for-money and provides fair opportunities for private companies to do business with government. Likewise, some form of periodic auctioning of limited rights is also common (e.g. radio spectrum). Where the conservation system can practically derive benefit from contestable processes is to ration limited supply (i.e. where there is a total volume of allowable activity to be divided among multiple operators). In these cases, contestability can drive better environmental outcomes. Contestable processes can help identify operators able to provide services or amenities with the lowest net environmental effects. Tendering and auctions are also effective in determining the market rate.

The key benefits are to applicants for concession opportunities in competitive allocation processes. There are also benefits to the public and the economy from addressing any chilling effect on investment. Applicants will have more clarity and certainty in terms of explicit statutory timeframes, processes and criteria for competitive allocation. Increased certainty about when and how contestable processes will be run provides certainty for operators. Applicants may have better access to significant opportunities on PCL, which may in turn result in a range of benefits. Treaty partners will benefit from clear recognition of Treaty rights and interests in decision-making.

Balance of benefits and costs (Core information)

Does the RIS indicate that the benefits of the Minister's preferred option are likely to outweigh the costs?

The combination of options 2 and 2A has the potential to deliver the highest net benefits, and benefits are likely to outweigh the costs.

Implementation

How will the proposal be implemented, who will implement it, and what are the risks?

DOC will be responsible for implementing and enforcing new arrangements. Implementation is expected to be able to be funded from existing baselines. The Minister of Conservation will make decisions during drafting on the commencement period for these changes.

Limitations and constraints on analysis

Timeframe limitations

The Minister of Conservation intends for Parliament to enact legislation in the current term. This has limited the time and resources available for analysis following public consultation. Due to the tight timeframes for policy analysis, some options in this RIS were developed after the public consultation process and there has been no opportunity to engage on them.

Data and information limitations

Known data issues relating to concessions mean it is hard to quantify impacts. Beyond regulatory impact, there are also limits to what is knowable in terms of the broader regulatory environment. For example, DOC does not know the scale of latent economic development/tourism opportunities that are potentially hindered by current regulatory settings and for which there is demand and supply in the market.

Assumption that objectives sought can be achieved within current scope of work

The Government is not considering changes to the purpose of the conservation system, and the primacy of achieving conservation outcomes compared to enabling other outcomes through conservation rules and processes (e.g. economic outcomes).

Other fundamental aspects of the conservation system that are not changing are the purposes for which PCL is held, and the requirement that any use of, or activities on, PCL must be consistent with those purposes. The proposals also do not involve any changes to how the effects of a proposed activity on, or use of, PCL are assessed.

The proposals do not directly amend section 4 of the Conservation Act but are intended to support effective implementation of section 4 by clarifying its application to concessions processes through the addition of specific provisions/measures. The preferred option requires a narrower application of section 4 than present. Drafting will make it clear that complying with these specific measures will be sufficient to comply with section 4 (in relation to the relevant processes).

A key assumption in preparing this RIS is that the nature and extent of change sought can be achieved within the scope described above.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature: 9(2)(a) [redacted]

Eoin Moynihan
Policy Manager – Regulatory Systems Policy
17/06/25

Quality assurance statement	
Reviewing agency: Department of Conservation, Ministry for Primary Industries, Ministry of Business, Innovation and Employment	**QA rating:** Partially meets
Panel comment: The Regulatory Impact Assessment Panel of officials from multiple agencies has reviewed the Regulatory Impact Statement (RIS). The Panel considers that the RIS partially meets the Quality Assurance criteria. The requirements were not fully met because of the limited engagement undertaken on certain options and some missing clarity on full range of options.	

Section 1: Diagnosing the policy problem

What is the context behind the policy problem?

An overview of concessions

1. Activities on public conservation land (PCL) require authorisation in the form of a concession from the Minister of Conservation, with some exceptions.[1] This means a wide range of activities are regulated through concessions, such as grazing, tourism businesses, visitor accommodation, energy infrastructure, filming and research activities.

2. The concessions system is intended to enable tourism and other commercial activities on PCL where they can be operated in ways which do not conflict with its protection. It helps the Department of Conservation (DOC) ensure activities on and uses of PCL are compatible with the overriding purpose of conservation.[2] It also helps ensure services and facilities provided for visitors are appropriate and of a suitable standard, and that activities do not conflict with visitor enjoyment and recreation.

3. The concessions system has four key regulatory objectives:

    a. Delivering effective land management: the concessions system is responsible for ensuring any activities maintain the values of PCL. It enables DOC to control which activities can occur, assess any adverse effects, and apply any conditions necessary for activities to take place and manage long term liabilities/risks for the landowner, i.e. the Crown.

    b. Providing well-governed access opportunities: appropriate private use and development of PCL needs an enabling mechanism. A clearly regulated environment gives legitimacy to that use, provides a reasonable level of certainty and clarifies responsibilities.

    c. Securing public benefit from private use and development: a royalty is paid when the use of PCL results in commercial gain. DOC generally refers to these royalties as activity fees. Securing a fair return to the Crown for the use of a public asset is the basis for charging activity fees.

    d. Clarifying public and private entitlements and responsibilities: a concession agreement clarifies entitlements and responsibilities for both parties in situations where both DOC and the concessionaire have interests and duties relating to the activity.

[1] These exceptions are recreational activities without any specific gain/reward; activities carried out by the Minister of Conservation or DOC in exercising functions, duties or powers under any law; activities authorised by conservation legislation; and activities to save or protect life or health, to prevent serious damage to property, or to avoid actual or likely adverse effect on the environment.

[2] The Conservation Act 1987 defines 'conservation' as preserving and protecting natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

Statutory framework for concessions

4. Part 3B (sections 170 – 17ZJ) of the Conservation Act sets out the statutory framework for concessions, including:

    a. the Minister of Conservation's decision-making, condition-setting and fee-collection powers;

    b. the process for considering an application;

    c. the factors that must be considered in determining if a concession can be granted; and

    d. the Minister's responsibilities to monitor and enforce concession agreements.

5. Section 4 of the Conservation Act applies to all of DOC's work under conservation legislation including administering of concessions. Section 4 requires the Act to "be interpreted and administered as to give effect to the principles of the Treaty of Waitangi." This is one of the strongest Treaty clauses in legislation. Section 4 requires anyone working under the Conservation Act (or any of the associated Acts listed in schedule 1 of the Conservation Act) to give effect to the principles of the Treaty of Waitangi when interpreting or administering anything under those Acts. However, there is no further specificity in the Act about how the principles are to be given effect to.

6. All Treaty principles apply, but the principles of partnership, informed decision making, and active protection are most frequently relevant to concessions management.

7. A concession may be in the form of a permit, easement, licence or lease:

Type	*Purpose*	*Examples*	*Term*
Permit	Gives the right to undertake an activity that does not require an interest in the land	Guiding, filming, aircraft landings, research	Up to ten years
Easement	Grants access rights across land e.g. for business, private property access or public work purposes	Ability to access utilities through PCL	Up to 30 years (or 60 years in exceptional circumstances)
Licence	Gives the right to undertake an activity on the land and a non-exclusive interest in land	Grazing, beekeeping, telecommunications infrastructure	
Lease	Gives an interest in land, giving exclusive possession for a particular activity to be carried out on the land	Accommodation facilities, boat sheds, storage facilities	

8. When deciding whether a concession can be granted, DOC:

    a. assesses if the activity is consistent with the purpose for which land is held, the Conservation Act and other statutory tests (e.g. for some concessions, can it take place off PCL), relevant statutory planning documents, DOC's own land management goals for the area;

b. assesses if the effects of the activity can be understood, and if there are any methods to avoid, remedy or mitigate these effects (referred to as an 'effects assessment'); and

c. assesses it against Treaty rights and interests and sometimes consults with iwi, hapū and whānau at place.

9. While concessions are granted in the name of the Minister of Conservation, applications are administered by DOC acting under delegation. A concession gives a concessionaire:

a. a legal right to carry out their activity on PCL alongside obligations that go with it;

b. a formal relationship with DOC, so both parties are aware of their obligations; and

c. security of tenure for the term of the concession, provided the conditions of the concession are complied with.

The Minister of Conservation can tender the right to make a concession application

10. Section 17ZG(2)(a) of the Conservation Act allows the Minister (or their delegate) to tender the right to make a concession application, invite applications or carry out other actions that may encourage specific applications (e.g. an expression of interest process). This mechanism is often used for concession opportunities where there are limits on the opportunity (e.g. limited capacity without significant environmental effects) or where multiple parties have expressed an interest in the opportunity.

11. In some cases, DOC may tender the right to apply for an already defined opportunity (including any environmental conditions that will be attached to the concession). The purpose of the competitive process in these cases is to determine the most appropriate concessionaire(s) or allocate limited supply among multiple potential operators. Tendering opportunities where a limit has been set out in a management plan is an example of this.[3]

12. In other cases, the opportunity may be less clearly defined, and DOC may run an expression of interest process to better understand the possible uses for an area and their effects. DOC can then consider the possible acceptable uses for the area and invite applicants to apply for a concession. This approach is especially relevant when use of the area might limit other uses or public activities.

13. Section 17R(2) of the Conservation Act requires that a person must not directly apply for a concession if a process has been initiated under section 17ZG(2)(a). Where a competitive allocation process is initiated by DOC, only applications that conform with the competitive allocation process can progress. Non-conforming applications are returned to the applicant.

3 A hierarchy of general policies and management plans set policies for concessions.

What is the policy problem or opportunity?

Contestable processes can drive better outcomes for conservation in some circumstances

14. Contestability is the government's default approach when procuring services at scale or for significant capital projects. Putting major opportunities to market maximises value-for-money and provides fair opportunities to private companies to do business with government. Likewise, some form of periodic auctioning of limited rights is also common (e.g. radio spectrum).

15. However, there are several key differences when applying contestability to the allocation of rights to do business on PCL:

    a. DOC is a land manager and must manage land for conservation purposes. The conservation system is oriented at ensuring acceptable use of PCL in terms of environmental effects (and maximising the market rate for this), rather than best use or provision of highest economic value; and

    b. the conservation system also does not proactively identify business opportunities on PCL – this tends to be a reactive process, driven by proposals from the market. This makes sense given the land manager and the Crown do not have a business development role.

16. Where the conservation system can practically derive benefit from contestable processes is to ration limited supply (i.e. where there is a total volume of allowable activity to be divided among multiple operators). In these cases, competitive allocation can drive better environmental outcomes and returns to conservation. For example, contestable processes can help identify operators able to provide services or amenities with the lowest net environmental effects. Tendering and auctions are also effective in determining the market rate.

But there is ambiguity about when and how competitive allocation can be used

17. The need for competitive allocation has grown over time as demand for limited tourism and other economic uses of PCL has increased. However, the law constrains when or how this can happen. A key issue is that the Minister cannot decline an application once it has been received to then initiate a competitive allocation process - section 17T of the Conservation Act requires that the Minister must consider the application.

18. The Minister currently has the ability to decline an application if a review of the relevant management plan is considered more appropriate. While this could be used to add or change policy on competitive allocation for that area, management planning documents are costly to make, review and update in terms of time and resources (as outlined in the companion regulatory impact statement on management planning). Processes to create or review them tend to take years rather than months.

19. The ambiguity surrounding DOC's ability to return an application if a competitive allocation process has not already been initiated means that concessions are generally allocated on a 'first-come, first-served' basis. This limits DOC's ability to drive better environmental outcomes and returns to conservation from some concessions, or to consider what might be the best visitor opportunity and/or operator at place. It also creates legal risks.

20. In some instances, DOC has used operational workarounds to ensure a competitive allocation process can be initiated before individual applications are submitted. These workarounds include aligning term expiry dates so a competitive process can be run when all relevant concessions are about to expire. This approach has allowed for some competitive allocation of opportunities where there is limited supply, and demand exceeds supply (e.g. rationing limited use opportunities like beehives, or water-based transportation around Abel Tasman National Park).

21. The Parliamentary Commissioner for the Environment (PCE)[4] and the Environmental Defence Society (EDS)[5] have noted in recent reports that allocating concessions on a first-come, first-served basis has led to challenges and fairness concerns. This is both in relation to deciding which operators should be awarded concessions for limited opportunities, and in appropriately pricing opportunities and the rents DOC should charge for them.

22. In 2022, Cabinet agreed to amend the Conservation Act to enable the Minister of Conservation to return a concession application in favour of initiating any competitive allocation process [ENV-22-MIN-0059]. This change was not enacted due to changes in Government. The current Minister of Conservation now seeks to make this change as part of current reforms to the law relating to concessions.

There is ambiguity about the role of competitive allocation in giving effect to Treaty principles

23. The Conservation Act does not prescribe any process or specific requirements for giving effect to Treaty principles in concessions management. Instead, DOC has to comply with the general obligation in section 4 of the Act, to give effect to Treaty principles. The operational approach differs based on the factual context, including the Treaty partners, the locations in question, and the nature of the activity. Some Treaty settlements also have bespoke requirements and processes outlining how DOC and the relevant iwi or hapū will manage concessions.

24. In 2018, in relation to a case about DOC's awarding of commercial concessions, the Supreme Court clarified relevant considerations to decision-making in light of section 4:[6]

    a. in applying section 4, DOC must, so far as is possible, apply the relevant statutory and other legal considerations in a manner that gives effect to the relevant principles of the Treaty;

    b. in some circumstances, giving effect to the Treaty principle of active protection requires decision-makers to consider extending a degree of preference to Iwi as well as looking at the potential economic benefit of doing so;

4 'Not 100% - but four steps close to sustainable tourism' (report-not-100-but-four-steps-closer-to-sustainable-tourism-pdf-24mb.pdf)

5 'Conserving Nature: Conservation Reform Issues Paper (eds.org.nz/wp-content/uploads/2021/12/Conserving-Nature-Report.pdf)

6 *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation* [2018] NZSC 122.

c. Section 4 requires more than procedural steps. Substantive outcomes for Iwi may be necessary including, in some instances, requiring that concession applications by others be declined;

d. Enabling iwi or hapū to reconnect to their ancestral lands by taking up opportunities on the conservation estate (whether through concessions or otherwise) is one way the Crown can give practical effect to Treaty principles; and

e. Section 4 does not create a power of veto by an iwi or hapū over the granting of concessions in an area in which the iwi or hapū has mana whenua.

25. While this case was focused on questions of 'preference', that concept is itself very fact-specific. Consistent with earlier jurisprudence, the Supreme Court emphasised the importance of factual context in determining how section 4 influences particular decision-making powers. The central finding from the case is that:

a. section 4, and the Treaty principle of active protection, may require a degree of preference for iwi or hapū in relation to concession opportunities over lands where they have mana whenua; and

b. that their economic interests are a relevant consideration to this assessment.

26. In recent years, Treaty partners have expressed the view that section 4 requires DOC to facilitate their participation in contestable processes for many major concession opportunities. This is in particular where the activity is the primary economic opportunity at place, or where a statutory planning document directs there will only be one operator. Following the court case, in some situations, DOC has sought to provide shorter concession terms on renewal for incumbent operators in order to address section 4. This is done to allow competitive allocation to take place in the medium term.

27. The obligation to give effect to Treaty principles is a strong directive. It does not dictate any particular result but requires good faith and reasonable action by the Crown and Māori in the circumstances. However, iwi and concessionaires have markedly different views on what section 4 requires from decision makers.

28. Iwi argue that there are a broad range of circumstances whereby giving effect to section 4 requires enabling them to access economic opportunities including allocating concessions for existing and ongoing activities (i.e. renewals of leases) to them. Concessionaires argue that there is a substantially narrower range of circumstances where section 4 would require such an outcome, if at all.

29. Giving effect to Treaty principles, depending on the circumstances, could therefore mean:

a. declining an application and encouraging specific applications, including from Iwi;

b. granting an application as is (whether from iwi applicants or other applicants);

c. granting an application with special conditions to address the section 4 considerations, such as to mitigate the potential effects of an activity (e.g. reducing the term length or changing what can be done to address iwi views);

d. declining an application or shortening the term of a non-iwi incumbent applicant to run a competitive allocation process in future that iwi and potentially others can participate in; or

e. signalling 'renewal' of a concession will be contestable (open or closed tender) before it ends.

How is the status quo expected to develop?

30. Without changes, the shortcomings described above are expected to continue or worsen in the coming years. In particular:

a. DOC must continue to take a 'first in, first served' approach when concession applications are received. This limits the ability to use competitive allocation or means that duplicate processes must be run or short terms given to enable them to be run. It also potentially requires DOC to assess an application for a lease before an incumbent or existing operator applies for a 'renewal'; and

b. uncertainty about what is required to give effect to Treaty principles in relation to particular concession applications will continue to result in protracted and costly decision-making processes. There are several high-profile applications in the system that raise these issues, with a very high likelihood of litigation to resolve ambiguity through the courts.

31. Both lead to poor outcomes and inefficiency in the system for operators and DOC.

What objectives are sought in relation to the policy problem?

32. There are five broad objectives for this work. These are guided by the purpose of the concessions system outlined at paragraph 3 (i.e. to ensure that any activities undertaken on PCL support its values and provide a fair return to the public for its use):

a. **Effectiveness**: this objective relates to the purpose of the conservation system, which is supporting conservation by educating, regulating and enforcing for good outcomes, while also supporting other outcomes, such as allowing for recreation, tourism, economic opportunities or key infrastructure development;

b. **Efficiency**: this means reducing the time and cost involved in processing concessions on all parties involved. This includes concessionaires, applicants, Treaty partners, stakeholders, researchers, businesses, local government, the public and DOC;

c. **Good regulatory practice**: this includes ensuring clarity and certainty for the regulator and regulated parties. It also includes ensuring the regulator (DOC) has the necessary tools, functions, powers and levels of discretion/flexibility to satisfactorily perform its statutory duties;

d. **Upholding Treaty obligations**: this means having clarity about the legal requirements for the Minister or DOC to interpret and administer the Conservation Act in a way that gives effect to the principles of the Treaty of Waitangi. It is also about ensuring any changes or new arrangements uphold the intent of Treaty settlements, including redress commitments made by the Crown; and

e. **Implementation**: processing concessions is a significant part of DOC's day-to-day work and how regulated parties interact with the conservation system. Poor implementation of any changes could mean that the intended benefits are not able to be realised.

What consultation has been undertaken?

33. In October 2024, Cabinet agreed to consult on changes to modernise conservation land management [ECO-24-MIN-0235]. The proposals aimed to:

    a. create a more streamlined, purposeful and flexible planning system;

    b. set clear process requirements and timeframes for concessions;

    c. establish how and when concessions should be competitively allocated;

    d. establish standard terms and conditions for concessions;

    e. enable more flexible land exchange and disposal settings; and

    f. provide clarity around Treaty of Waitangi obligations in these processes, including engagement requirements and decision-making considerations.

34. Consultation on these changes took place from November 2024 to February 2025, alongside proposals on charging for access to some PCL.

35. DOC held 25 regional hui with iwi, as well as 15 stakeholder engagements and 4 public information sessions during the consultation period. DOC also engaged on the proposals with the Director-General of Conservation's commercial External Advisory Panel and the Concessionaire Reference Group.

Submissions overview

36. In total, more than 5,500 submissions were received on the proposals to modernise conservation land management.

37. Most submissions were from individuals, with a large number using Forest & Bird's template (87% of total submissions). This template did not directly engage with the proposals in the discussion document.

Type of submissions	Number of submissions	Proportion of all submissions
Forest & Bird template submission	4,837	87%
DOC website submission	451	8%
Freeform submission	277	5%
Total submissions	**5,565**	

38. 80% of submitters who used the DOC submission form were individual submitters, with the remaining 20% coming from Treaty partners, conservation groups and tourism

businesses. These submitters could choose which questions in the discussion document they responded to, and generally did not provide feedback on all proposals.

39. Roughly 49% of freeform submissions came from individual submitters, 11.5% from Treaty partners and Māori organisations, 11.5% from various recreation and commercial stakeholders, 11% from concessionaires, 9% from statutory bodies, 5.5% from environmental non-government organisations (ENGOs) and conservation groups and 3.5% from councils. About a third of the freeform submissions did not engage directly with the proposals in the discussion document. They expressed support for other submissions, support for protecting conservation values, or said that the Crown should not treat Treaty partners differently to others.

40. Approximately 1,300 people who used the Forest & Bird template submission also provided personalised comments expressing concerns about climate change, the lack of safeguards to protect nature, the sale of land, and that the discussion document was too focused on commercial interests.

Feedback from submissions

41. The discussion document proposed criteria for when and how competitive allocation could be used. Feedback was also sought on whether there were any situations in which competitive allocation should not be used, and the approach to asset valuation to smooth transitions between concessionaires (which could arise following a competitive process).

42. Of the approximately 700 submissions that were not template submissions, only around 250 engaged directly with proposals relating to competitive allocation. More submitters were neutral/unsure than the combination of those explicitly in support or opposed to the proposed changes. The number of submitters opposed to the proposals slightly outnumbered those in favour.

43. Themes from submissions included the following:

    a. Treaty partners said competitive allocation is not appropriate in places of high cultural value to mana whenua, and that Treaty partners should be involved in the co-design of any competitive allocation models. They also said it is important for people to have an opportunity to compete for a concession. Treaty partners expressed that they should have preference in competitive allocation over other applicants.

    b. Concessionaires thought competitive allocation is more suitable for activities where there are limited opportunities or supply is limited, but that incumbent operators should not need to compete to retain opportunities they have previously held a concession for. Many thought it was unfair for those who have invested heavily in infrastructure to have what was previously their concession competitively allocated, and that they should have preference in any competitive allocation. Concessionaires, particularly those with significant infrastructure on PCL, also said that situations where they may be forced to sell assets following a competitive process is undesirable.

    c. ENGOs said the criteria for when and how competitive allocation is used should focus more on conservation outcomes and returns to conservation.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

44. Options for change will be compared to the status quo using the criteria below:

Effectiveness	• Contribution to conservation outcomes, including ensuring that conservation values and the effects of the concession activity are well managed through the concession process. • Contribution to other outcomes in section 6 of the Conservation Act (allowing for recreation, tourism) as well as economic opportunities or key infrastructure development).
Efficiency	• Efficient use of conservation land in terms of environmental effects and ability to maximise market rate accordingly. • Time and cost for concessionaire to obtain concession decisions. • Time and cost to regulator (DOC) to assess, approve and regulate concessions.
Consistency with good regulatory practice	• Clarity for regulated parties about concessions. • Certainty for regulated parties about concessions. • Flexibility for the regulator in making concession decisions (including commercial decisions where required). • Consistent regulatory decision-making.
Consistency with Treaty obligations	• Certainty about performing statutory functions in a manner that gives effect to Treaty principles, consistent with section 4 of the Conservation Act 1987 (noting the interpretation of section 4 may change as a result of clarifying and codifying its application). • Consistency with Treaty settlement commitments and other obligations.
Ability to implement changes	• Feasibility. • Ease of implementation, including time and costs.

45. When it comes to effectiveness, contribution to conservation outcomes is weighted more heavily than contribution to other outcomes. This reflects the purpose of the conservation regulatory system.

46. In addition, some options may only be able to be assessed for direct impacts at this stage, rather than indirect impacts, making it hard to draw conclusions about effectiveness. For example, the Government is considering changes to the concessions framework, but the effectiveness of concessions in achieving conservation and other outcomes will ultimately also depend on what rules are set through changes to the planning system (i.e. how any new framework or processes are used).

47. Some of the criteria, and relationships between criteria, are founded in law. For example, section 4 of the Conservation Act requires DOC to interpret and administer the Conservation Act (e.g. process and decision-making on concessions) in a way that gives effect to the principles of the Treaty of Waitangi. In relation to effectiveness and

contribution to outcomes other than conservation, the Conservation Act also sets out that fostering the use of natural and historic resources for recreation and allowing for tourism is only to the extent that this is not inconsistent with conservation of those resources.

48. There are also likely to be differing views on how to achieve the objectives. Significantly, what the Treaty requires is the subject of debate. The Supreme Court stated in *Ngāi Tai ki Tāmaki* that section 4 is not to be balanced with other considerations.[7] Instead, what is required is a process under which the meeting of other statutory or non-statutory objectives is achieved, to the extent that this can be done consistently with section 4, in a way that best gives effect to the relevant Treaty principles.

What scope will options be considered within?

49. The Government has set some boundaries for this work. The Government is not considering changes to:

    a. the purpose of the conservation system, and the primacy of achieving conservation outcomes compared to enabling other outcomes through conservation rules and processes (e.g. economic outcomes);

    b. the purposes for which PCL is held, and the requirement that any use of or activities on PCL must be consistent with those purposes; and

    c. how the effects of a proposed activity on or use of PCL are assessed.

50. Practicalities involved in the transfer of assets and/or a change in business as a result of competitive allocation have not been worked through for this RIS and will be the subject of future policy decisions.

51. An option to require all concessions to be contestable has been discarded. It is inefficient to require all concessions to be offered up given the huge range of activities they cover, the variable demand for to operate these activities, and that some opportunities are not limited in supply.

Approach to Treaty obligations

52. The Government's Treaty obligations relating to conservation are reflected in section 4 of the Conservation Act, specific commitments in Treaty settlement legislation, and agreements with iwi and hapū (e.g. relationship agreements and protocols).

53. The Minister's approach to resolving ambiguity relating to section 4 is to:

    a. retain section 4 as a general, operative, clause in the Conservation Act;

    b. add specific measures to clarify what is (or is not) required to give effect to Treaty principles in particular processes or decisions; and

    c. make it clear that complying with these specific measures will be sufficient to comply with section 4 in relation to the relevant processes or decisions.

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7 *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation* [2018] NZSC 122 at [54].

54. This approach may evolve during drafting based on legal advice about how best to achieve the Government's desired outcome. The Legislation Design and Advisory Committee's guidelines advise caution about the interaction between new legislation, existing legislation and the common law.[8] Not properly understanding and addressing these interactions can make the law more confusing, undermining the policy objective.[9]

55. Any changes that would not uphold Treaty settlements are out of scope.[10] This means options that allow for bespoke arrangements – where needed to accommodate existing settlement commitments in law – are explicitly in scope of option design. This is still being worked through with post-settlement governance entities.

Issues out of scope due to phasing of work

56. Any options that relate to the next phase of work on concessions are out of scope. This includes:

    a. institutional arrangements across the conservation system (e.g. conservation governance reform or alternative institutional arrangements for managing concessions); and

    b. rationalising aspects of the conservation system (e.g. integrating multiple land classification and management regimes, improving the land classification system).

What options are being considered?

Option 1: Status quo

57. Under the status quo there will continue to be ambiguity about when and how concession opportunities can be competitively allocated and how existing fixed assets may be managed in a competitive allocation situation. Uncertainty about what is required to give effect to Treaty principles in competitive processes will remain.

58. It is likely that DOC will have to continue to default to a 'first in, first served' approach to most concession applications.

59. As a result, DOC may miss opportunities to maximise environmental outcomes and returns to conservation from private activities. There will likely continue to additional deliberation over whether some applications should be competitively allocated and this will continue to prolong processing times.

8 Legislation Guidelines (2021 edition), Guidelines 3.1 – 3.5.

9 As seen in Court of Appeal and Supreme Court cases about the apparent inconsistency between the plain words of section 58 of the Marine and Coastal Area (Takutai Moana) Act 2011 and that Act's purpose (section 4) and Treaty provisions (section 7). *Re Edwards Whakatōhea* [2023] NZCA 504 at [416] and *Whakatōhea Kotahitanga Waka (Edwards) and Ors v Te Kāhui and Ors* [2024] NZSC 164.

10 Conservation has more Treaty settlement commitments than any other portfolio. In addition to commitments in settlement legislation, the Government intends to uphold any rights under Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

Option 2: Make it easier to initiate competitive allocation

60. This option removes barriers to competitive allocation so that the Minister can run a contestable process when there is limited supply and a reasonable level of demand. It has several components, some of which require legislative change:

    a. setting guidance on when competitive allocation may/should be used (can be either legislative or non-legislative);

    b. allowing the Minister to decline an application to initiate a competitive process within a specified timeframe (requires legislative change);

    c. setting guidance for how to allocate concessions if there are multiple suitable applicants (can be either legislative or non-legislative); and

    d. allowing the Minister to offer a concession directly to the successful applicant in a competitive process (requires legislative change).

61. Two of the changes above – allowing the Minister to decline an application to initiate a competitive process, and to allow the Minister to directly offer a concession to a successful applicant at the end of a competitive process – were consulted on in 2022. They are described further below:

Allowing the Minister to decline an application to initiate a competitive process within a specified timeframe	This would allow DOC to decline a concession application if multiple parties have informally expressed an interest in the opportunity, there is likely to be wider interest in the opportunity, or the applicant is not the current concession-holder and DOC wishes to provide the incumbent with an opportunity to apply as well. The ability to decline an application could be effective in circumstances where DOC has received an application and wishes to consider other potential uses of the opportunity and assess them against the applicant's proposal. DOC may already be aware that multiple parties would be interested in the opportunity (additional to an incumbent), or it may become apparent through initial analysis of the application that a competitive process would be more appropriate. DOC would determine what type of competitive process is to be initiated, in line with section 17ZG(2)(a).
Allowing the Minister to offer a concession directly to the successful applicant in a competitive process	This would enable direct allocation of a concession following a tender process. Current provisions require two processes as they only allow the Minister of Conservation to tender the opportunity to apply for a concession, not directly grant the successful candidate(s) a concession. This means the successful applicant in a tender process then needs to formally submit a concession application to DOC before they can be awarded the concession. This is duplicative and time-consuming.

62. These two changes received majority support from submitters, with strong support from prospective concessionaires seeking clarity on the progress of their application. Public consultation also highlighted the need for certainty around the timeframes regarding the

initial decision to decline the application. More information on these two changes is available in a previous regulatory impact statement.[11]

Guidance on when to use competitive allocation

63. This option would set guidance on when competitive allocation may, or should, be used. This guidance would signal when particular types of opportunities may be put to market. Situations that may warrant contestability include the following:

    a. limited supply opportunities, whether due to environmental factors or other restrictions (e.g. limits in planning instruments);

    b. situations where demand exceeds supply; and

    c. when the benefits of running a competitive process outweigh the costs.

64. Submitters generally supported having criteria to guide decisions on when to use competitive allocation, but more submitters wanted changes to the criteria than those who supported them. Some Treaty partners said the criteria needed to reflect the inappropriateness of using competitive processes to allocate opportunities that should be first or directly offered to iwi/hapū. An ENGO raised that climate change criteria needed to be included. Some concessionaires said that opportunities with incumbent operators should not be subject to a competitive process at the end of a term.

65. The discussion document included a fourth criterion: where opportunities are for exclusive use. Given current practice involves competitive allocation for non-exclusive opportunities, that criterion could inadvertently restrict competitive allocation, rather than making it easier. It has therefore been removed following consultation.

66. There are choices as to the vehicle for this guidance. It could be included in legislation to signal to regulated parties when the Minister may consider using competitive allocation, without limiting the Minister's discretion. Alternatively, it could inform policy. Given the criteria above are not intended to be binding (e.g. to require the use of competitive allocation in particular situations), policy would be a more appropriate vehicle than legislation.

Guidance on how to allocate opportunities

67. This option would also provide guidance to decision-makers on how to choose between multiple suitable applicants in a competitive process.

[11] Department of Conservation. 2023. Regulatory Impact Statement: Targeted amendments to concessions processes. 2023. Department of Conservation. [accessed 14 May 2025]. https://www.doc.govt.nz/globalassets/documents/about-doc/role/legislation/targeted-amendments-to-concessions-processes-ris.pdf

68. If multiple applications meet statutory tests to be awarded a concession, the following criteria can be used to guide decisions on which applicant(s) should be successful:

Performance	• Applicants' experience and compliance record. • Financial sustainability of applicant (and activity if alternatives are being considered). • Ability to meet environmental or cultural conditions.
Returns to conservation	• Financial returns to the Crown. • In-kind returns to conservation. • Contribution to conservation, scientific and mātauranga research.
Offerings to visitors	• Quality of experience offered to customers. • Readiness of applicant to begin operating. • Link to vision and outcomes for place.
Benefits to local area	• Employment or training opportunities. • Enhancement of cultural, historic or conservation narratives at place. • Building authentic relationships with tangata whenua and communities.
Recognition of Treaty rights and interests	• Importance of taonga (resource or land) to activity. • Use and enhancement of kaitiakitanga, connection to whenua and customary practices (may include modern technology). • Promotion of general awareness of tikanga and mātauranga Māori.

69. Feedback was sought on the above criteria. Responses from submitters who engaged with this proposal were mixed, with those opposed (approximately 70) outnumbering those in favour (approximately 40). Submitters generally supported there being criteria to guide allocation decisions, but there were strongly divergent views on whether these criteria should include recognition of Treaty rights and interests. Some submitters wanted clear and strong preference for Treaty partner applicants, and others said incumbent operators should receive preference. Some submitters also thought the criteria contained internal inconsistencies and did not sufficiently consider broader conservation outcomes.

70. Due to time constraints, the criteria have not been amended or updated following consultation. There is scope to revisit and improve the criteria during the legislative process (including during drafting) based on consultation feedback.

71. Similar to the criteria for when to use competitive allocation, there are choices as to the vehicle for these criteria. They could be included in legislation to send clear signals to regulated parties about how allocation decisions will be made, without limiting the Minister's discretion to include other criteria (e.g. relating to a particular opportunity).

Option 2A: Clarify that competitive allocation is not triggered on Treaty principles grounds

72. Treaty partners have expressed interest in applying for some of concession opportunities when current terms expire. The Supreme Court's judgment in *Ngāi Tai ki Tāmaki* is relevant, which found that section 4 and the Treaty principle of active protection may require a degree of preference for iwi/hapū in relation to concession opportunities over

lands where they have mana whenua, and that their economic interests are a relevant consideration to this assessment.

73. Under this option, section 4 would not provide any grounds to make these concessions contestable. This is to resolve the ambiguity about what giving effect to Treaty principles requires in these situations. It is an addition to Option 2. This option was not directly consulted on but is based on feedback from submissions about whether particular opportunities should or should not be contestable.

74. The discussion document sought feedback on whether there are any situations in which competitive allocation should not take place, even if the criteria in option 2 above are satisfied. In their submissions, concessionaires who have made significant capital investments and improvements opposed the possibility of concessions they currently hold being competitively allocated in the future. In feedback from ongoing engagement on concession applications, some concessionaires have cited the perceived risk of future competitive allocation as a reason for not investing in maintenance of existing assets, particularly towards the end of a concession term. They also argue contestability would amount to expropriation of private property.

75. These issues are not theoretical: they are live questions in relation to several major concessions. When they arise, they have tended to result in decision-making processes becoming protracted, causing frustration to all parties and significant delays. 9(2)(f)(iv) [redacted] Continuing with the status quo is not desirable. Litigation risk is high regardless of the decision. This also means the process is fraught and expensive, and subject to legal costs and arguments at every step on all sides (Government, concessionaires, Treaty partners).

76. Whether to allow contestability for these concessions depends in part on views about the extent of the Crown's obligations to give effect to Treaty principles, including by supporting Māori economic interests. There is a strong case for supporting Māori economic interests through opportunities on PCL, and concessions in particular. The case for supporting Māori economic interests through concessions is stronger where there are minimal opportunities for investment and employment other than activities on PCL (e.g. tourism).

77. However, there are multiple ways the Crown can support Māori economic interests, on and off PCL, other than through requiring these types of leases and licences to be contestable at term expiry. On PCL, economic interests can be supported through new concession opportunities or other arrangements such as partnering with DOC in delivering a service. The Crown could also provide information to Māori and support Māori in exploring potential greenfield opportunities on PCL. Additionally, other opportunities to partner with incumbent concessionaires could be explored by Treaty partners directly, for example.

Interaction with section 4

78. Under this option, section 4 would not require these concessions to be contestable. This addresses the ambiguity about whether section 4 should require contestability. To have this effect, this option will require clear and explicit drafting that sets out that decision-makers will not need to make particular opportunities contestable to give effect to Treaty

principles.[12] Otherwise, the courts could still read in a requirement to allow contestability for these opportunities.

79. To some, this option will be seen being a narrower application of section 4 and may be seen as a weakening of Treaty and conservation protections. It could cause damage to Māori-Crown relations. It is, however, codifying DOC's emerging approach.

12 *Trans-Tasman Resources Limited v Taranaki-Whanganui Conservation Board* [2021] NZSC 127 at [139] – [161], [237] and [296].

How do the options compare to the status quo?

	Option 1: Status quo	Option 2: Make it easier to use competitive allocation	Option 2A: Clarify that competitive allocation is not triggered on Treaty principles grounds
Effectiveness	0	+ Improvement generally and for new concessions in particular, by providing clarity about when and how competitive allocation may be used. Operational policy will guide when and how it is used. Could improve conservation outcomes and returns to conservation through greater competition among concessionaires.	+ + Provides more stable investment environment, contributing to tourism and recreational outcomes, and less directly to conservation outcomes. Potential to drive better outcomes for the Crown through the possibility of a competitive process on grounds other than section 4.
Efficiency	0	+ Some improvement by reducing duplicative processes and barriers to competitive allocation.	+ + Removes need for lengthy and contentious decisions about whether to allocate opportunities on section 4 grounds, while allowing for contestability where suitable for other reasons.
Consistency with good regulatory practice	0	+ Improvement in terms of clarity about when and how competitive allocation may be used.	+ Provides clarity that contestability is not required on section 4 grounds.
Consistency with Treaty obligations	0	+ Improvement in terms of clarifying how Treaty rights and interests factor into allocation decisions.	0 More certainty that concessions do not need to be contestable on section 4 grounds. However, this certainty is provided by narrowing the application of section 4, 9(2)(f)(iv) [redacted]
Ability to implement	0	0 Relatively easy to deliver - therefore same as status quo.	+ Could result in litigation to resolve any residual ambiguity depending on how clear legislation is about relationship to section 4.
Overall assessment	0	4	6

Key for qualitative judgments

++	much better than status quo	0	about the same as status quo	-	worse than status quo
+	better than status quo			- -	much worse than status quo

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

80. Implementing a combination of options 2 and 2A is the preferred option. This option has the potential to deliver the highest net benefits and is recommended in the Minister's Cabinet paper.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

81. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence certainty
Additional costs of the preferred option compared to taking no action			
First concession applicant	Additional costs for adjusting initial application if competitive allocation process is initiated after their application is declined. These costs only apply in situations where competitive allocation is used to allocate opportunities (which will be a minority of all concessions) and where contestability is not signalled before any applications are received. Impact certainty based on limited previous use of competitive allocation for concessions.	Medium	Low
Subsequent concession applicants	Additional costs in preparing applications to submit to competitive allocation processes. These costs only apply in situations where competitive allocation is used to allocate opportunities, which will be a minority of all concessions. Impact certainty based on limited previous use of competitive allocation for concessions, and limited knowledge of likely interest in future concession opportunities.	Low	Low
Treaty partners (who may also be applicants or incumbents)	Additional costs to consider interests and communicate with DOC. Impact certainty based on limited knowledge of likely interest in future concession opportunities, and extent of Treaty rights and interests in relation to those opportunities.	Low – Medium	Low
DOC	Additional costs to communicate changes and establish operational policy and guidance.	Medium	Low

	Impact certainty based on limited previous use or competitive allocation for concessions, and limited knowledge of likely interest in future concession opportunities.		
Total monetised costs	Monetised costs cannot be estimated due to poor evidence certainty.	N/A	
Non-monetised costs	Low confidence based on limited use of competitive allocation for significant concessions to date, and limited knowledge of wider interest in future concession opportunities.	Medium	Low
Additional benefits of the preferred option compared to taking no action			
General public	Improved experiences or visitor offerings on conservation land.	Low	Low
First concession applicant	Benefits in terms of clarity and certainty from having clearer process, timeframes and criteria for assessment. Impact certainty based on feedback from consultation.	Medium	Medium
Subsequent concession applicants	Improved access to opportunities. Benefits in terms of clarity and certainty from having clearer process, timeframes and criteria for assessment for these. Impact certainty based on feedback from consultation.	Medium	Medium
Treaty partners (who may also be applicants or incumbents)	Improved ability to inform allocation processes and promote applications that acknowledge and enhance te ao Māori, mātauranga Māori and kaitiakitanga. Impact certainty based on feedback during consultation, noting limited use of competitive allocation for concessions to date, and limited knowledge of wider interest in future concession opportunities.	Medium	Low
DOC	Reduced ambiguity about how to give effect to Treaty principles, improving efficiency and effectiveness of decision-making. Impact certainty based on limited previous use or competitive allocation for concessions, and limited knowledge of likely interest in future concession opportunities.	High	Low
Total monetised benefits	Monetised benefits cannot be estimated due to poor evidence certainty.	N/A	
Non-monetised benefits	Low confidence based on limited use of competitive allocation for significant concessions	High	Low

	to date, and limited knowledge of wider interest in future concession opportunities.		

Section 3: Delivering an option

How will the proposal be implemented?

82. DOC will be responsible for implementing changes to competitive allocation of concession opportunities. There may also be changes to how other parties interact with concession processes, such as concessionaires (including potential concessionaires), Treaty partners, businesses, local authorities and the public.

83. Changes are expected to be able to be funded from current baselines.

Legislation

84. The Conservation Act will need to be amended to give effect to the Minister of Conservation's preferred option. A Bill for these changes holds a category 5 priority on the 2025 Legislation Programme (to be referred to select committee within the year).

85. The Minister will decide the commencement period(s) for the Bill during drafting, which will determine when any changes come into effect. Other implementation details and arrangements are not yet clear and will be the subject of further work during drafting. The Minister has several potential Cabinet report-backs during drafting which provide an opportunity to resolve any implementation risks or issues.

Operational policy and guidance

86. DOC will ensure it has the necessary systems, processes and resources to deliver any changes to concession allocation, including monitoring compliance and taking enforcement action if needed. DOC will also provide information about the changes to regulated parties.

87. Additional operational policy and guidance may be necessary to give effect to the proposals.

How will the proposal be monitored, evaluated and reviewed?

88. DOC will be responsible for monitoring, evaluating and reviewing any changes. The Minister of Conservation intends to continue with a second phase of reform (e.g. to institutional arrangements and land classifications in the conservation system). This provides a further legislative vehicle to make adjustments if any issues arise.

Department of Conservation
Te Papa Atawhai

Regulatory Impact Statement: Amenities areas

Decision sought	Cabinet agreement to expand the ability of the Minister to establish amenities areas for more effective management of visitor facilities and services in high-use areas
Agency responsible	Department of Conservation
Proposing Ministers	Minister of Conservation
Date finalised	17 June 2025

Description

The Minister of Conservation proposes making changes to the amenities area classification in the National Parks Act 1980 and Conservation Act 1987 to enable more effective management of visitor growth in high-use conservation areas—enabling protection of conservation values while ensuring the economic benefits from tourism by ensuring visitors have access to an appropriate level and quality of facilities and services.

Summary: Problem definition and options

What is the policy problem?

The inherent natural beauty of New Zealand's most precious landscapes attracts many visitors, both from home and overseas. With some locations becoming much busier in recent decades, the government needs to ensure that ongoing recreational enjoyment and tourism is balanced with protection of the conservation and cultural values of public conservation land (PCL). Increasing visitor numbers can negatively impact PCL, while inadequate visitor facilities can negatively impact tourism growth in conservation areas.

Amenities areas (small areas in national parks and conservation parks suitable for the development and operation of visitor facilities and services), are an existing legislative tool that can assist with managing these tensions. However, there is a need to make those provisions more fit for purpose and integrated into the modernised planning system envisaged by the wider reforms.

What are the policy objectives?

The objectives are:

- **Protecting the wider conservation area –** To allow the proper protection of the wider conservation area, by guiding the development of visitor facilities and services in a defined space.

- **Supporting recreation and tourism:** To contribute to fostering tourism and recreation on PCL, by setting aside relatively small areas for development to enable the planning and provision of visitor facilities and services to adequately support the current and projected visitor numbers.
- **Upholding Treaty obligations:** Providing certainty that statutory functions will be performed in a manner that gives effect to Treaty principles. Consistency with Treaty settlement commitments and other obligations.
- **Integrated future planning:** To enable the creation of forward-looking spatial planning within the amenities areas, providing greater certainty for future development and enabling local communities and tourism operations to make longer-term strategic investment decisions.

All of these objectives sit within, and contribute to, the broader policy objective of managing the tension between facilitating recreation and tourism and protecting PCL.

What policy options have been considered, including any alternatives to regulation?

The two policy options considered involve making existing provisions more workable while introducing a process to support ongoing visitor growth in high-use areas and establishing the safeguards to balance growth with protection of conservation values.

Summarised, these include:

- clarifying the purpose of amenities areas
- broadening the types of PCL in which they can be established
- protecting conservation values by introducing statutory criteria before the Minister establishes an amenities area
- making the process for establishing amenities areas more efficient with specific consultation requirements and integrating management of amenities areas into the conservation management planning system.

The alternative, non-regulatory approach, is the status quo. Without a coherent spatial plan, this runs the risk of development to meet visitor growth posing a greater risk to conservation outcomes and greater risk of negative tourism outcomes.

What consultation has been undertaken?

The proposals were consulted on as part of the wider government consultation to modernise the conservation system to enhance the care and protection of public conservation land. The proposal for 'Unlocking amenities areas to protect nature and enhance tourism' was outlined in Section 8 of the discussion document – *Modernising Conservation Land Management*. Public consultation ran from 15 November 2024 until 28 February 2025.

Is the preferred option in the Cabinet paper the same as the preferred option in the RIS?

Yes

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)
There are no additional establishment costs associated with the proposal as it streamlines the processes involved in establishing amenities areas. There is the potential risk of adverse conservation outcomes (which is a potential cost), but the definition of the purpose of amenities areas coupled with the proposed statutory criteria for establishment, are designed to safeguard against these occurring.
Benefits (Core information)
Enabling amenities areas across a wider range of PCL classifications is expected to improve the government's ability to facilitate recreation and tourism activities, and its associated economic benefits. Improved spatial planning to manage future visitor growth within amenities areas will provide benefits for tourist operators and concessionaires, Iwi, local businesses and communities. Greater certainty on where visitor facilities will be established within an area enables better planning and investment decisions by these parties. It is also likely to create a more fit-for-purpose, cohesive, responsive, and well-integrated framework, aligning the conservation legislative frameworks.
Balance of benefits and costs (Core information)
The requirements governing both the purpose of amenities area, and the statutory criteria for their establishment will limit the growth in the number of amenities areas (with just four currently in place). That said, it is acknowledged that if the Government gets this "wrong" in legislative design, or DOC and others in implementation (including monitoring), there is the potential for negative conservation impacts and/or tourism impacts. The benefits of these proposed legislative amendments are seen as outweighing any potential costs (defined as adverse conservation outcomes and/or adverse tourism outcomes and visitor experiences). Amenities areas will support the objective of facilitating recreation and tourism, and economic growth. Their implementation will also seek to constrain that development to specific areas that will lessen the impact that high visitor growth can have on conservation outcomes. In the absence of any legislative tool to enable deliberative planning for areas of high visitor growth, there remains the risk that over time, either (or both) conservation or tourism outcomes will be negatively impacted.
Implementation
These policy proposals will be implemented with the broader conservation law reforms set out in *Modernising Conservation Land Management*, with amendments required to the National Parks Act 1980 and Conservation Act 1987. The national conservation policy statement will be developed alongside the Bill, and area plans will undergo a technical translation within 12 months of commencement to ensure consistency with the new regime. The impact of statutory planning changes on the timeliness of the concessions system will occur as soon as the national policy statement is agreed, resulting in a drop-off in volume of applications for low-risk and common activities. The discussion document *Modernising Conservation Land Management* specifically mentioned Milford Sound/Piopiotahi is a good example of an area that has seen high visitor

growth, and which would benefit from a more considered approach to providing visitor services and tourism development. The Milford Opportunities Project identified a 'special amenities area' tool—similar to the tool proposed here. As such, Milford Sound, and potential other associated areas in Fiordland National Park, are likely to be the first areas where any amendments to the Acts to enable amenities areas are put into practice.

Limitations and Constraints on Analysis

With some limitations on the evidence, a number of core assumptions were made to underpin the problem definition and options analysis. To address the limited evidence, the Milford Opportunities Project provided a useful representative case study

The value of establishing an amenities area will depend on the context and circumstances of each location. Analysis can be undertaken specifically for each location through the process for establishing amenities areas and making area plans. As such, the limitations of evidence are not considered to compromise the basis for these proposals.

Other limitations and constraints include the following.

- DOC has consulted on the general proposals but has not consulted on specific features, including the proposed statutory criteria and the proposals to apply amenities areas to conservation parks and stewardship areas. The high-level consultation is considered sufficient to endorse the proposals, particularly given the opportunity for further public consultation on the specifics through the select committee process and the process for developing the national policy statement.
- The scope of these proposals was limited to amenities areas. This means they are limited to how the problem can be addressed with land classification provisions.

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

9(2)(a)

Responsible Manager(s) signature:
Eoin Moynihan
Policy Manager – Regulatory Systems Policy

17 June 2025

Quality Assurance Statement	*[Note this isn't included in the four-page limit]*
Reviewing Agency: Department of Conservation and Ministry for Primary Industries	**QA rating:** Partially meets

Panel Comment:
The QA panel consider that the information and analysis summarised in the RIS partially meets the Quality Assurance criteria. The RIS does a good job of emphasising conservation outcomes and reflects submission feedback, though it could more clearly explain how that feedback influenced policy development. Although the qualitative assessment of benefits is sound, the RIS would be strengthened by discussing how existing amenity areas have

managed the conservation/visitor balance, referencing international examples, and situating the proposal within the broader conservation law reform context. Greater clarity on decision-making responsibilities would also enhance the RIS, either by addressing it directly or signposting its treatment in the wider reform programme.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

Increasing visitor numbers on public conservation land

1. The inherent natural beauty of New Zealand's most precious landscapes attracts many visitors, both local and international. Many premier attractions are on public conservation land (**PCL**) that is managed by the Department of Conservation (**DOC**).

2. Total international visitor numbers have increased steadily over time. When the Conservation Act was passed in 1987 New Zealand had 844,000 international arrivals. This number has grown by over 350% with 3.2 million international arrivals in 2024 and 3.9 million in 2019 (pre Covid).[1] International travel is expected to increase on average by 5.8% per year between 2022 and 2032 worldwide.[2]

3. Recent data from MBIE's International Visitor Survey found that around 50% of visitors cite natural landscapes and environment as their primary reason for traveling to New Zealand, and that about 50% of international visitors to New Zealand visit national parks.[3]

4. Domestic and international visits are focused on popular locations on PCL.

   - 22% of international visitors visited Fiordland National Park, and 21% visited Aoraki Mount Cook National Park between October and December 2023.[4]
   - A record 870,000 visitors went to Piopiotahi Milford Sound in 2019, with tourism demand forecast to reach 1.1 million by 2030 and 1.5 million by 2050.[5]
   - Other current "hot spots" include Tongariro National Park, Cathedral Cove, and Waipoua Forest.

5. The growth in visitors to some key conservation areas will require additional investment to maintain and enhance the experience of visitors. This necessitates expanding visitor facilities such as car parks, visitor centres, improvements to tracks and paths, gondolas, and ski field lifts and facilities.

6. The visitor experience is not limited to just capital infrastructure. It also includes investment in conservation efforts to ensure that areas continue to provide visitors with access to the unique biodiversity, vistas, and wildlife interactions within them.

7. The government needs to have the planning tools to effectively manage tensions between recreational enjoyment, tourism, and protection of PCL.[6] The proposal to introduce an access levy at high-visitor conservation areas is also part of the solution—to provide sufficient revenue to enable ongoing investment that will support the growth of conservation tourism (currently estimated to be worth $3.4 billion annually).[7]

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1 MBIE (2024) International Visitor Survey; Stats NZ. 2024. Tourism satellite account: Year ended March 2024.
2 DOC (2024) Understanding summer activity, referencing the World Travel and Tourism Council.
3 MBIE (2024) International Visitor Survey (Rolling Annual): 3 December 2024.
4 DOC (2024) Understanding summer activity.
5 Milford Opportunities Project (2021) Masterplan for Milford Sound Piopiotahi and the journey, 210503-MOP-Masterplan-FINAL.pdf.
6 Protection of PCL broadly means the preservation and protection of natural and historic resources for the purposes of maintaining their intrinsic values.
7 DOC (2024) Indicative internal estimate of the economic value of tourism activities on PCL aggregated from the regions in the period between 2019/2022 and 2022/2023.

Existing statutory planning tools do not enable effective development and management of visitor amenities areas

8. Ideally visitor amenities and facilities are developed in a way that will cause the least disruption to conservation areas. This includes providing facilities close to, but outside the boundaries of national parks and conservation areas. However, when visitor facilities and amenities are developed within PCL, it is important for government to have the legislative planning tools that support effective strategic planning and development of facilities within the context of protecting conservation values.

9. The National Parks Act 1980 and the Conservation Act 1987 both enable the establishment of an amenities area, but they are not aligned in their consideration or framing of 'amenity'. The Conservation Act protects natural amenity values while the National Parks Act provides for amenities and facilities that enhance visitor experiences.

10. This disjunct in the use of an 'amenities area' lies at the heart of the problem: government not having access to effective planning tools to manage the growth in visitors across national parks and other types of public conservation land.

National Parks Act 1980 – Amenities areas

11. The National Parks Act (section 15) enables the Minister to set apart an amenities area in a national park as a form of special zoning. However, the Minister can only establish such an amenities area on the recommendation of the New Zealand Conservation Authority.[8]

12. The development and operation of recreational and public amenities and related services for public use and enjoyment of the national park may be authorised in accordance with the National Parks Act 1980 and any relevant national park management plan. National park values only apply in an amenities area in so far as they are compatible with the development and operation of such amenities and services. Declaring an amenities area enables a greater scale of development within the defined area than is normally allowed in a national park (or a stewardship area or reserve). This is sometimes needed to provide facilities and services that meet visitor needs, manage the impacts those visitors have, and constrain activities to a designated area (for example, ski fields).

13. To date, amenities areas have been used infrequently to establish small village areas containing visitor amenities within national parks. The visitor amenities can include toilets, visitor centres, accommodation, car parks, restaurants and cafes, gondolas, and other infrastructure that supports visitors and recreational activities.

Conservation Act 1987 – Amenity areas

14. There is also a provision titled 'Amenity areas' in the Conservation Act (section 23A). However, it has a different function to that in the National Parks Act. It does not provide for increased development of amenities and was introduced to implement the West

[8] The New Zealand Conservation Authority is an independent statutory body, established under the Conservation Act 1987 (s.6A). It advises the Minister of Conservation and the Director-General on conservation priorities at a national level, and is responsible for preparing and approving statements of general policy for national parks (and associated management plans) [Refer s.18(1)(a), (b) and s.44 National Parks Act 1980]
Membership comprises people appointed following consultation with the Ministers of Māori Affairs, Tourism and Local Government, a representative of Ngāi Tahu (a requirement under Te Rūnanga o Ngāi Tahu Act 1996), and appointments nominated by various environmental NGOs and from the public.

Coast Accord.[9] It favours protection of the area's indigenous natural resources and historic resources over recreational use.[10] The 22 amenity areas established under the Conservation Act are all in the West Coast. None have been used to provide visitor facilities, with these areas appearing to generally contain natural forest and bush.

What is the policy problem or opportunity?

15. Government needs to be able to effectively plan and manage the growth in visitor numbers that is forecast to continue. Planning would enable better management of the impact that increasing visitor numbers can have on the visitor experience (e.g., crowding, loss of solitude and remoteness), and environment and ecological impact (e.g., erosion, trampling, disruption of wildlife).[11] Between December 2023 and February 2024, around a third of visitors reported that they had noticed damage from visitors.[12]

16. High tourist numbers can also put pressure on existing infrastructure, such as toilets, shelters, accommodation, car parks, restaurants, and cafes. Visitor car parks in both Piopiotahi Milford Sound and Aoraki Mount Cook have been overloaded in recent years. Compromised visitor experiences are a threat to the ongoing growth of New Zealand's tourism industry. Low quality experiences, overcrowded facilities, and traffic congestion are inconsistent with the overall appeal of New Zealand as a destination.

17. While increased visitor demand carries a risk of compromising site-specific visitor experiences, it also carries an opportunity for increased commercial activity relating to tourism in and around PCL

18. The ability to strategically plan for tourism growth in PCL (both identifying new areas for establishing amenities areas and expanding visitor facilities within existing amenities areas), enables delivery of visitor facilities that can help achieve commercial and conservation outcomes. Ad hoc development of commercial activity within PCL, in response to growing visitor numbers, raises the risk of compromising both conservation outcomes and tourism objectives.[13]

19. Legislative change could enable the Minister of Conservation to create amenities areas under the Conservation Act 1987 in the same fashion as amenities areas operate under the National Parks Act 1980. This would provide a new tool for spatial planning that more effectively manages the expansion and enhancement of visitor facilities across PCL. The existing constraint on the Minister's ability to set apart an amenities area (i.e., it requiring the recommendation of the New Zealand Conservation Authority), is also a limitation on the use of this planning tool.

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9 The West Coast Accord was an agreement signed in 1986 by the government, industry and environmental organisations on use of forests on the West Coast. This was cancelled in 2000 by the Forests (West Coast Accord) Act 2000.

10 Section 23A of the Conservation Act 1987 provides that every amenities area shall be managed so:

a) that its indigenous natural resources and its historic resources are protected; and

b) subject to paragraph (a), to contribute to and facilitate people's appreciation of its indigenous natural resources and its historic resources; and

c) subject to paragraphs (a) and (b), to foster the recreational attributes of the area.

11 Higham, Espiner and Parry (2019) The environmental impacts of tourism in Aotearoa New Zealand: A spatio-temporal analysis

12 DOC (2024) Understanding summer activity

13 Stats New Zealand (2024) Tourism satellite account Year ended March 2024.

20. An amenities area legislative provision will enable:

- the Minister to create a specified zone for the purposes of tourism and visitor-related development
- the Minister to apply rules to the zone that are more enabling of tourism and recreation and remove restrictions that would apply to other conservation land
- a spatial planning approach to development of visitor facilities within that zone.

21. An amenities area planning vehicle will enable the delivery of long-term planning at specific conservation locations, with the aim of maximising the visitor experience and minimising any negative impacts of visitors on conservation outcomes.

22. An example of a potential amenities area is Milford Sound Piopiotahi. It is part of Fiordland National Park/Te Rua-o-te-Moko, within the Te Wāhipounamu UNESCO World Heritage site. It is a global tourism hotspot with approximately 1.1 million tourists visiting each year,[14] contributing around $200 million to the local economy.[15]

What objectives are sought in relation to the policy problem?

23. The Minister of Conservation is seeking to improve the effectiveness of managing public conservation lands to better support the visitor experience, but without compromising the achievement of conservation outcomes. The programme of work to modernise the conservation land management planning system (of which amenities areas are one part) seeks to improve the efficiency of the system.

24. The ability of the Minister to create new amenities areas is one tool in the planning system. It provides for the development and operation of recreational and public amenities and related services appropriate for the public use and enjoyment of conservation land.

25. Amenities areas also enable spatial planning. They allow government to work with concessionaires, environmental non-governmental organisations (**NGOs**), recreational groups, local businesses, iwi/hapū, and tourist operators, to strategically plan for visitor growth within a designated area.

26. A forward-looking spatial plan provides greater certainty for interested parties. It enables local communities and tourism operators to make longer-term strategic investment decisions about their operations within the amenities area. It also supports tourism-related operations in adjacent local communities (e.g. food and accommodation, service providers, infrastructure investments by local authorities, etc.).

27. The following are the objectives for this work:

- **Protecting the wider conservation area:** Delivering on the broader purpose of the conservation system by managing the tension between protecting conservation outcomes while also supporting the development of visitor facilities and services in small specific areas to support high visitor growth

[14] The MOP business case notes that, in 2019, 870,000 tourists visited Milford Sound Piopiotahi by land (via SH94—50% by bus, 45% by car and 5% by campervan), with a further 220,000 entering via large cruise ships. This is a pre-Covid peak figure. All indications are that this summer's visitation numbers to Milford Sound Piopiotahi have nearly fully returned to pre-Covid levels.

[15] Milford Opportunities Project Tourism Report 10 March 2021, p 29. "Local economy" refers to Milford Sound. It excludes associated expenditure in the region such as Queenstown and Te Anau where 90% of visitors day trip from. Milford's contribution to the broader region would therefore be higher than the $200m.

- **Supporting recreation and tourism:** Guiding the development of facilities, services, and infrastructure to support recreational and tourism opportunities related to the current and projected visitor growth.
- **Integrated future planning for conservation and tourism/recreation:** Providing greater clarity and certainty in future investment decisions for the regulator (DOC), and stakeholders (e.g., tourist operators, concessionaires), by having a legislative tool (for establishing amenities areas) that supports long-term, forward-looking spatial planning to deliver improved visitor experience in key conservation locations.
- **Consistency with Treaty obligations:** Providing certainty that statutory functions will be performed in a manner that gives effect to Treaty principles and is consistent with Treaty settlement commitments and other obligations.

What consultation has been undertaken?

28. Public consultation on proposals to modernise conservation land management took place from November 2024 to February 2025, alongside consultation on proposals to introduce access charging. DOC held 25 regional hui with Iwi/Hapū during this period, 15 stakeholder engagements, and 4 public engagements. DOC received more than 5,500 submissions on proposals to modernise conservation land management, of which 4,800 were pro forma submissions from Forest and Bird.

29. The proposal for 'Unlocking amenities areas to protect nature and enhance tourism' was outlined in Section 8 of the discussion document *Modernising Conservation Land Management*. The views of the public were sought on a discrete proposal to amend legislation to:

    - create a single amenities area tool
    - better integrate the concept of amenities into the conservation planning system
    - enable the Minister to establish an amenities area in a national park without requiring the recommendation of the New Zealand Conservation Authority.

30. The public were also asked how the proposed legislative change could be improved as well as what the main tests should be to determine if an amenities area is appropriate.

Overview of submissions

31. DOC received 5,565 submissions during consultation between November 2024 and February 2025.

32. Over 4,800 of these submissions were from individual submitters using a template created by Forest & Bird, an environmental NGO. Other submissions either used the website form to respond to specific questions in the discussion document, or used a freeform submission emailed to DOC. Most DOC website form submissions were individual submitters (80%) and just under half the freeform submissions were individual submitters (49%).

33. In terms of 'freeform submissions' 11.5% came from Treaty partners and Māori organisations, 11.5% from various recreation and commercial stakeholders, 11% from concessionaires, 9% from statutory bodies, 5.5% from environmental NGOs and conservation groups, and 3.5% from councils. In addition, 20 % of DOC website submissions were from conservation groups, tourism businesses, and Treaty partners.

TABLE 1: TOTAL NUMBER OF SUBMISSIONS

Type of submissions	Number of submissions	Proportion of total submissions
Forest and Bird form submission	4,837	87 %
Website submission	451	8 %
'Freeform' submission	277	5 %
Total submissions	**5,565**	

34. The figures in this document represent submissions which responded to a particular proposal or question in the discussion document. Submitters did not always respond to every proposal or question. The Forest & Bird template submission did not directly respond to any consultation questions or specific proposals, and submitters who used the Forest & Bird template are therefore not included in any of the counts of support or opposition for particular proposals.

35. About a third of freeform submissions (98) did not engage directly with the proposals in the discussion document. They typically expressed support for other submissions, the importance of protecting conservation values or highlighted their personal interests in conservation land. Of this group, 58 submitters did not think Treaty partners should be treated differently to others by the Crown.

The views of stakeholders on creating a single amenities area tool

36. Submitters who expressed support (e.g., stakeholders, concessionaires, and some environmental NGOs), agreed that one tool for establishing amenities areas is appropriate because it would be efficient and ensure consistency. Concessionaires noted the proposal strikes the right balance between protecting nature and allowing for tourism.

TABLE 2: QUANTITATIVE RESULTS - DO YOU AGREE WITH THE PROPOSAL TO CREATE A SINGLE AMENITIES AREA TOOL?

Website Submissions					
Strongly agree	Agree	Disagree	Strongly disagree	Neutral	Unsure
3% (5)	21% (37)	19% (33)	20% (35)	26% (46)	11% (19)
24% (42)		39% (68)		37% (65)	

Freeform Submitters	
Supports	**Opposes**
65% (31)	35% (17)

37. Many submitters have expressed that environmental protection should have priority over tourism growth and revenue gathering. Concessionaires have added that the potential for economic benefits, the level of visitor traffic, and the benefits to local communities should also be considered.

38. Some individuals, Treaty partners, tourism concessionaires, and councils also supported the use of a careful spatial planning approach to better manage multiple activities, especially in congested areas.

39. Many agree with the issues relating to unlocking amenities areas to protect nature and enhance tourism. However, submitters expressed concern that the proposal lacks clear ecological safeguards and the risk that amenities areas could become a backdoor for inappropriate development in highly protected areas.

40. Treaty partners have also said that the proposal presented in the discussion document did not make the role of mana whenua clear when considering and making decisions on future amenities areas.

41. Those who opposed the proposal were generally concerned that the impact of this tool will increase tourism and may result in poor conservation outcomes, particularly in areas with sensitive biodiversity. These submitters were also concerned that development interests could outweigh conservation values.

42. Many individuals, environmental NGOs, conservation groups, statutory bodies, and some recreation stakeholders did not agree with enabling the Minister to establish an amenities area in a national park without requiring the recommendations of the New Zealand Conservation Authority, as it would place too much power in the hands of the Minister.

Views of stakeholders on the main tests to determine whether an amenities area is appropriate

43. Submitters (35 comments) generally agree that a statutory test is required before an amenities area can be progressed, and there were a range of suggested tests proposed. Many submitters have expressed that environmental protection should have priority over tourism growth and revenue gathering.

44. The Environmental Defence Society suggested that amenities areas should not be granted when alternative sites outside of PCL were available. They proposed criteria that focussed on:

- addressing adverse visitor impacts at congested sites,
- enabling increased protection in surrounding areas,
- distributing, containing or mitigating visitor impacts; and
- encouraging more sustainable tourism.

45. Forest & Bird suggested the use of the existing test for special areas within national parks (set out in the General Policy[16]).

46. Māori groups and Treaty partners noted that appropriateness of amenities area should include upholding the cultural and ecological significance of the area, support from tangata whenua, and consultation and engagement with iwi and hapū. They also proposed specific tests such as tikanga and customary use tests and an intergenerational protection test.

[16] General Policy for National Parks (2005), Policy 6(o): National park management plans should identify new, modified, or expanded amenities areas in national parks only where:
i) the development and operation of recreational and public amenities appropriate for public use and enjoyment of the national park cannot practicably be located outside the national park; and
ii) where adverse effects on the rest of the national park can be minimised.

47. Concessionaires have added that potential for economic benefits, the level of visitor traffic, the benefits to local communities, and the ability to manage places to a high standard should also be considered.

Stakeholder suggestions on how the proposal could be improved

48. Thirty-four submitters provided suggestions for improving the proposal. Concessionaires' main suggestions for improvement were the use of a spatial planning approach to ensure well-designed, controlled, high-standard visitor facilities. Some noted the need for further analysis to clearly define the purpose of amenities areas, to ensure they are an effective tool and would optimise both economic and conservation outcomes.

49. Environmental NGOs, recreational groups, and some individuals noted the need to better define the term 'amenity area' and 'tourism' (putting some limitations on the type of commercial activity). They also proposed a more open and transparent process to provide checks and balances on the Ministerial decision.

50. Māori groups and Treaty partners noted the amenities areas were not a total solution. They supported the spatial planning aspect but noted that tourism enhancement should not compromise natural and cultural values.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

51. Assessment criteria are derived from the objectives listed above and set out below. There are separate criteria for protecting PCL and enabling recreation to recognise the tension between these criteria and the trade-offs that need to be made across them. These outcomes are in tension given recreation and use of parks has the potential to adversely impact natural and historic resources.

52. Options for change will be compared to the status quo using the following criteria.

- The amenities area framework enables the protection of PCL.
- The amenities area framework enables effective management of recreation and tourism activity on PCL, to deliver economic benefits from visitors.
- The amenities area framework is well integrated across policy, area plans, and concessions and is responsive to emerging issues.
- Consistency with Treaty obligations: There is certainty about performing statutory functions in a manner that gives effect to Treaty principles and consistency with Treaty settlement commitments and other obligations.

What scope will options be considered within?

53. The main scope for considering options is to ensure better strategic planning and management of the growth of visitors while also protecting conservation values. In that respect, other proposals in the reforms for modernising conservation land management share a similar focus, either in whole or in part, such as some of the proposals in the concessions space.

54. The goal is to provide a better planning option that can deliver positive visitor experiences in conservation areas—from ensuring there are sufficient and world-class visitor facilities, through to providing opportunities for visitors to connect with New Zealand's unique environment and wildlife.

55. The Government is also considering the introduction of an access levy to areas of high-visitor numbers to generate revenue to maintain and enhance the visitor experience on PCL. This levy will enable the Government to spend money on visitor infrastructure and services, as well as biodiversity work, that contributes to the visitors' experiences on PCL.

56. And, finally, The Milford Opportunities Project has explored options for maintaining a world-class visitor experience in Milford Sound/Piopiotahi while ensuring conservation values are protected. Proposals in this document have been informed by ideas and concepts from the Milford Opportunities Project and will allow elements of the project to be taken forward should the Government pursue them. The Government's response to the project is due to be announced shortly.

What options are being considered

57. There are three options for how visitor facilities and services can be expanded in a structured and well-planned way, to ensure development can best capture the economic and social benefits of increased visitors to conservation areas, while simultaneously protecting the conservation and cultural values in those areas. The three options are:

- Option One: The status quo—visitor facilities and services are developed 'as needed' in response to changing visitor needs and numbers.
- Option Two: Enable the Minister to establish amenities areas on some PCL to enable structured, spatial planning to meet current and projected visitor growth in high-use areas.
- Option Three: Enable the Minister to establish amenities areas on some PCL (as in Option Two), with additional safeguards of legislative criteria and consultation requirements to ensure cultural and conservation values are identified and considered.

Option One: Status quo

58. The ability to establish an 'amenities area' that can support the planning and management of visitor facilities is currently available only for national parks. The provision for an amenities area on other types of PCL (apart from scenic reserves), to provide a vehicle for planning and for managing the expansion of visitor facilities and services, is not currently possible.[17]

59. Establishing an amenities area currently involves a multi-step process. Appendix One sets out the current process that was followed the last known time that establishing an amenities area was contemplated. That occasion was an amenities area needed to accommodate a gondola development (which would provide access to a retreating glacier in the Franz Josef Glacier valley).

60. The Minister can only establish an amenities area in a national park on the recommendation of the New Zealand Conservation Authority.

Option Two: Enable the Minister to establish amenities areas in more PCL to support better visitor management

Proposal

61. The proposal consulted on in the discussion document is for a broadening of the legislative power to establish amenities areas across various types of PCL. The purpose is for the Minister to be able to provide for the development and operation of recreational and public facilities and related services, that are appropriate for the public use and enjoyment of PCL.

62. The upgraded amenities legislative provision would enable the Minister to:

- create a specified zone (amenities area) for the purposes of tourism and visitor-related development
- apply rules to the amenities area that are more enabling of tourism and recreation and remove restrictions that would apply to other conservation land
- enable a spatial planning approach to plan and manage development within that zone (providing clarity and certainty for stakeholders to support their investment decisions in supporting growth in the visitor experience).

[17] The Conservation Act 1987 (s.23A) provision on amenity areas is restrictive; any development within the amenity area is for the protection the natural and historic resources within that area, whereas the National Parks Act 1980 (s.15) makes the provision of visitors' facilities and services the primary purpose. Further work will be undertaken to determine how this existing "amenity areas" provision in the Conservation Act (s.23A) will be modified, revoked or renamed to avoid confusion with the new proposed visitor-orientated focus for conservation parks and stewardship areas (under the Conservation Act).

63. The ability to establish amenities areas would be expanded from national parks to areas that attract visitors,[18] specifically:

- National Park (National Parks Act 1980) [EXISTING]
- Conservation parks (Conservation Act 1987)
- Stewardship areas (Conservation Act 1987)
- Recreation reserves (Reserves Act 1977)
- Historic reserves (Reserves Act 1977)
- Scenic reserves (Reserves Act 1977)
- Government or local purpose reserves (Reserves Act 1977).

64. The 'amenities area' plan will be integrated into the relevant area plan (as amenities areas in national parks are currently a section of the National Park Management Plan). Area plans are a key component in the new, streamlined and modernised system for conservation land management planning. If there is any inconsistency, the policies or rules within the amenities area chapter will override the policies and rules set by the broader area plan.

Comment

65. While amenities areas provisions in the National Parks Act have been rarely used, our view is that their general purpose (as expressed in the national parks context) as areas where visitor services and facilities are allowed and encouraged remains fit-for-purpose.

66. Amenities areas were traditionally established in national parks where demand for visitor services and facilities already existed. Four amenities areas currently exist (one in Aoraki/Mount Cook village, and three in Tongariro National Park for the Tūroa and Whakapapa ski fields and Whakapapa Village). There has been no specific need to use the amenities areas provisions in national parks in recent years. Instead, visitor facilities have been developed as visitor needs have emerged over time.

67. When responding to visitor needs for expanded facilities (e.g., car parks, toilets, improved tracks) in response to visitor growth, there is an opportunity for more deliberative, forward-planning. The growth in tourism visitor numbers in some key areas provides an opportunity to use amenities areas to ensure visitor management and economic activity develops in a structured way (not just in places where visitor pressures are already evident).

68. The proposal expands amenities areas beyond national parks to conservation parks, stewardship areas, and some reserves (together comprising over 4.7 million hectares). This will be done through changes to the Conservation Act 1987 and Reserves Act 1977. This will support improving the economic productivity of PCL and enable expansion of visitor opportunities more broadly beyond the existing destinations favoured by tourists, by enhancing alternative destinations.

69. The creation of amenities areas will be restricted to PCL which has locations that are popular with visitors now or potentially in the future (for example, historic reserves, recreation reserves, scenic reserves, conservation parks).[19] Amenities areas will only be

[18] Amenities areas will not be able to be established in: nature reserves,scientific reserves, national reserves, ecological areas, wilderness areas, wildlife sanctuaries, wildlife refuges, or wildlife management reserves.

[19] Stewardship areas are included as this is land that is subject to the Conservation Act (a 'conservation area') but is land which has not yet been given additional protection by being specifically 'classified' (e.g. as a conservation park). These areas can include some locations that are popular with visitors.

proposed for areas that already visitor hotspots, or are predicted to be areas of high visitor use. Their establishment can help ensure that infrastructure, services, and facilities are located and sized appropriately to protect the conservation values of these popular destinations.

70. There are conservation areas and reserves that have special attributes and hold specific classifications to provide additional protection. Although visitors are not excluded from those areas, they would not be expressly encouraged through the building of concentrated visitor facilities in such locations. Accordingly, the legislation proposes prohibiting the establishment of amenities areas on some PCL, such as, wilderness areas (which do not allow any buildings or vehicles), nature reserves, scientific reserves, national reserves, ecological areas, wildlife sanctuaries, refuges, and management reserves.

Relationship between amenities area and wider planning for an area

71. The use of amenities areas will enable the government to carefully consider and plan for the development of visitor growth in a way that maximises economic benefit while simultaneously managing the impact of that growth on conservation values. Area plans will establish conservation outcomes for places to guide regulatory decision-making on PCL. The amenities plan will need to be integrated into the proposed new area plan structure—this is a key proposal in the changes to modernise conservation land management planning.[20]

72. Including an amenities area chapter within the relevant area plan ensures that only one planning document applies to a given area, that the broader connections between the region and the amenities area are reflected, and that all relevant regional objectives and policies are in one place. The overall area plan will articulate the broader objectives for the region, and the role of the amenities area within it.

73. The process to establish an amenities area would not involve triggering a review of the relevant area plan, even though it would lead to a new chapter within the relevant area plan (the process for establishing amenities areas would itself include appropriate consultation with Treaty partners and the public).

Option Three: Enable the Minister to expand the use of amenities areas, but with specific statutory criteria and consultation requirements

Proposal

74. This option builds on Option Two by proposing two specific safeguards (consultation requirements and specific criteria the Minister must consider), to ensure that conservation values are appropriately considered and balanced with the economic benefits that the establishment of amenities areas can deliver.

75. The Minister must have regard to all the following criteria in establishing an amenities area:

- the location is already, or is predicted to be, an area of high visitor use
- the area is in the practical location where it would have the least effect on conservation and cultural values

[20] The proposed new management planning system will streamline local and regional planning by translating the existing conservation management strategies (CMSs), conservation management plans (CMPs), and national park management plans (NPMPs) into area plans. The single plan for each area would enable clear objectives and policies that are specific to the local context to be set, that will also reflect national direction.

- the proposed size is no larger than reasonably necessary to provide for facilities and services
- development would not threaten the persistence of the values that underpin the purpose for which the wider area is protected, but would enable its enjoyment by a wider range of visitors than would otherwise be the case.

76. This option also proposes specific legislative requirements for consultation for establishing an amenities area to ensure that the views of Iwi and key stakeholders are considered as part of the process. It is proposed the Minister must:

- consult relevant iwi on a proposed amenities area prior to public notification
- consult the New Zealand Conservation Authority if an amenities area is in a national park (replacing the current requirement for the Authority's recommendation to set-up an amenities area)
- publicly notify an intent to create an amenities area, and provide a minimum of 40 working days for comment (the status quo for land classification decisions).

Comment

77. Many submitters agreed with the need for amenities areas to both protect nature and enhance tourism, but there was concern about a lack of clear ecological safeguards. There was concern the establishment of amenities areas could result in poor conservation outcomes (particularly in areas with sensitive biodiversity), and increase the risk of inappropriate development in highly protected areas.

78. The statutory criteria and requirements for public consultation on establishing new amenities area can mitigate some of the risks that amenities areas would allow development that would be at the expense of ecological and other conservation values. These considerations would be informed by consultation with Iwi and public submissions.

79. Under this option, the new statutory criteria will ensure an amenities area may only be established where reasonably necessary to enable tourism and recreational enjoyment of the relevant PCL, while protecting and preserving the values of the wider area.

80. The primary purpose of using an amenities areas 'tool' is to protect the conservation areas better, by creating clear boundaries to contain and manage the development of visitor facilities and services in tourism hotspots. This statutory criteria and consultation process will ensure better protection of conservation values in high-visitor areas. It will ensure amenities areas are only established in areas with current or projected growth in visitor numbers, and in areas that would benefit from comprehensive, structured forward-planning to manage that ongoing growth.

81. The statutory criteria also address submitters' concerns about the risk of inappropriate development in highly protected areas by ensuring that the proposed size of an amenities area will be appropriate for the projected visitor growth. This will help protect conservation values by locating and concentrating the development of visitor facilities in areas that are not of high ecological or cultural value.

82. The statutory criteria of constraining amenities areas to locations of high visitor use (current and projected) will mitigate the risk that a Minister will establish an amenities area in places where existing processes and planning can effectively manage the visitor numbers. In the absence of an amenities area option for high-visitor area, the risks to conservation outcomes are higher and the economic benefits from tourism will be lower.

Removing the requirement for the NZCA to recommend an amenities area

83. Many individuals, environmental NGOs, conservation groups, statutory bodies, and some recreation stakeholders did not agree with enabling the Minister to establish an amenities area in a national park without requiring the recommendations of the New Zealand Conservation Authority (NZCA). This is due to concerns that removing the Authority's role removes key checks and balances and place too much power in the hands of the Minister.

84. Currently the New Zealand Conservation Authority must recommend the establishment of an amenities area in the national park to the Minister. This existing process undermines effective decision-making by splitting it across the Minister and the New Zealand Conservation Authority.

85. Although this existing requirement is intended to provide checks and balances to the Minister's power to declare these areas, it makes it difficult for government to administer this provision. This can make it difficult to respond in a strategic and timely manner to increases in visitor volumes in national parks. This can result in delaying the provision of the facilities and services that are necessary to ensure positive visitor experiences. Milford Sound Piopiotahi is an example of this.

86. The proposed safeguard, in the form of statutory criteria the Minister will consider, will increase responsiveness and cohesion of decision making. It also aligns with corresponding wider conservation management reform proposals for the New Zealand Conservation Authority to have an advisory role.

Treaty impact analysis

87. The Minister's decision to establish an amenities area would have to give effect to Treaty principles. The criteria for establishing an amenities area would enable consideration of the duty of the principle of active protection including through identification of the location of an amenities area where it would have the least effect on conservation and cultural values, the necessary size and scale of the amenities area, and in ensuring that the amenities area would not threaten the persistence of the values for which the wider area is protected. In the context of amenities areas, this includes the need to identify and consider how taonga and connection to whenua might be actively protected.

88. The Minister's decision on an amenities area would be informed through the proposed statutory requirement for early consultation with Iwi. This early consultation with relevant Iwi, before public notification, would be more reflective of Iwi aspirations for engagement on conservation matters.

89. Removing the role of the New Zealand Conservation Authority in recommending the establishment of amenities areas has an impact Ngāi Tahu. Membership of the New Zealand Conservation Authority includes one person nominated by Te Rūnanga o Ngāi Tahu (as established by section 6 of Te Runanga o Ngāi Tahu Act 1996). Discussions over the next few months with PSGEs, including Te Rūnanga o Ngāi Tahu, will further inform this policy.

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How do the options compare to the status quo?

Criteria	Option 1 Status quo	Options 2 Enable the use of amenities areas in more PCL	Option 3 Enable the use of amenities areas in more PCL (Option 2) plus specific statutory criteria and consultation requirements
Protects PCL	0	+ Protects broader PCL in the area by focusing development of visitor facilities and associated infrastructure in a relatively small defined area. Provides for the development of facilities that can help to effectively contain the spillover impact of high visitor numbers in an area. Excludes types of PCL where visitor growth will not be encouraged (e.g. nature reserves, scientific reserves, national reserves, wilderness areas, ecological areas, wildlife sanctuaries, refuges or management reserves and wilderness areas)	++ Statutory criteria set a high bar to establish an amenities area, which are restricted to locations with predicted or current high visitor use, and to a size that is 'reasonably necessary' (limiting unhindered commercial development in an amenities area). Statutory criteria will restrict amenities areas to practical locations where it would have the least effect on conservation and cultural values. Provides a planning tool to help effectively manage the tension between tourism and recreational outcomes and conservation values. Public consultation requirements to ensure value from establishing an amenities area are considered alongside any risks to conservation values.
Supports recreation and tourism	0	++ Considers not only current visitor numbers but projected growth. Supports spatial planning, providing a forward plan for future visitor development that supports investment decisions by others (local businesses, local authorities, transport and infrastructure providers, concessionaires, etc.) both inside the amenities areas and in communities near the PCL.	++ Protects conservation values while also growing the benefits from tourism through well-managed expansion of visitor facilities and services.

Criteria	Option 1 Status quo	Options 2 Enable the use of amenities areas in more PCL	Option 3 Enable the use of amenities areas in more PCL (Option 2) plus specific statutory criteria and consultation requirements
Well integrated within conservation planning system	0	+ Common purpose across three primary Acts. Integrated within the new reformed public conservation management planning framework (namely area plans). The geographical boundaries, objectives, and policies for amenities areas will be included as a chapter within an area plan.	+ Common criteria and consultative processes to establish amenities areas across many types of public conservation land. Where there is inconsistency, any policies or rules within the amenities area chapter will override the policies and rules set by the broader area plan, when applied within the amenities area.
Consistency with Treaty obligations	0	0 Structured, forward-planning amenities plan to address visitor growth supports Iwi to effectively plan and integrate tourism business opportunities within an overall amenities area (and flow-on opportunities outside the area).	+ Statutory consultation requirement to consult with relevant Iwi, prior to public notification, enables early engagement by Iwi on conservation matters. Statutory criteria for Ministerial decision-making on location includes considering the effect that the location will have on cultural values.
Overall assessment	0	+	++

Key: *Compared to the status quo* ++ *much better* + *better* **0** *about the same* – *worse* – – *much worse*

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

90. Both options provide for the expanded use of amenities areas across a wider range of PCL (with specific exclusions for areas where increased visitors are not desirable). However, the additional safeguards introduced in Option Three to manage conservation and economic outcomes is the preferred option.

91. The proposed expanded amenities areas framework provides a discrete solution for high-use visitor areas. It enables spatial planning that can more effectively manage the current and projected future growth of visitor numbers, and ensures that high-visitor areas continue to provide the visitor facilities and services that maintain and enhance the visitor experience.

92. The amenities areas framework delivers a coherent strategy for managing the impact of visitors in PCL that maximinises the economic benefit of tourism (for concessionaires operating within the conservation area, and for the associated businesses, local authorities, transport providers, etc., in the adjacent area).

93. Concurrently, the framework also enables the protection of cultural and conservation values by ensuring that visitor facilities are constrained in a specific geographic area, and in an area where visitor growth will have the least effect on those values.

94. Submissions on the proposal in the discussion document (Option Two) were concerned that the Ministerial discretion could result in the overuse of amenities areas. The revised proposal (Option Three) now includes statutory criteria for Ministerial decision-making that explicitly enables the weighing of conservation values and economic benefits from tourism growth. The revised proposal also introduces specific consultation requirements with Iwi and the New Zealand Conservation Authority, and a public consutation period.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

95. The Minister's preferred option is Option Three.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
Mana whenua	Ngāi Tahu have a reduced influence through the removal of New Zealand Conservation Authority recommendation function, with the Authority having one member appointed by Te Rūnanga O Ngāi Tahu (noting this is a negotiated Treaty settlement outcome and other Iwi do not have nomination rights). This may be mitigated by the proposed statutory criteria for Ministerial decisions, which provides for mana whenua consultation and meeting Treaty obligations. There will also be some costs associated with engagement and consultation, but these are likely to be similar to the status quo.	*Low*	*Medium*

Affected groups	Comment	Impact	Evidence Certainty
Concessionaires	Negligible cost impacts are expected though potential for transition costs of adapting to the new framework when new amenities areas are established.	*Low*	*Medium*
Minister and DOC	There will be some costs involved in determining whether the statutory test is met and in following the consultation process, although this is typical of standard DOC land management functions. Costs are mitigated through expected infrequent use. Assumption is that amenities areas will be created or expanded relatively infrequently.	*Low* (potentially medium for relatively confined periods).	*Medium*
PCL visitors	Negligible costs.	*Low*	*Medium*
Wider public, including environmental and recreational interest groups	Negligible costs.	*Low*	*Medium*
Non-monetised costs	Generally low costs, but with the potential for reduced influence by Ngāi Tahu (mitigated with introduction of the requirement for consultation). Marginal administration costs on government.	*Low*	*Medium*
Additional benefits of the preferred option compared to taking no action			
Mana whenua	May provide mana whenua with greater opportunity for commercial activity, and greater ability for engagement on decision-making due to more explicit specification of the statutory requirement for the application of Treaty principles and consultation.	*Medium*	*Low*
Concessionaires	May receive some benefit through reduced fragmentation of decision-making (which may provide concessionaires with opportunities for commercial activity), as well as a more cohesive planning framework.	*Medium*	*Low*
Minister and DOC	Enables the Minister and DOC to more effectively administer the planning framework by reducing fragmentation in decision-making.	*Medium*	*Medium*
Park visitors	May benefit from government's ability to more effectively administer the planning framework through the reduction in fragmentation.	*Medium*	*Low*
Wider public, including environmental and recreational interest groups	May benefit from government's ability to more effectively administer the planning framework through a reduction in fragmentation.	*Medium*	*Low*
Non-monetised benefits	Potential benefits due to government's ability to more effectively administer the planning framework through a reduction in fragmentation.	*Medium*	*Low* (dependant on circumstances)

Section 3: Delivering the package of preferred options

How will the proposals be implemented

96. These policy proposals will be implemented with the broader conservation law reforms, through amendments required to the National Parks Act and Conservation Act.

97. Although the new processes and approach to conservation land management require legislative change, implementing the new planning processes for establishing amenities areas will not require DOC to carry out significant programmes of work.

98. The national conservation policy statement will be developed alongside the Bill and area plans will undergo a technical translation exercise within 12 months of the Act coming into effect. The impact of statutory planning changes on the timeliness of the concessions system will occur as soon as the national policy statement is agreed. This will lead to a reduction in applications for low-risk and common activities.

99. The discussion document *Modernising Conservation Land Management* specifically mentioned Milford Sound/Piopiotahi is a good example of an area that has become congested due to its popularity, and where the need exists for a more considered approach to providing visitor services and tourism development. The Milford Opportunities Project identified a 'special amenities area' tool like that proposed above. A strong argument exists that this could be useful in other high-pressure areas around the country with amendments.

100. On 14 April 2025, Cabinet, as part of the Government's response to the Milford Opportunities Project's business case, agreed that the Government will consider an amenities area for Milford Sound/Piopiotahi with unique planning rules to support economic activity in the area [CAB-25-MIN-1025 and ECO-25-MIN-0053]. As such, Milford Sound, and potentially other associated areas in Fiordland National Park, are likely to be the first areas where any amendments to the Acts are put into practice.

101. Risks to consider through implementation are:

- *Impacts on PCL* – Amenities areas enable greater development of visitor facilities and services on national parks and other PCL. This has the potential to negatively impact conservation and cultural values in PCL (for example, adverse effects on flora and fauna and visual effects). The statutory criteria for establishing amenities areas aim to minimise this risk.

  There is also potential for induced demand and impacts on surrounding areas. Establishing amenities areas may reduce impacts in surrounding areas by drawing visitors away. It may also increase impacts in the same area through induced demand. These risks can be managed through consultation and decision-making on the amenities area proposal, area plans, and concessions. Conversely, there are risks that if the government does not have the necessary management tools, visitors and tourism may increasingly have negative impacts on PCL.

- *Appropriate threshold* – There is a risk that the statutory criteria set the threshold too low or too high. This could lead to these areas being used in a way that significantly impacts PCL, or the process continuing to be unresponsive to rapid changes in visitor volumes in particular locations. This can also be addressed through clear drafting.

- *Abandoned assets* – Amenities areas enable assets to be developed at a larger scale. There is a risk these assets can become abandoned and present significant difficulties

and expense to remove. This can partially be addressed by concession conditions, with provision for bonds that cover removal costs. It can also be mitigated through area plans which only enable development that is necessary.

- *Litigation risk* – As with all legal tests, there is a risk the Ministerial criteria for establishing an amenities area creates additional complexity. If it is not clear when the test is met, this could result in a chilling effect on establishing amenities areas due to legal risk. This can be addressed through clear statutory drafting. Litigation risk is consistent with other forms of statutory decision making.

How will the proposal be reviewed and evaluated?

102. DOC will be responsible for monitoring, evaluating and reviewing any changes. DOC will monitor the successful implementation of the amenities areas tool by monitoring the impact and performance after it is first used.

103. The information from such monitoring will be included in DOC's usual accountability reporting (e.g., annual report) and will be used to inform any future policy development or legislative change to further improve the conservation management planning system. The establishment of amenities areas to support future spatial planning for visitor growth forms part of the overall monitoring of the planning system (as amenities areas will be a specific chapter in an area plan).

104. The approach is primarily set in national policy. When national policy is reviewed, this will provide an opportunity to review the approach to amenities area plans and will likely be subject to public consultation. There will also be opportunities for evaluation and review of area plans when they are developed through public consultation processes.

APPENDIX ONE: CURRENT PROCESS

Source: Westland Tai Poutini Draft National Park Management Plan Sept 2018

Ongoing access to retreating glaciers is a significant issue for this Plan to address. The Department has been approached with a proposal to address access in the Franz Josef Glacier/Kā Roimata o Hinehukatere valley through a gondola proposal. Before the gondola proposal can be fully considered, an amenities area would need to be gazetted. The Department is seeking feedback from the public about creating a proposed amenities area at this location.

Background

Skyline Enterprises Ltd (SEL), through pre-notification consultation, requested that the Westland Tai Poutini National Park Management Plan provides for an amenities area in Franz Josef Glacier/Kā Roimata o Hinehukatere valley. This is to facilitate a proposed gondola development from the end of the glacier access road on the valley floor to Almer Glacier. SEL has provided an overall concept of the gondola proposal. Providing for an amenities area at this location is the first step in allowing a proposal of this kind to be considered (see Map 12).

SEL envisages that any future gondola development would be focused on providing enjoyment of the natural environment, predominantly through the ability to view the glacier and snow fields but potentially also by facilitating access to the glacier and surrounding terrain for recreational activities where safe and practicable to do so.

SEL does not intend to seek approval for a cafeteria or restaurant as part of this proposal, as it recognises the importance of maintaining and enhancing the hospitality industry within Franz Josef/Waiau township and maintaining a minimalist approach to buildings and infrastructure as part of any future gondola proposal.

The amenities area could facilitate other types of recreational and public amenities and related services i.e. not just the gondola proposal.

The following information details why an amenities area would be required as part of this proposal.

Statutory framework

1. The *General Policy for National Parks* 2005 (GPNP) states that gondolas (and other aerial cableways) can only be authorised within a national park if they are in a defined amenities area, in accordance with Policy 10.5(a).

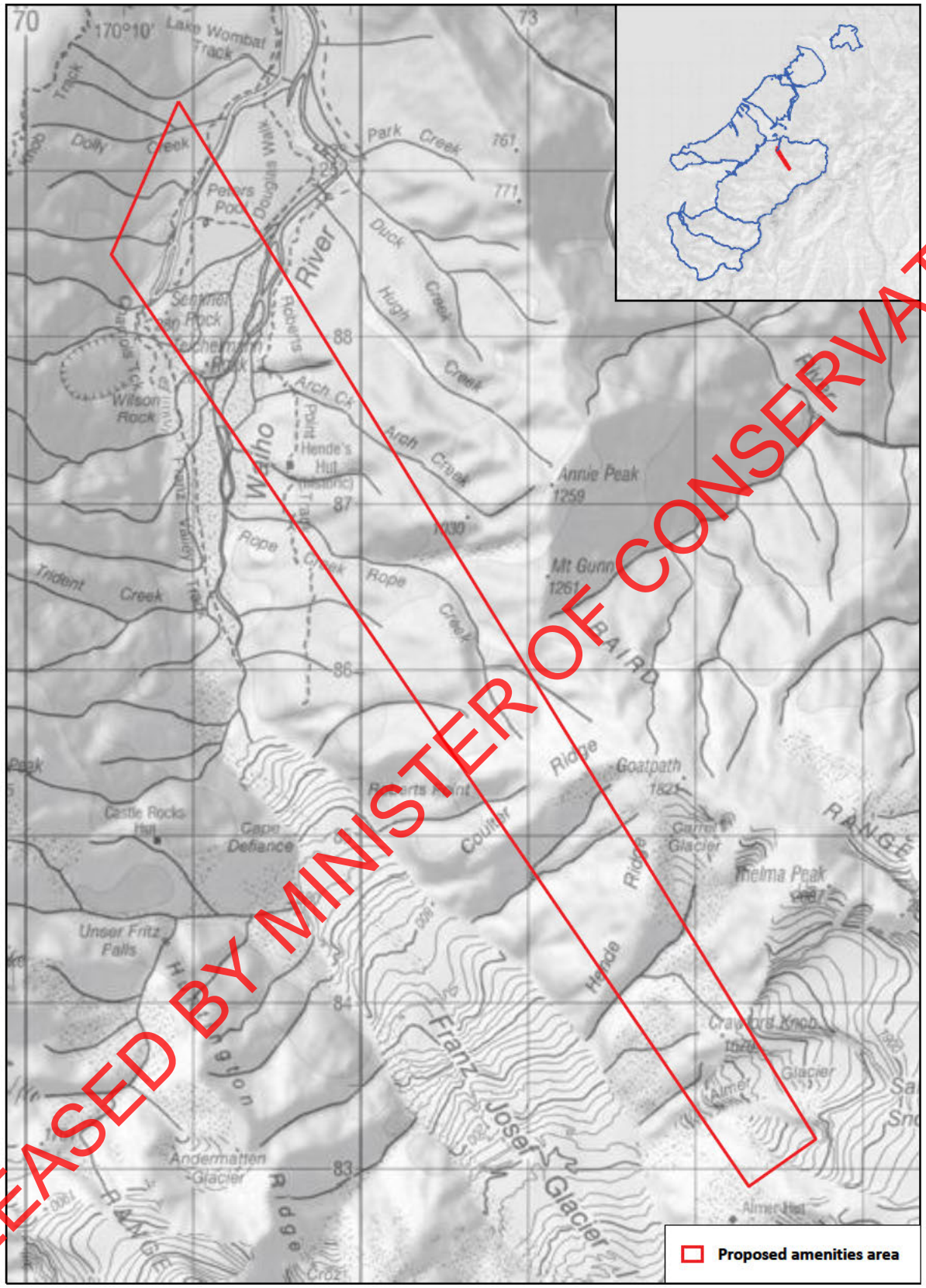
This is the first time the Department has considered gazetting an amenities area in a national park (or any public conservation lands and waters) for an activity not already in existence. The GPNP needs to be considered in creating an amenities area.

An amenities area is defined in GPNP as:

> *Any area of a national park set aside for the development and operation of recreational and public amenities and related services appropriate for the public use and enjoyment of the national park (section 15, National Parks Act 1980).*

Policy 6(o) of GPNP states:

> *National park management plans should identify new, modified or expanded amenities areas in national parks only where:*
>
> *i. the development and operation of recreational and public amenities appropriate for public use and enjoyment of the national park cannot practicably be located outside the national park; and*
>
> ii. *where adverse effects on the rest of the national park can be minimised.*



Map 12 Proposed amenities area
National Park Management Plan
Westland Tai Poutini

Draft Westland Tai Poutini National Park Management Plan 2018

2. Under section 15(1) of the National Parks Act 1980 (NPA), the Minister may, on the recommendation of the New Zealand Conservation Authority (NZCA), set apart an area of a park as an amenities area. This can only happen in accordance with the management plan. The mechanism for setting apart the area is by notice in the *Gazette*.

Section 15(2) of the NPA provides that, within an amenities area, the development and operation of recreational and public amenities and related services appropriate for the public use and enjoyment of the Park may be authorised in accordance with the Act and the management plan.

Under section 15(3) of the NPA, once an amenities area is gazetted, the principles applicable to national parks, notwithstanding section 4 of the NPA, apply only so far as they are compatible with the development and operation of such amenities and services. Therefore, consideration of national park values, such as preservation of natural heritage, is secondary to providing recreational and public facilities.

3. An amendment to the West Coast Te Tai o Poutini Conservation Management Strategy 2010–2020 (CMS) would be required to provide for an amenities area. Any proposed amenities area provisions outlined in this discussion box cannot become operative in the Westland Tai Poutini National Park Management Plan until the CMS has been amended.

Future processes

If the proposed amenities area proceeds and is gazetted, any developments within it will require the relevant resource consents from the West Coast Regional Council and Westland District Council under the Resource Management Act 1991, and authorisations under the National Parks Act 1980 and Conservation Act 1987. These applications are also likely to include a full public notification process.

Process for setting apart an amenities area within the Park (National Parks Act 1980):

- Receive pre-notification suggestions for the Plan review (complete);
- Advise the World Heritage Council regarding Te Wāhipounamu South West New Zealand World Heritage Area (complete);
- Provide for an amenities area in the draft Plan (current stage);
- Seek feedback by way of submissions on the proposed amenities area;
- Receive and analyse submissions, hold hearings, and decide if the proposed amenities area provisions are included in the revised Plan;
- Present the revised draft Plan to the West Coast Tai Poutini Conservation Board for its consideration. The Board then sends the revised draft Plan to NZCA;
- NZCA seeks the views of the Minister of Conservation and makes its changes before approving the new Plan;
- If the proposed amenities area is retained in the approved Plan, the Minister will consider whether to gazette it. This is a separate recommendation by the NZCA and exercise of discretion by the Minister; and
- Applications for the necessary resource consents and authorisations can then be made for the gondola.

Context

The walking tracks in the glacier valleys provide visitors with a view of the glaciers, but direct safe foot access onto the glaciers is no longer available. Currently, aircraft landings are the only means of access onto the glaciers for visitors without mountaineering skills. (See 2.4 about tranquillity and managing the effects of aircraft). The ongoing impacts of climate change and the retreating glaciers make providing safe and reliable access to them a significant management challenge.

A gondola or similar development could provide an alternative means for visitors to view, access and appreciate the grandeur of the glacial carved landscape and wonder of Franz Josef Glacier/Kā Roimata o Hinehukatere. Because such a proposal would require aerial cableways, pylons, associated buildings and infrastructure, these will visually affect this dynamic natural landscape.

The Park is within Te Wāhipounamu South West New Zealand World Heritage Area.

Further context for the gondola proposal SEL is undertaking geotechnical investigations and advises that any future gondola proposal must be located within the defined corridor illustrated in Map 12. Any other location is unlikely to be geotechnically suitable.

The gondola proposal will require power along the gondola line for a secondary station part way up the valley and provisions for access and ongoing maintenance. The proposal may also include the following:

Bottom station:

- Bottom terminal building(s) – ticketing/sales, workshop facilities for gondola, staff room, drivers room, offices (only for staff managing/running the gondola facility) and a covered waiting/queuing area
- Aerial cableway
- Power transformer
- Parking (visitor and staff)
- Retail/souvenir sales – photographs/vending machines
- Toilets and sewage disposal
- Rubbish storage
- Potable and fire-fighting water take and storage
- Goods in and out
- Signage/interpretative panels

Mid station:

- Building(s) – transfer area and shelter, staff room, offices (only for staff managing/ running the gondola facility)
- Toilets and sewage disposal
- Aerial cableway and ancillary/supporting functions
- Power transformer
- Walkways/potential access to other recreational pursuits
- Potable/firefighting water take and storage
- Signage/interpretive panels

Top station:

- Aerial cableway, support and ancillary functions
- Toilets and sewage disposal
- Potable and fire-fighting water take and storage
- Rubbish collection/storage
- Information desk
- Retail/souvenir sales – photographs, drink and snack sales
- Power transformer
- Walkways/potential access to other recreational pursuits
- Signage/interpretation

The gondola proposal is at an early concept stage and there is currently limited evidence as to what impact the structures may have on intrinsic values in the area. The intention at this stage is to seek the public's view about the proposed amenities area. If the proposed amenities area is to be gazetted in the Plan following public consultation, the proposed policies below are intended to ensure that potential impacts are thoroughly assessed in any future authorisation applications.

Proposed descriptive text and policies for the management plan

The ongoing impacts of climate change and the retreating glaciers are creating significant management challenges for Westland Tai Poutini National Park. The walking tracks in the glacier valleys provide visitors with a view of the glaciers, but direct foot access onto the glaciers is no longer a safe and accessible option. Aircraft landings provide a means of readily accessing the glaciers. Enabling safe and reliable access to the glaciers so the public can continue to enjoy this experience is important. Access to the glaciers is likely to become more difficult in future.

A gondola or similar facilities within a confined amenities area in the Franz Josef Glacier/Kā Roimata o Hinehukatere valley could provide a quiet, easy and safe alternative for a wide range of visitors to view, access and be educated about the glaciers and surrounding environment.

Policies

1. Recommend to set apart an amenities area in accordance with section 15(1) of the National Parks Act 1980 and as identified in Map 12.
2. Should not authorise any overnight accommodation in the amenities area.
3. Should authorise the development and operation of recreational and public amenities and related services in the amenities area only where:
    a) the public's use and enjoyment are enhanced through the provision of a safe and quiet opportunity to view and access Franz Josef Glacier/Kā Roimata o Hinehukatere;
    b) any structures or facilities are in accordance with other Plan provisions, in particular those in:
        - A living Treaty partnership and 2.1.1 Retention of Kāti Māhaki/Kāi Tahu culture, Mātauraka and Ahi Kā on the Whenua;
        - The diversity of our natural heritage is maintained and restored;
        - 2 Our history is brought to life and protected;
        - New Zealanders and our visitors are enriched by outdoor experiences;
        - General management;
        - Structures, utilities, facilities and easements; and
        - He Tiritiri o Te Moana (Glaciers) Place;
    c) the sale of any goods is restricted to the lower valley floor;
    d) detailed environmental, risk assessments and cultural impact assessment, planning and design have been carried out in accordance with industry best practice and considered the latest available information regarding natural hazards and climate change;
    e) maximum numbers of people using the facilities within the amenities area at any one time are determined based on maintaining a high-quality visitor experience;
    f) all waste is contained and removed from the Park.

Questions

1. Do you support having a gazetted amenities area in this location, and why?
2. What type of facilities would you like to see within an amenities area?
3. Should the facilities be restricted to a gondola and associated infrastructure, or should other recreational and public amenities and related services be provided for?
4. What is your vision for future activities within Franz Josef Glacier/Kā Roimata o Hinehukatere valley?

Thank you for taking your time to provide this feedback to the Department. It is important that we hear your views on this proposal.

Department of Conservation
Te Papa Atawhai

Regulatory Impact Statement: Enabling more flexibility for land exchanges and disposals

Decision sought	Cabinet agreement to remove impediments to enable the optimal management of public conservation land disposal or exchange
Agency responsible	Department of Conservation
Proposing Ministers	Hon Tama Potaka, Minister of Conservation
Date finalised	17 June 2025

Description

This proposal seeks to amend the legislative requirements relating to the exchange and disposal of public conservation land, to provide more flexibility for the Minister of Conservation to dispose of or exchange land in limited circumstances.

The proposal introduces new tests and considerations to determine whether land should be exchanged or disposed of, while also introducing new safeguards to ensure conservation areas of high value continue to be protected from disposal/exchange.

The proposals also include a number of adjustments and refinements to processes including in consultation requirements, use of covenants, the use and retention of proceeds arising from with disposal and exchange.

Summary: Problem definition and options

What is the policy problem?

The current restrictions around the exchange or disposal of public conservation land (PCL) under the Conservation Act 1987 and the Reserves Act 1977 mean that potential land transactions are limited, even in situations where the transaction would benefit conservation outcomes. The way the courts have interpreted the interaction between the Conservation Act and statutory planning documents (namely the Conservation General Policy) have contributed to this situation. There is also no legislative specification as to how section 4 of the Conservation Act (the requirement to give effect to Treaty principles) operates in respect of land exchanges and disposals.

What is the policy objective?

The Minister of Conservation is seeking to improve the effectiveness and efficiency of the management of PCL, to generate improved conservation and other outcomes. As part of a broader programme to streamline PCL management, greater flexibility to exchange and dispose of PCL is proposed, but only where such transactions are in the interest of conservation.

What policy options have been considered, including any alternatives to regulation?

Exchange or disposal of PCL under the Conservation Act is currently limited to land held and managed as stewardship areas (and some marginal strips) which is of no or very low conservation value. The conservation benefits of an exchange or disposal under the Conservation Act and Reserves Act also cannot be considered unless land is first assessed to be of no or very low conservation value.

These restrictions mean the government is generally unable to exchange or dispose of PCL, and therefore unable to take advantage of exchange or disposal opportunities that would be beneficial for conservation. This therefore restricts the effective operation and management of the conservation estate.

The Government has proposed changes to address the two current restrictions, namely:

- expanding the categories of land that can be exchanged or disposed of; and
- removing the requirement that land needs to be of no or very low conservation value to be exchanged or disposed of.

Government has proposed new options to improve the processes and factors that will inform the Minister of Conservation's decisions to exchange or dispose of land, including:

- 9(2)(f)(iv) [redacted]
- land can be disposed of when the Director-General of Conservation recommends it to the Minister of Conservation and several threshold tests are met (with funding being retained by Department of Conservation (DOC) to recover and support the costs associated with ongoing disposal and exchange and land management);
- establishing safeguards to ensure that high value conservation areas are protected and not eligible for the new, more flexible settings;
- retaining statutory public consultation requirements for disposals; and
- specific requirements for Treaty partner consultation to ensure the Minister has the information to meaningfully consider Māori rights and interests

Consultation included an option that disposals would be restricted to situations where land is 'surplus to conservation needs'. Submitters were concerned concern about how the phrase 'surplus to conservation needs' could be interpreted. Further policy work was undertaken to establish more clarity around what 'surplus to conservation needs' means and it has proven challenging to define in a way that provides flexibility without making the decision subject to significant discretion and litigation risk. Options B2 and B3 are more detailed formulations of what tests and considerations for land that are more useful and effective when considering what land that is surplus to conservation requirements could be.

Given the regulatory nature of land exchange and disposals, there are no non-regulatory alternatives available.

What consultation has been undertaken?

The proposals were consulted on as part of the wider government consultation to modernise the conservation system to enhance the care and protection of public conservation land. The proposals are outlined in Section 9 of the discussion document – *Modernising conservation land management*. Public consultation was from 15 November 2024 until 28 February 2025.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Preferred options for exchanges and disposals are the same as the Cabinet paper.

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

The costs of land exchange and disposal can be relatively high (compared to the financial value of the land under consideration), and the added flexibility in managing the disposal and exchange public conservation land is expected to marginally increase the volume of land exchanged or disposed of.

The extent of the increase will depend on the amount of land considered appropriate for exchange or disposal – this is expected to be a number of small parcels around the country, but exact volumes are not known yet.

The scale of demand for land from interested parties will depend on the location, size and type of land available.

The proposals are designed so that the Minister can choose not to exchange or dispose of land at any time in the process including where costs may become too great.

There are no significant non-monetised costs.

Benefits (Core information)

Although these proposals are not about revenue generation, the main monetised benefit is revenue recovered from disposals. Where this exceeds the costs of disposal (i.e. surveying, valuations and other third-party costs), this can be applied to other land purchases or capital expenditure. The volume of future land transactions is not known, and benefits cannot be quantified. There may be some benefits of reduced maintenance where areas currently require management but do not have high conservation value (e.g. lawn mowing).

The new approach will enable DOC, and in some case, other administering bodies to reduce liabilities by disposing of land even where there may be some conservation value.

The increased flexibility and new processes may also provide increased opportunities for iwi and hapū to acquire conservation land through exchanges and disposals.

Main non-monetised benefits are to the Crown and potential interested parties in being able to pursue mutually beneficial exchanges and disposals where it makes sense for conservation.

Balance of benefits and costs (Core information)

While costs may increase for DOC with more land exchanges/disposals, the revenue/conservation value from disposing and exchanging PCL will also increase. Consequently, the net monetised costs are expected to be positive over the medium term, with ongoing variation in costs and benefits across different land parcels disposed/exchanged.

The proposals are to improve flexibility to manage land, not about growing the volume of land disposals/exchanges per se. The actual decisions on future land exchange or disposal will continue to be considered on a case-by-case basis, dependant on individual circumstances to the size, location and nature of the land considered for disposal/exchange.

Implementation

The new processes and approach to land disposal and exchange require legislative change to implement, but there are no significant implementation programmes required to enable DOC to take forward the new decision-making criteria and processes.

Limitations and Constraints on Analysis

The Minister of Conservation intends for Parliament to enact legislation on these proposals in the current term, with the proposals forming part of a comprehensive range of proposals to modernise the management of PCL. This is a tight timeframe for the overall package of reform and has limited the time and resources available for policy analysis, refinement and testing of options following public consultation.

It was not possible to clarify or estimate the additional land that will become available to exchange or dispose of under the new proposed criteria – limiting our ability to quantify the costs and benefits of the proposal. However, approximately 40% of PCL (i.e. those areas known to have the highest conservation values) will be excluded from the scope of the more flexible settings.

Demand for any PCL eligible for exchange or disposal is also unknown although there is strong interest from Treaty partners in some areas. More generally, demand is likely to be a function of the location of the land (e.g. more urban land is likely to be more valuable and have greater demand) and whether there are any encumbrances or liabilities associated with the land.

The Fast-track Approvals Act 2024 enables exchanges for significant economic development projects which will absorb some demand that already exists for these purposes.

The proposals do not amend section 4 of the Conservation Act (which requires giving effect to Treaty principles) but are intended to support effective implementation of section 4 by clarifying its application to land exchange and disposal processes through the addition of specific provisions/measures. Drafting will make it clear that complying with these specific measures will be sufficient to comply with section 4 (in relation to the relevant processes).

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:

9(2)(a)

Eoin Moynihan
Policy Manager – Regulatory Systems Policy
17/06/25

Quality Assurance Statement

Reviewing Agency: Department of Conservation, Ministry for Primary Industries, Ministry of Business, Innovation and Employment	**QA rating:** Partially meets

Panel Comment:
The Regulatory Impact Assessment Panel of officials from multiple agencies has reviewed the Regulatory Impact Statement (RIS). The Panel considers that the RIS partially meets the

Quality Assurance criteria. The requirements were not fully met because of the limited engagement undertaken on certain options.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. Land that is managed as PCL (including reserves administered by third parties) has become protected through a wide range of pathways, including from transfer to DOC at its establishment; transfer to DOC upon a public works purpose ceasing; acquisition for the values it holds; and gifting from another party for management as a protected area.

2. DOC's management of PCL provides economy of scale for effective management and protection, the ability to set standards of service for wildlife and visitor delivery, and the ability to acquire and apply knowledge to improve management.

3. There is currently a high bar for exchanges and disposals of PCL; only PCL of no or very low value can be exchanged or disposed. This means the conservation estate cannot be optimally maintained, with DOC retaining land that is no longer needed for conservation, and having limited ability to exchange such land for new sites that have higher biodiversity that warrants DOC protection and management.

4. DOC is the single largest manager of heritage sites in New Zealand. As well as archaeological sites from pre-European times, DOC manages a range of buildings and sites that preserve and tell the story of stages of the development of our country.

5. There is an increasing focus of biodiversity management on species and ecosystems where it is needed to conserve the most threatened or vulnerable species and places. The majority of PCL is not actively managed for biodiversity outcomes, as there is insufficient funding to enable that, and because in some cases DOC does not possess the tools to manage the pressures from predators at scale. However, there is value in passive management of protected areas. Protection as PCL restricts development and other impactful activities on the land, to conserve its values.

6. The public recreation experience network on PCL is largely a legacy network. Most of it was established by predecessor agencies. DOC manages the network to deliver safe visitor experiences and a standard of experience that meets the experience level of a range of visitors. Maintaining this network in its current extent at current standards is unaffordable.

7. DOC is both a land manager and a regulator. Part of being a responsible land manager is ensuring land that needs to be managed is retained, taking opportunities to acquire land where it is precious, but also sometimes identifying when DOC would benefit from disposing or exchanging land where it would be beneficial for conservation.

8. PCL is held under a range of legislation and classifications. Significant changes to the status of PCL, such as the exchange or disposal of such land is provided for in limited circumstances and has stringent conditions.

9. Many Treaty settlements provide iwi rights of first refusal (RFR) when the Crown disposes of land. Some settlements provide an RFR over any Crown owned land in the rohe of the iwi, while others list specific parcels of land. While each Treaty settlement is different, an RFR is a long-term option for iwi to purchase or lease Crown-owned land and will generally remain in place for 50 to 170 years. Rights of first refusal are activated when DOC wishes

to enter into a long-term lease (usually of 50 years or more) or when the Crown no longer requires the land and is disposing of it.

10. **A land exchange** is the exchange of land between the Crown and another party. DOC administers provisions in the Conservation Act and Reserves Act that provide for land exchanges, each involving different criteria and/or processes.[1] Only PCL that is of 'no or very low' conservation value can be exchanged.[2] Exchanges under the Conservation Act must enhance the conservation values of land managed by the Department. There is a 'like for like' requirement for land exchanges under the Reserves Act (e.g. a recreation reserve can only be exchanged for a piece of land with similar types of recreation value).

    A land disposal is the transfer of land ownership from the Crown to another party. While it is possible for land administered by DOC to be sold, the process of land disposal by the Crown is more complex than the transfer of freehold title. The Reserves Act provides for the disposal of reserves and the Conservation Act provides for the disposal of stewardship areas.[3] The Conservation General Policy (under the Conservation Act) restricts disposals to land with no, or very low, conservation values.

11. National park land cannot be exchanged or disposed of except by Act of Parliament[4].

Reserve Act disposal and exchange

12. The Reserves Act requires the administration of reserves to preserve and protect each reserve's values. It provides for the exchange of reserves and the revocation of reserve status which can then result in disposal under the Land Act 1948.

13. If a reserve is exchanged, there must be an equality of exchange to protect the public interest in the existing reserve (that is, if exchanging a scenic reserve, the land to be received should have the same values and be given the same classification).

14. Where a reserve is sold, or money is paid during an exchange to approximate a similar value, proceeds must be spent for reserve purposes. This can include the acquisition of new reserve land and spending on the management of existing reserves.

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1 Conservation Act 1987, s.16A (exchange of stewardship areas) and s.24E (exchange of marginal strips); and Reserve Act 1977 s.15 (exchange of reserves for other land) and 15AA (Administering body may authorise exchange of recreation reserve land for other land).

2 Conservation General Policy, the national statutory planning document under the Conservation Act 1987 restricts disposals to land with no, or very low conservation values (chapter 6 (c)). Under case law, exchanges are 'deemed' to be made up of a disposal and an acquisition (refer Hawke's Bay Regional Investment Company Limited v Royal Forest and Bird Protection Society of New Zealand Incorporated [2017] NZSC 106. http://www.courtsofnz.govt.nz/cases/hawkes-bay-regional-investment-company-limited-v-royal-forest-and-bird-protection-society-of-new-zealand-incorporated-1

3 Reserves Act 1977 s.24 (Change of classification or purpose or revocation of reserves) and Conservation Act 1987 s.26 (Disposal of stewardship areas)

4 National Parks Act 1980, s.11(1)

Conservation Act land disposal and exchange

15. All land held under the Conservation Act is a conservation area and held for the protection and preservation of natural and historic values, and where it is not detrimental to those values, to enable public use and enjoyment.

16. Some conservation areas can have additional special protection classifications, e.g. conservation park or sanctuary, and are managed according to the criteria for that classification. Conservation areas that do not have a special protection classification are managed as stewardship areas (also referred to as stewardship land).

17. The Conservation Act only provides for the exchange of stewardship areas (also referred to as stewardship land) and marginal strips (not other types of conservation land) and the disposal of stewardship land. Stewardship land amounts to 2.5 million hectares and comprises about a third of all New Zealand's PCL. There are around 3,000 distinct parcels of land.

18. Some areas of land are held and protected as stewardship land but have not yet been officially declared as being held for conservation purposes, or assessed to see if they require additional protection. These areas were "allocated" when DOC was formed in 1987, held as 'stewardship' as a transition status, with the intention that the conservation values of the land would be assessed in a thorough way, with an appropriate conservation classification assigned and implemented over time.

19. Once an assessment has been done, the land is declared to be held for a conservation purpose or classified as held for another specific purpose such as national park, ecological area, or scenic reserve. Alternatively, it may be disposed of for having 'low or no conservation value.' Land also becomes stewardship area if the classification of land is no longer applicable and is revoked (for example, if a natural disaster destroys the values which the classification is based on).

20. The scale and complexity of the task to assess the conservation values, and the time and resources needed to reclassify land, has meant that most land in stewardship remains unclassified yet it may hold significant conservation value[5].

Statutory planning settings – Conservation General Policy

21. The exchange or disposal of protected areas must be consistent with the Conservation General Policy (CGP), the national statutory planning document under the Conservation Act, which restricts disposals to land with no, or very low conservation values (chapter 6 (c)).

22. The CGP significantly restricts the disposal of land by requiring that DOC can only dispose of land if it is of *low or very low conservation value*. It also restricts disposal being undertaken for other more prescriptive reasons including where the land is important for the survival of any threatened indigenous species or represents a habitat or ecosystem that is under-represented in PCL (or could be restored into one).

Key legal cases restrict disposal to land with 'no or very low conservation value'

23. Two court cases, *Buller Electricity*[6] and *Ruataniwha*,[7] have added significant jurisprudence around disposal and exchange provisions in statute. These decisions have confirmed that the scope for exchange or disposal is limited to a narrow set of circumstances.

24. In the 1995 ***Buller Electricity* case,** a stewardship area in the Buller area was being sought for a proposed hydro scheme on the Ngākawau river. The High Court held that there was no basis on which the Minister of Conservation could sell or otherwise dispose of the stewardship area unless he was satisfied that it was no longer required for conservation purposes. This was based on the mandatory nature of section 26 of the Conservation Act to manage the land to protect its values and the various definitions in the Act that reinforce this.

25. In July 2017, the Supreme Court issued its decision in *Hawke's Bay Regional Investment Company Limited v Royal Forest and Bird Conservation Society of New Zealand Limited* (also known as ***Ruataniwha***). The proposal was that the conservation park status of the land was to be revoked so that the land could be exchanged as a stewardship area.

26. The Supreme Court held that the status of the land could not be revoked unless the conservation values of the resources on the land no longer justify that protection.

27. Prior to *Ruataniwha*, DOC had processed exchanges on the basis of what DOC was getting through the exchange, as well as considering what was being given up. A general principle of 'achieve a net conservation benefit' had been applied to exchanges in the past, although that particular phrase may not always have been used. If those requirements had been met, a decision was still needed on whether the exchange was desirable.

28. Since *Ruataniwha*, an exchange must be considered to involve both an acquisition and a disposal – and the test for disposal of PCL has always been much more restrictive than land exchange. As a consequence, land can only be exchanged in instances where the

5 A Stewardship Land Reclassification Project is underway for the western South Island and the Minister of Conservation is expected to make decisions on this in mid-2025.

6 Buller Electricity Ltd v Attorney-General [1995] 3 NZLR 344 (HC).

7 Hawke's Bay Regional Investment Co Ltd v Forest & Bird & Minister of Conservation [2018] NZSC 122.

land has no or very low value for conservation[8]. Another effect of *Ruataniwha* is the conservation benefit of the exchange cannot be given consideration, significantly limiting what can be considered in an exchange proposal.

Costs and processes for disposal and exchange

29. While it is possible for PCL to be sold, the process of land disposal by the Crown is somewhat more complex than the normal transfer of freehold title. The costs (e.g. surveying, conveyancing) associated with the process can be a major factor in determining whether a disposal proceeds, especially in the case of small areas of land with low value, which are not adequately defined and have no title.

30. The costs of preparing land for sale are met from DOC baseline, but not all those costs are recoverable from the sale. It can be difficult to model the revenue given the unknown location of potential land suitable for disposal. So, while it is feasible that an individual sale will exceed disposal preparation costs in some instances, disposal costs can make the proposal to dispose of some areas uneconomic to progress.

31. An indicative assessment of costs for reclassification of land for disposal was $53,000 in 2022[9], covering the assessment of the conservation values, notification, surveying, marketing and sale process.

32. While third party costs of disposal or exchange can often be recovered from the proceeds of sale, internal staff costs are generally not recoverable. Although the Minister of Conservation holds authority to dispose of PCL[10], giving effect to this decision remains subject to Land Information New Zealand (LINZ) processes for disposing of Crown land at present.

33. After Departmental land status checks and relevant disposal tests, public notification, approval by DOC, survey and valuation, DOC either contracts a LINZ accredited supplier to complete the disposal process or for some stewardship land disposals, a Statutory Land Management Advisor will complete the process. A LINZ-accredited agent then confirms whether the land is subject to requirements under the Public Works Act (e.g. any offer backs to previous owners). Where there is a 'right of first refusal' in place through Treaty settlement, the land will be offered to relevant iwi or hapū unless an exception applies (e.g. if land is being sold to a former owner under the Public Works Act 1981).

34. The Māori Protection Mechanism also applies where a government department decides it no longer needs land and there is the possibility that it could be used as either cultural or commercial redress in a Treaty settlement. The Crown may decide to hold the land for a future settlement. The Crown has a regulatory role in ensuring that these obligations are met.

35. If the land becomes available for sale (passes all the statutory requirements) it is generally put up for sale on the open market, through contracting a suitable real estate agent. If a LINZ accredited supplier has been contracted, co-ordinating this process will be part of that contract.

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8 Conservation General Policy, the national statutory planning document under the Conservation Act 1987 restricts disposals to land with no, or very low conservation values (chapter 6 (c)). Under case law, exchanges are 'deemed' to be made up of a disposal and an acquisition.

9 Indicative costs in Regulatory Impact Statement: Streamlining the reclassification of stewardship land | Ministry for Regulation, see Appendix B: Cost Recovery Impact Statement, p 39-40, 14 June 2022

10 For example, under s.26 of the Conservation Act 1987 and s.25 of the Reserves Act 1977

What is the policy problem or opportunity?

36. The Government has limited flexibility to manage PCL, specifically in its ability to exchange and dispose of PCL to ensure benefits for conservation outcomes (whether that be through diverting resources to higher value conservation efforts or obtaining higher value conservation land in return).

37. The current restrictions on exchanges and disposal of PCL are intended to avoid breaking up or reducing the areas of land protected for conservation and future generations. However, the effect of these settings means the Crown is generally unable to exchange or dispose of PCL even in circumstances where there would be a clear benefit to conservation.

38. Decisions on exchanges and disposals need to be based on the conservation values of the PCL being disposed of. The land's existing status may not be revoked or changed by the Minister of Conservation, in whole or part, unless the conservation values on the land no longer warrant that level of protection (i.e. hold low or no value) and therefore that status is no longer appropriate.

39. The current regulatory settings for land disposals and exchanges do not allow consideration of the benefits from exchange or disposal of PCL (such as, the opportunity cost of being unable to exchange or dispose of certain land). The current provisions do not allow for consideration of overall conservation benefit, where there would be some trade-offs in conservation values. This limits the ability of the Minister and DOC to deliver more strategic conservation outcomes via land exchange and disposal.

40. If settings remain unchanged, DOC would continue to be unable to exchange or dispose of PCL in circumstances where there would be a clear benefit for conservation.

Land exchanges

41. Land exchange settings could be adjusted to enable exchanges with another party where this would support conservation outcomes and safeguard vulnerable biodiversity.

42. Exchanges can enable better representation of high value areas in the protected area network. Enabling exchanges could present opportunities to acquire land with values that are highly threated or underrepresented within Aotearoa's network of protected areas. They can also expand on or connect existing conservation areas. For example, ensuring the protection of a network of wetlands may be higher priority in an area with extensive areas of protected forest.

Land disposal

43. Disposing of land may present opportunities for conservation. For example, there may be marginal parts of PCL with liabilities (e.g. from degraded fixed assets and structures) and maintenance and/or compliance costs (e.g. fire risk) and conservation values that are well-represented in other areas of the region. If such land was disposed of, greater conservation outcomes could be achieved overall given the removal of costs and liabilities, allowing resources to be redirected towards purposes that better serve conservation outcomes.

44. Liberalisation of disposal provisions could allow DOC to better and more strategically manage PCL. Some land has no or low value for conservation, and some valuable land could be managed by others. For example, the land may be adequately protected by district or regional plan provisions, or the values may be at risk from impacts that would not be managed by inclusion in the protected area network (e.g. drainage of land adjacent to a wetland).

45. There are parcels of PCL that, due to departmental prioritisation, have gone without funding and therefore active management. There are ways to transfer administration and management of reserves to other parties (through an appointment to control and manage or a vesting of the reserve). The conservation values on the land could be protected through a covenant put in place in a decision to dispose or exchange the land (although this can reduce the sale price).

46. While economic development and revenue making is not a policy driver, it was agreed at Cabinet [ECO-24-MIN-0154] that additional conservation revenue from the transfer or sale of PCL will be reinvested into the conservation estate to improve biodiversity, recreation and heritage.

47. It should be noted that simply holding land as a protected area without active investment or management can have good conservation outcomes. The protective status itself can provide for natural maintenance of the conservation value the land has and allow for natural rewilding/regeneration of flora and fauna, even in the absence of active management by DOC.

Giving effect to Treaty principles

48. DOC's obligation to give effect to Treaty principles is articulated in section 4 of the Conservation Act. In addition, there are Treaty settlement commitments, and other agreements with iwi and hapū. While the Treaty settlement legislation and agreements will include specific obligations, the section 4 directive is a 'general clause' that requires the DOC give effect to Treaty principles when interpreting or administering conservation legislation.

49. There is no legislative specification as to how section 4 of the Conservation Act will definitively operate in land exchange and disposal processes. Relevant questions include how much engagement is necessary and whether Treaty partners should get preference when conservation land is being given up by the Crown (outside of rights of first refusal that are already included in Treaty settlements).

What objectives are sought in relation to the policy problem?

50. The Minister of Conservation is seeking to improve the effectiveness and efficiency of the management of public conservation lands, to generate improved conservation and other outcomes. As part of a broader programme to streamline PCL management, greater flexibility to exchange and dispose of PCL is proposed, but only where such transactions are in the interest of conservation.

51. That leads to the following objectives for this work:

    a. **Effectiveness**: in delivering on the purpose of the conservation system, namely, supporting good conservation outcomes, while also supporting other outcomes such as, allowing for recreation, tourism, economic opportunities

    b. **Good regulatory practice**: ensuring clarity and certainty for the regulator (DOC) and regulated parties, as well as ensuring DOC has the necessary tools, functions, powers and levels of discretion/flexibility to satisfactorily perform its statutory duties.

    c. **Upholding Treaty obligations**: DOC interprets and administers the Conservation Act in a way that gives effect to the principles of the Treaty of Waitangi, as well as ensuring any changes or new arrangements in planning management uphold Treaty settlement commitments and other Treaty obligations (e.g. those in relationship agreements between DOC and iwi/hapū).

What consultation has been undertaken?

52. In October 2024, Cabinet agreed to consult on changes to modernise conservation land management [ECO-24-MIN-0235]. The proposals aimed to:

    a. create a more streamlined, purposeful and flexible planning system

    b. set clear process requirements and timeframes for concessions

    c. establish how and when concessions should be competitively allocated

    d. establish standard terms and conditions for concessions

    e. enable more flexible land exchange and disposal settings

    f. provide clarity around Treaty of Waitangi obligations in these processes, including engagement requirements and decision-making considerations.

53. Consultation on these changes took place from November 2024 to February 2025, alongside proposals on charging for access to some conservation land.

54. DOC held 25 regional hui with Iwi, as well as 15 stakeholder engagements and four public information sessions during the consultation period. DOC also engaged on the proposals with the Director-General of Conservation's commercial External Advisory Panel.

Submissions overview

55. In total, more than 5,500 submissions were received on the proposals.

56. Most of the submissions were from individuals – with a large number using the Forest and Bird's form submissions (87% of total submissions) or using the DOC website submission (80% of 451 website submissions were from individuals), as well as 49% of freeform submissions also coming from individuals.

57. Of the remaining 51% 'freeform submissions', 11.5% came from Treaty partners and Māori organisations, 11.5% from various recreation and commercial stakeholders, 11% from concessionaires, 9% from statutory bodies, 5% from environmental NGOs and conservation groups and 3% from councils.

58. In addition, 20% of website submissions were from conservation groups, tourism businesses and Treaty partners.

Type of submissions	Number of submissions	Proportion of total submissions
Forest and Bird form submission	4,837	87 %
Website submission	451	8 %
'Freeform' submission	276	5 %
Total submissions	**5,564**	

59. Approximately 2% of submissions (98 individual submitters) did not engage directly with the proposals in the discussion document, instead expressing support for other submissions, or support for protecting conservation values, or that the Crown should not treat Treaty partners differently to others.

60. Feedback from website submissions responded to high-level questions from the discussion document, and generally does not engage with specific parts of the proposals.

61. Approximately 1,300 people who used the Forest and Bird form submission also provided personalised comments, expressing concerns about climate change, a lack of safeguards to protect nature, the sale of land, and that the discussion document was too focused on managing commercial interests.

Views on land exchanges

62. The majority of submitters opposed enabling more flexibility for land exchanges. 45 freeform submissions opposed the proposal, while 29 expressed support. Submissions received through the DOC website shows similar feedback, with 123 submitters responding "no" when asked if enabled flexibility for exchanges was supported where it

makes sense for conservation, 58 responded “yes” while the remaining 42 where “unsure“ or “no comment.”

63. The general concern among submitters was that the proposal is too broad and provides an opportunity to more easily exchange PCL to enable development or mining operations that would significantly impact important conservation values. Some also raised that land exchanges could be undertaken to respond to budget, lobbying and commercial interests.

Views on land disposals

64. Similarly to enabling more flexibility for land exchanges the majority of submitters opposed enabling more flexibility for land disposal. 59 freeform submissions opposed the proposal, while 24 expressed support. Submissions received through the DOC website shows similar feedback, with 116 submitters responding “no” when asked if enabled flexibility for disposals was supported where it makes sense for conservation, 41 responded “yes” while the remaining 49 where unsure or had no comment.

65. There was general concern about selling off PCL and losing important conservation values in perceived response to budget, lobbying and commercial interests.

66. Those who supported the proposal said that land should only be available for disposal if it has no conservation, recreation or cultural value. These submitters also said that appropriate safeguards need to be in place to avoid corruption.

67. A couple of submitters also mentioned that land should not be available for disposal until stewardship land has been reclassified.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

68. Options for change will be compared to the status quo using the following criteria:

Effectiveness	Contribution to better conservation outcomes through effective public conservation land management (via the exchange and disposal of land).
Regulatory stewardship	Provide clarity on the matters that will be taken into account by DOC and the Minister when exchanges and disposals of PCL are considered, which will in turn: • better support DOC's management and decision-making processes in relation to PCL • support effective management of PCL to deliver improved conservation outcomes.
Treaty of Waitangi	Certainty about performing statutory functions in a manner that gives effect to Treaty principles. Ensuring consistency with Treaty settlement commitments and other obligations.

69. There are likely to be trade-offs between the criteria in the table above, and they will need to be carefully balanced when analysing each set of options. For example, it would theoretically be possible to give the regulator (DOC) the broadest powers, tools and discretion to exchange PCL. However, that would be in tension with achieving conservation outcomes, which would not be served by large-scale exchange (regardless of whether this is just enabled or also carried out) of PCL.

What scope will options be considered within?

70. The Minister has decided that the scope is to amend legislation to enable greater flexibility to exchange PCL where it would make sense for conservation. The scope does not include:

    a. Providing for greater flexibility to pursue exchanges and disposals beyond situations that are in the interests of conservation (e.g. enabling land disposals specifically for economic development or to generate revenue for the conservation system).

    b. Non-regulatory options such as amending operational processes. The interactions between current legislation and case law have demonstrated the need for legislative change. Nevertheless, any changes to regulation may be accompanied by changes to operational practice and guidance to best support implementation.

Approach to Treaty obligations

71. The Minister's approach to resolving ambiguity relating to section 4 is to:

    a. Retain section 4 as a general, operative clause in the Conservation Act;

    b. Add specific measures to clarify what is (or is not) required to give effect to Treaty principles in particular processes or decisions; and

    c. Make it clear that complying with these specific measures will be sufficient to comply with section 4 in relation to the relevant processes or decisions.

72. This approach may evolve during drafting based on legal advice about how best to achieve the Government's desired outcome. The Legislation Design and Advisory Committee's guidelines advise caution about the interaction between new legislation, existing legislation and the common law.[11] Not properly understanding and addressing these interactions can make the law more confusing, undermining the policy objective.[12]

What options are being considered?

73. Although land disposal and exchange share the same root cause and overarching system level problems, land exchange (exchanging of conservation land for new land) and land disposal (selling conservation land) will be treated as separate policy issues as each generate different risks and opportunities.

74. The two key areas, each with different options are covered in this RIS:

Section A	Exchanges of public conservation land
Section B	Disposal of public conservation land

11 Legislation Guidelines (2021 edition), Guidelines 3.1 – 3.5.

12 As seen in Court of Appeal and Supreme Court cases about the apparent inconsistency between the plain words of section 58 of the Marine and Coastal Area (Takutai Moana) Act 2011 and that Act's purpose (section 4) and Treaty provisions (section 7). *Re Edwards Whakatōhea* [2023] NZCA 504 at [416] and *Whakatōhea Kotahitanga Waka (Edwards) and Ors v Te Kāhui and Ors* [2024] NZSC 164.

Section A Exchanges of public conservation land (PCL)

75. There are three options for enabling more flexibility and clarity on the how land can be exchanged to improve how public conservation land can be the managed to achieve better conservation outcomes:

    a. Option A1: Status quo

    b. Option A2: Enable exchanges with exclusions, net conservation benefit test and process changes [preferred option]

    c. Option A3: Enable exchanges with different considerations – weighing more factors or constraining to a single factor of 'like-for-like'

What options are being considered?

Option A1 – Status Quo

76. Under the status quo, exchanges under the Conservation Act must enhance the conservation values of land managed by DOC; there is a 'like for like' requirement for land exchanges under the Reserves Act. There are other requirements as discussed above, and summarised as follows:

Requirements	Description
Conservation legislation	**Conservation Act 1987:** Exchanges are possible for stewardship areas and marginal strips. The Minister of Conservation must be satisfied the exchange will enhance the conservation values of land managed by DOC and promote the purposes of the Act. **Reserves Act 1977:** If a reserve is exchanged, there must be an equality of exchange to protect the public interest in the existing reserve (i.e. if exchanging a scenic reserve, the land to be received should have the same values and be given the same classification).
Statutory planning documents	**Conservation General Policy**: Subject to Chapter 6(a). 6(b), 6(c) and 6(d), exchanges can only be considered if the land has no or very low conservation values.
Case law	The *Ruataniwha* case in the Supreme Court July 2017 confirmed the above requirements and: • the process of exchange requires a disposal • for land administered under the Conservation Act there is no lawful basis to revoke the status of specially protected land to stewardship land (which can be disposed of) if the intrinsic values present warrant the specially protected status in the first place • the benefits of an exchange (net benefit gained) cannot be taken into account as part of a revocation decision.

77. The status quo of exchange settings has limitations and restrictions which would not result in the overarching objective to enable more flexibility for land exchanges.

78. The current exchange process under the Conservation Act does not require public notification. The Conservation Act also does not state specific consultation requirements with Treaty partners.

79. In relation to Crown-owned reserves with administering bodies, an administering body's agreement is required for land exchanges and disposals.

80. Many submitters who engaged with the proposals in the discussion document in-depth, disagreed with how issues related to land exchange and disposal were presented and argued the status quo for land exchange and disposal is appropriate, that there is value of a precautionary approach, and the process ought to remain robust.

Option A2 – Enable exchanges with net conservation benefit test, exclusions, and process changes [Preferred option]

81. This option proposes a mix of changes to introduce greater flexibility for land exchanges, but also introduces some elements to the exchange process that ensures that such flexibility does not result in undermining conservation values and outcomes. The changes proposed are:

    a. applying a 'net conservation benefit' test instead of the 'low to no conservation value' test

    b. excluding land that is regarded as being of high conservation value (except for minor boundary adjustments for technical reasons)

    c. specification regarding engagement with Treaty partners and consideration of Māori rights and interests.

82. The first two elements were included in the consultation on land exchanges and disposals (*Modernising conservation land management – Discussion document*, November 2024 and its associated RIS (*Interim Regulatory Impact Statement: Land exchanges and disposals,* 16 October 2024)[13]. Following analysis of submissions and subsequent policy analysis, the options were refined and also include some process changes.

Applying a new test – net conservation benefit

83. This option proposes replacing the current test for land to be of 'no or low conservation value', with a requirement for land exchanges to result in an overall 'net conservation benefit'. This will enable land with greater value than 'no or very low' conservation value can be exchanged, so long as there is a net conservation benefit.

84. This new approach seeks to resolve the issue raised through the *Ruataniwha* Supreme Court case – which found that for land administered under the Conservation Act, there is no lawful basis to revoke the status of specially protected land to stewardship land (which can be exchanged) if the intrinsic values present warrant the specially protected status in the first place.

85. The current tests for exchanges are primarily concerned with protecting the 'intrinsic values' of PCL. This means that land with any meaningful conservation values cannot be exchanged for land that has higher conservation values. Any land can be argued to have

[13] Discussion Document: Modernising conservation land (2024)
Interim RIS (from page 113): Modernising Conservation Land Management: Approval to Consult - Cabinet paper, Cabinet committee minute and associated advice

some level of conservation value, thus restricting any land exchange from even being considered.

86. Applying a net conservation benefit test will remove the need under the Reserves Act for reserves to be exchanged with reserves of the same type (i.e. a scenic reserve with a scenic reserve). In some situations, an exchange with other land, with different conservation values, will result in a superior conservation outcome. However, as some submitters noted, demonstrating 'net conservation benefit' requires judgements on what has more (or less) value, and comparing different values can be difficult and vulnerable to differences of expert opinion.

87. This approach prioritises the conservation value (via net conversation benefit) over the market value of the land. This can present financial risk in cases where the financial value of the proposed incoming land (privately owned) is not at least equal to the financial value of the PCL parcel. The assessment for an exchange would mitigate this to an extent by allowing money to be considered as part of the exchange. The Minister would also have discretion to not approve an exchange even if the net conservation benefit test were met.

88. The extent of net benefit is likely to be context-specific, for example, a small conservation gain may be important in one region to protect a particular species or environment, but may be of much lesser importance in another region where that environment or species is far more abundant. Given the context specific nature of applying the 'net conservation benefit' test, it is not proposed to identify a threshold or minimum value of any benefit – the decision-maker will determine whether the net benefit merits approving the land exchange based on expert advice.

89. Some concessionaires who supported the proposal say that it should be limited to situations where it makes sense for conservation and tourism. However, significant tourism projects can already access land exchanges through the Fast-track Approvals Act 2024.

Key considerations in net conservation benefit test

90. Given the subjectivity, any assessment of conservation value is inherently difficult, it will be necessary to create a process with criteria and guidance to ensure decisions on 'net conservation benefit' are procedurally and substantively robust. Submitters who supported the proposal for more flexible exchange settings generally expressed that they do not support the exchange of PCL for another piece of land that has less conservation values. Individuals who supported the proposal expect strong safeguards to protect conservation values, public interests and avoid corruption.

91. A net conservation benefit will therefore incorporate the following elements:

    a. Assessment of the conservation values likely to exist in the foreseeable future of the land to be exchanged and land to be acquired. This minimises the risk that land with minimal conservation value is exchanged, when that land has the potential for significant value following future restoration work.

    b. An exchange can include money which must be used on necessary improvements to the land acquired by the Crown to satisfy the Minister the exchange results in net conservation benefit. However, the land being offered must already have a reasonable level of conservation value.

    c. Ratio of money to land – a major financial component as part of a low-value land exchange will involve significant expenditure transforming and improving the

land (to generate net conservation benefit), and consequently increased risks that all improvement benefits will not ultimately be achieved.

d. Risk assessment, including consideration of the likelihood that conservation value improvements will be achieved and within 'reasonable' timeframes (noting this will vary depending on ecosystem, level of remediation etc). Generally, the longer it takes to get exchanged land to meet net conservation benefit standards, the greater the risk that it may never meet the standards (even with allocation of additional DOC project management resources to manage risks of weather impacts, delivery delays and cost overruns).

92. The net conservation benefit test would include consideration of Treaty rights and interests. For instance, in the scenario where someone is seeking to acquire PCL, and it met a net benefit test, DOC would provide advice based on consultation with Treaty partners to the Minister to consider impacts on Māori rights and interests when deciding whether to exchange PCL.

Ministerial discretion not to approve land exchange

93. The Minister of Conservation would have the discretion to not exchange land even if it is assessed to have net conservation benefit (but cannot approve an exchange where it does not meet the net conservation benefit test).

94. While a decision to allow or decline an exchange should be evidence-based with expert advice, it will necessarily have some subjectivity associated with it. There are also a range of other factors the Minister should be able to consider when deciding whether to exchange (assuming the net conservation benefit test is met) such as:

    a. the financial implications for the Crown;

    b. whether the consequences of the land exchange would be practical to manage on an ongoing basis, including consideration of whether the land exchange would result in an enclave of private land within a conservation area or a Crown-owned reserve; and

    c. the legal and financial liabilities, and health and safety risks, for the Crown associated with the land exchange

Exclude some types of land from exchanges

95. A further protection to manage the risk that land of high conservation values is subject to land exchange is to explicitly exclude specific areas specific areas from being eligible for consideration. This approach was taken under the Fast-track Approvals Actalthough it is expanded under this option.

96. The exclusion of particular categories of land from exchange will safeguard key areas of known high conservation value and provide certainty to the public. The majority of submitters expressed the importance of excluding high value conservation areas from being available for exchange or disposal.

97. The proposed exclusions build upon the categories identified for exclusion under the Fast-track Approvals Act, as the purpose of that legislation was to facilitate the delivery of infrastructure and development projects with significant regional or national benefits. The categories proposed for exclusion are to support the achievement of conservation purposes and include the following which are excluded under the Fast-track Approvals Act:

a. National parks
b. Nature reserves
c. Scientific reserves
d. Wilderness areas under the Reserves Act
e. Wilderness areas or sanctuary areas under the Conservation Act
f. Wildlife sanctuaries
g. Ramsar wetlands
h. Several named individual sites in Schedule 4 of the Crown Minerals Act
i. National reserves under the Reserves Act
j. Reserves that are not Crown-owned

98. This proposal also excludes:

a. Any public conservation land that has been assessed as having cultural, national or international significance[14] (for example, a site like Tāne Mahuta in the Waipoua Forest, which is a conservation park under the Conservation Act);
b. Ecological areas (under the Conservation Act); and
c. Any PCL within a designated World Heritage Area.

99. The categories that are not eligible for exchange under the Fast-track Approvals Act represents approximately 40% of PCL.[15] We expect a slightly higher proportion of PCL to be excluded given the proposed additional exclusions listed above (noting that the majority of World Heritage Area is also national park so while they are large, they do not add significantly to the area excluded).

100. Conversely, on the other side of the exchange equation, areas of private land or areas of land that are not PCL but have existing sound protection mechanisms in place, such as a conservation covenant, have not been explicitly excluded. However, they may not be assessed as meeting the net conservation benefit test (given that shifting ownership does not increase the protection for such areas) and would therefore not likely meet the test for land exchange.

101. Currently there are situations where minor boundary adjustments are required for high value categories of land, and these would be enabled for nearly all excluded areas (listed above[16]) where they have low or no conservation value. For example, where surveys show corrections are required or where topography limits the ability to fence the boundary. These situations require exchanges and sometimes require disposals.

102. After removing these types of land from eligibility, the amount of land that may be sought for exchange is currently unknown – presenting the risk of undertaking legislative change to enable a potentially low number of exchanges. These changes however are aimed at ensuring that DOC as a land manager has appropriate settings to exchange land in

14 'National or international significance' is an existing criterion under the Conservation General Policy to inform when land disposals should not be undertaken.

15 7-March-24 data set. This excludes estimated areas of duplication (e.g. overlays) and areas that could not be fully defined (e.g. RAMSAR). Percentages based on a total of PCL captured by FTA Act being approximately 5,255,057 hectares (being 60% of total PCL i.e. 8.7m ha), taking into account the classifications excluded, overlays and reserves administered by admin bodies or privately owned etc.

16 National parks are an exception to this, as they require an act of Parliament to change boundaries, and it is not proposed to change this prohibition.

circumstances where it improves conservation outcomes (rather than proactively seeking to exchange large amounts of land).

Enable continued protection through covenants

103. Conservation values on the land being exchanged could potentially be protected through a covenant or subject to an easement (e.g. to ensure access for neighbours). However, a covenant may not be able to entirely ensure a particular outcome for conservation values on the land in question.

104. Any additional protections such as covenants could decrease the interest of parties wanting to exchange land with the Crown depending on their purposes for it.

105. Conservation covenants would require monitoring to ensure new owners are compliant which would need to be done through existing covenant monitoring processes within DOC.

Exclusions arising from Treaty settlements and gift-back obligations

106. Treaty settlements often apply to PCL and may include provisions relevant to land exchanges. The intent of Treaty settlements will be upheld for land exchange and disposal settings. Where land is subject to an existing Treaty settlement negotiation it would be excluded from land exchange. The Minister of Conservation would be required to consult the Minister for Treaty of Waitangi Negotiations and the Minister for Māori Development before deciding whether to exchange PCL.

107. There are also cases where land has been donated to DOC by members of the public on the condition that it be returned if no longer needed for conservation.

108. Where an exchange or disposal would trigger an offer-back or rights of first refusal obligation, there will be a requirement that the holder of that right or obligation has agreed to the transaction.

109. Careful consideration will be given where the land proposed for exchange is subject to existing concessions (and the impact on existing community or business) or where the land may potentially be subject to a future Treaty settlement process.

Treaty considerations and the role of iwi in the process

110. Treaty partners were concerned that land exchanges could further alienate them from their ancestral land. It was generally a bottom line for Treaty partners that they should have the first opportunity to obtain land if it is proposed to be exchanged.

111. Currently DOC notifies and, in some cases, consults with iwi and hapū once an exchange proposal is received, and generally seeks to ensure applicants consult with all relevant parties prior to making a proposal.

112. This option would include a requirement to seek feedback on an exchange proposal from relevant Treaty partners, prior to public consultation. Findings and analysis on Māori rights and interests would be captured in a report and then considered by the Minister when making an exchange decision.

113. Seeking feedback directly from iwi recognises the inherent relationship Treaty partners have as tangata whenua and may help uncover issues or information that DOC (or an exchange applicant) was not aware of such as taonga and wāhi tapu, pre-settlement interest, broader Treaty partner aspirations of land ownership, to help make informed decisions.

114. The specific steps required to engage with iwi would be drafted into the legislation and drafting would make it clear that these steps were what is required to give effect to section 4 of the Conservation Act for the purpose of land exchanges and disposals. Otherwise, the ambiguity around what section 4 requires will remain. While this will provide procedural certainty relating to engagement with iwi and hapū, this option will be seen as a narrow application of section 4. It may be seen as a weakening of Treaty and conservation protections and could cause damage to Māori-Crown relations.

Crown-owned reserves with administering bodies

115. The majority of Crown-owned reserves that have administering bodies are managed by local authorities. These types of reserves often provide for specific local values – including recreation, stormwater management, biodiversity protection etc. Other management bodies are commonly community associations (e.g. Scouts or Plunket) and voluntary groups or incorporated societies. For some types of management there are reserve boards or Trust associations and in addition to this some joint entities or PSGE's have been appointed through Treaty Settlement legislation.

116. The requirement for agreement of the administering body where that body is in place because of a Treaty settlement would continue. For other types of administering bodies, this option would involve consulting them on the proposal to exchange of land. This would allow the Minister to assess the impact of the exchange on the administering body but prevent them from having a veto over what is still Crown owned land.

117. Management arrangements for the new land would be assessed on a case-by-case basis rather than automatically applying the same administering body. Land received in an exchange might be located in a completely different area and be of a different land type than that of the outgoing land. This requires consideration of appropriate management arrangements.

Option A3 – Enable exchanges only where land is like-for-like

118. A number of submitters supported restricting exchanges to 'like-for-like' as a way to avoid trade-offs where weighing and comparing respective conservation values could be problematic.

119. Enabling exchanges only on a 'like-for-like' basis would limit the flexibility and avoid trade-offs particularly where comparison of respective values could be problematic. This approach of 'like-for-like' is currently used under the Reserves Act for land exchange, requiring an equality of exchange to protect the public interest in the existing reserve (that is, if exchanging a scenic reserve, the land received should have the same values and be given the same classification)[17]. This option would impose similar legislative restrictions for exchanges of other types of PCL.

120. Restricting exchanges to 'like for like' values would limit the ability of the government to achieve optimal conservation outcomes. In some situations, an exchange of land with other land with different but equal or higher conservation values could result in a superior conservation outcome. However, making relative assessments of conservation value is inherently difficult and the assessment would be vulnerable to differences in expert opinion.

[17] Part 3 of the Reserves Act sets out the classification and management of reserves, and the different types of reserves include recreation (s.17), historic (s.18), scenic (s.19), nature (s.20), scientific (s.21), government and local purposes reserves (s.22 and s.23).

121. Assessing the relative merits of different land in the context of 'conservation values' for like-to-like exchange has to be approached with caution, and can become a debate between experts on relative merits of different conservation outcomes.

How do the options compare to the status quo/counterfactual?

	Option A1 – *Status Quo*	Option A2 – Enable exchanges with net conservation benefit test, exclusions and process changes (Preferred)	Option A3 – Enable exchanges only where land is 'like-for-like'
Effectiveness Contribution to conservation outcomes	0	++ This option would allow exchanges in situations where there is net conservation benefit. Under the status quo, there are situations where exchanges may offer net conservation benefit but cannot be pursued. PCL of known high conservation value would be excluded and ineligible for exchange.	+ Expanding the 'like-for-like' approach minimises trade-off considerations against conservation outcomes, but ultimately limits the ability of the government to achieving net positive conservation outcomes.
Regulatory Stewardship Improved flexibility and clarity	0	++ Provides greater flexibility by · expanding the categories of land that can be exchange or disposed of, As a land manager, this option provides DOC with increased ability to utilise land exchanges when it provides positive conservation outcomes. By clarifying the circumstances in which exchanges are possible and the statutory tests for exchanges, Treaty partners, the public and interested private landowners would have greater knowledge about the range of situations in which exchanges of PCL may be possible.	+ This option would give DOC greater flexibility by increasing the options to be considered in a land exchange. Expanding 'like-for-like' to all land exchanges provides greater clarity for decision-making but reduces DOC's flexibility in managing PCL for optimal conservation outcomes.

	Option A1 – *Status Quo*	Option A2 – Enable exchanges with net conservation benefit test, exclusions and process changes (Preferred)	Option A3 – Enable exchanges only where land is 'like-for-like'
Treaty of Waitangi	**0**	**0** More flexible exchange provisions could have positive impacts for iwi or hapū if they are in a position to exchange land. More certainty about what is required to give effect to section 4 in a land exchange or disposal process. However, this certainty is provided by narrowing the application of section 4, 9(2)(f)(iv) [redacted] The requirement for the Minister to consider Māori rights and interests will ensure consideration of Treaty partners views and settlement matters in land disposal decision-making.	**-** The restriction of land exchanges to 'like-to like' would reduce flexibility for iwi and hapū in land exchanges that supports optimal conservation and other outcomes. The same issues with section 4 as Option 2A. The requirement for the Minister to consider Māori rights and interests will ensure consideration of Treaty partners views and settlement matters in land disposal decision-making.
Overall assessment	**0**	4	1

Key: *Compared to the status quo* ++ *much better* + *better* **0** *about the same* – *worse* – – *much worse*

Section B Disposal of Public Conservation Land (PCL)

What options are being considered?

122. There are three options for enabling more flexibility and clarity on land disposals:
    a. Option B1 - Status quo
    b. Option B2 – Enable disposals that meet mandatory thresholds [Department's preferred option]
    c. Option B3 - Enable disposals with Ministerial discretion and mandatory considerations
    d. There is also a sub-option that can be applied to options B2 and B3 around whether to give iwi first option on all land being disposed.

123. The discussion document proposed being able to dispose of land that is 'surplus to conservation needs' and noted that land that is 'surplus to conservation needs' was yet to be defined.

124. The majority of submitters were opposed to the disposal of conservation land that is 'surplus to conservation needs'. There was general concern about selling off PCL and losing important conservation values in perceived response to budget, lobbying and commercial interest. There was also concern about how the phrase 'surplus to conservation needs' could be interpreted and many were uneasy about allowing the Minister of the day to determine what they think is surplus to conservation needs.

125. During consultation, further policy work was undertaken to establish more clarity around what 'surplus to conservation needs' means and it has proven challenging to define in a way that provides flexibility without making the decision subject to significant discretion and litigation risk. Options B2 and B3 are more detailed formulations of what tests and considerations for land that are more useful and effective when considering what land that is surplus to conservation requirements could be.

Option B1 – Status Quo

126. Under the status quo, disposals are possible in specific circumstances – the legislative, statutory planning and case law requirements are discussed above and summarised as follows:

Requirements	Description
Conservation legislation	**Conservation Act 1987:** Disposal is only possible for stewardship areas or marginal strips (to which s.24A of the Conservation Act would apply). **Reserves Act 1977:** Subject to the purpose of the Act, the Act allows for reserves to be disposed.
Statutory planning documents	**Conservation General Policy**: Subject to Chapter 6(c) and 6(d), disposals (as with exchanges) can only be considered if the land has no or very low conservation values.
Case law	*Ruataniwha* case in the Supreme Court July 2017 confirmed the there is no lawful basis to revoke the status of specially protected land to stewardship land (which can be disposed of if the intrinsic values present warrant the specially protected status in the first place.

127. Disposals currently require public notification. There are also some requirements to consult with Treaty partners in the current process in operational policy and internal guidance. The disposal of reserves is a Land Information New Zealand process. For Crown-owned reserves with administering bodies, agreement from the body is required before disposing.

128. The Parliamentary Commissioner for the Environment opposed greater land disposal flexibility, arguing disposal of PCL should only be considered where it has no or very low conservation value (status quo). The Environmental Defence society also recommended retaining current policy (6(d) of the Conservation General Policy) as the criteria.

Option B2 – Enable disposals that meet mandatory thresholds [Preferred option]

129. This option replaces the test in the Conservation General Policy (Chapter 6(c) and(d)) that restricts disposal to land of 'no or low conservation value' with a new gateway test where the Minister of Conservation can only dispose of land where:

    a. The values on the land concerned are not considered essential for indigenous biodiversity conservation;

    b. The conservation values present on the land concerned are represented in other protected areas in the region;

    c. There are no rare or distinctive species or ecosystems on the land concerned. and

    d. The Director-General of Conservation has recommended disposal of the land concerned.

130. DOC considers that the tests above are critical for protecting threatened biodiversity and species. The presence of rare or distinctive indigenous biodiversity is a minimum threshold for disposal and can be a binary assessment. Conserving rare or distinctive species and ecosystems is core to the role of protected areas in the conservation system.

131. This will allow for disposals in a greater range of situations than at present while recognising when long-term hold as part of the conservation estate is essential. It will also provide some confidence that the ability to dispose of land is not entirely discretionary and has some firm limits.

132. Assuming the tests above were met, the Minister would also be required to have regard to the following things before agreeing to dispose of land:

    a. How the land contributes to conserving indigenous biodiversity;
    b. An assessment of ecosystem services, where information is reasonably available;
    c. The cultural and historic significance of the land;
    d. How the land contributes to natural linkages and functioning of places;
    e. Provision of public access;
    f. Recreational value; and
    g. Financial implications for the Crown of the disposal.

133. On these matters the Minister has discretion and may choose not to dispose of land for any reason.

134. The same conservation land would be excluded from disposal as for land exchanges in Option A2 and the Minister of Minister of Conservation must consult the Minister for Treaty of Waitangi Negotiations and Minister for Māori Development before deciding whether to dispose or exchange conservation land.

135. Like Option A2, minor and technical boundary adjustments (that require disposal) may be made to the excluded areas (with the exception of national parks) where the specific areas being disposed of have low or no conservation value. For example, where surveys show corrections are required or where topography limits the ability to fence the boundary.

136. Some of those who opposed the proposal expressed concern that the categories of land proposed to be ineligible for disposal are too narrow and will enable high value conservation areas to be disposed of. The Parliamentary Commissioner for the Environment recommended that a wider range of conservation land be explicitly excluded from land disposal. It is true that land outside of these categories can hold significant and/or conservation value and this is why this option includes the threshold tests above and the range of considerations for the Minister as well as the ability to decide not to dispose of land for any reason. Expanding the list of ineligible land would reduce the land available for disposal to such low levels that it would question the value of embarking on a legislative work programme to move away from the status quo.

137. Many of the Forest and Bird form submitters were significantly concerned about the inappropriate sale of land that would result in the removal of biodiversity to allow for commercial use or development. The thresholds and considerations in this option are designed to ensure disposals are only done where it makes sense for conservation.

138. Several iwi groups raised that areas of cultural significance should be excluded from land exchanges or disposals. As tangata whenua, Treaty partners have an inherent connection to the land and a particular interest in PCL. It is important to consider the Treaty of Waitangi partnership/relationship, the application of section 4 of the Conservation Act, settlement touchpoints and to be aware of iwi land ownership and conservation management aspirations in any exchange and disposal process and decision.

139. Instead of adding another category to the above list of 'land not eligible for consideration of disposal', additional process steps are proposed to ensure that the Minister considers the rights and interests of Māori when making a decision on land exchange or disposal.

Improving processes – public notification, engagement with Treaty partners and impact report to Minister on Māori rights and interests

140. Under the status quo disposals require public notification. This would be retained and will be particularly important given the greater ability to do disposals.

141. The Director-General would set a timeframe for public notification, with at least 30 working days being provided to allow sufficient time for feedback on a permanent change to PCL.

142. This option also clarifies consultation requirements with Treaty partners – requiring feedback on a proposal from relevant Treaty partners for disposals (prior to public notification). A minimum of 30 working days would be given as a timeframe. Treaty partners, some statutory bodies and some environmental NGO's have highlighted the importance of consultation with mana whenua when exchanging and disposing of land. They say that this is an important step to ensure that Treaty rights and interests are recognised and considered before land is either exchanged or disposed. Timeframes for this would be set on a case-by-case basis, and a 30 working days minimum would mean the DG retains discretion to extend this period where they consider it to be reasonable in the circumstances.

143. Seeking feedback prior to public notification reflects the inherent relationship Treaty partners have as tangata whenua and may help uncover issues or information that DOC (or the applicant) was not aware of e.g. pre-settlement interest, broader Treaty partner aspirations of land ownership, to help make informed decisions. Treaty partners could also submit through the formal notification process.

144. Feedback received would then be captured in a report with analysis on Māori rights and interests, which would have to be considered by the Minister when making a disposal decision.

145. Like with options A2 and A3, the specific steps required to engage with iwi would be drafted into the legislation and drafting would make it clear that these steps were what is required to give effect to section 4 of the Conservation Act for the purpose of area plan processes. The same risks for this approach apply here as for those options.

Safeguarding conservation outcomes by continued protection through covenants

146. As noted in land exchanges (and Option B2), covenants provide an option for enabling ongoing protection. The conservation values on the land being disposed could potentially be protected through a covenant, however a covenant may not be able to entirely ensure a particular outcome for conservation values on the land in question. For example, covenants could allow the construction of a hotel but not allow extractive industry.

147. Land identified to potentially be disposed of will need to be appropriately assessed for the full conservation value, so that DOC can fully consider any trade-offs to conservation. In the case of stewardship land, it cannot be assumed that land does not have conservation value. All land would need to be assessed ahead of being considered for disposal rather than using any blanket approaches, for example, land held as a certain land classification to be considered for disposal.

Proceeds from disposal

148. Another process improvement to facilitate land disposal is to enable the proceeds from land disposal under the Conservation Act 1987 to go to DOC, instead of the Crown. Ringfencing proceeds from disposal would enable DOC to cover costs of disposal, land acquisition and capital expenditure on conservation land (to improve PCL management and support conservation outcomes).

149. Currently the proceeds of disposal of reserves under the Reserves Act go to the Crown account, but if the Minister directs, the money goes to DOC where it is required to be spent on reserve purchase and/or management. However, the proceeds from disposal of Conservation Act land go to the Crown Bank Account (as it is Crown Land) with no diversion mechanism in the Act.

150. This option enables DOC to recover costs associated with preparing the land for sale from the proceeds of sale. Any proceeds from the disposal of conservation land above the costs of preparing the land for sale can only be applied to land purchases or capital expenditure on public conservation land. While there may be concerns that this creates an inappropriate incentive to dispose of land, the high costs of disposal mean that any retention of funds from land disposal is unlikely to significantly boost DOC's revenue.

Crown-owned reserves with administering bodies

151. The majority of Crown-owned reserves that have administering bodies are managed by local authorities. These types of reserves often provide for specific local values – including recreation, stormwater management, biodiversity protection etc.

152. Other management bodies are commonly community associations (e.g. Scouts or Plunket) and voluntary groups or incorporated societies. For some types of management there are reserve boards or Trust associations and in addition to this some joint entities or Post-Settlement Governance Entities (PSGEs)s have been appointed through Treaty Settlement legislation.

153. This option would retain the requirement for agreement of the administering body where that body is in place because of a Treaty settlement.

154. For other types of administering bodies, this option would involve consulting them on the proposal to dispose of land. This would allow the Minister to assess the impact of the disposal on that administering body.

Option B3 – Enable disposals with Ministerial discretion and mandatory considerations

155. This option is the same as Option B2 except that the following threshold tests become mandatory considerations instead:

    a. The extent to which the values on the land concerned are considered essential for indigenous biodiversity conservation;

    b. The extent to which conservation values present on the land concerned are well-represented in other protected areas in the region; and

    c. The presence of rare or distinctive species or ecosystems on the land concerned.

156. This option would allow the Minister of Conservation to have reasonably broad discretion to dispose of conservation land if recommended by the Director-General.

157. This varies from the option that was publicly consulted on – that disposals would be restricted to situations where land is 'surplus to conservation needs'. A number of submitters were very concerned with how 'surplus to conservation needs' would be defined. The Parliamentary Commissioner for the Environment proposed retaining the status quo, namely, disposal of PCL should only be considered where land has no or very low conservation value.

158. While any option to make disposals more flexible will be contentious, this option is likely to be more contentious given the breadth of Ministerial discretion and lack of thresholds in legislation.

159. The same areas would be excluded from being eligible for disposal under these new settings, and there would still be an ability to make minor and technical boundary adjustments.

Sub-option for Options B2 and B3: Iwi/hapū first option on disposals

160. In all options above Māori will retain the first right of refusal for land disposal where this is provided for in Treaty settlement. However, there are examples where iwi/hapū do not have first right of refusal (RFR) negotiated as redress through their Treaty settlement, including where iwi are yet to settle their historic claims.

161. Submissions from several iwi groups raised concern about the potential for wāhi tapu or sites of cultural significance being exchanged or disposed of (and potentially sold to non-iwi), and what this could also mean for iwi and Māori land-owner aspirations. If PCL is disposed of to a private landowner iwi/hapū would lose access and use that is provided for in the Crown conservation land system. Pou Taiao National Iwi Chairs Forum and some iwi submitted that land should only be exchanged and disposed to hapū and iwi because of the profound implications it would have on tangata whenua if is open to others.

162. The Crown is increasingly receiving requests for the transfer of ownership of PCL from both settled and non-settled iwi and hapū. More flexibility in disposal settings presents an opportunity to meet Treaty partner aspirations for the return of suitable PCL which could support enhanced mana, rangatiratanga and exercise of kaitiakitanga over their land.

163. Some submitters suggested applying an RFR across all PCL to allow iwi/hapū the first option on all disposals (including outside of Treaty settlement).

164. There would, however, be significant implications for the settlement process. It could disincentivise claimant groups to settle historical claims if an opportunity is provided through general law and reduce the potential benefit of settlements (i.e. this would create a new standard and would no longer be available as cultural or economic redress).

165. There is also complexity with what an RFR for all of PCL would mean in practice in terms of determining who the RFR would apply to (whānau, hapū, iwi) and in many cases, dealing with complexity from overlapping iwi interests on PCL. This is a challenge in Treaty negotiations that can sometimes be left unresolved due to difficulties achieving a

RFR provision that appropriately addresses overlapping interests. Significant policy work would be required to further develop an appropriate mechanism to work through these challenges. For the above reasons, this is not recommended.

166. Where land is not subject to a Treaty settlement, the Māori Protection Mechanism policy requires that the protection of Māori interests is considered before the disposal can occur. No changes are proposed to this so the Crown may decide to hold the land for a future settlement, and this helps to protect the interests of unsettled iwi.

167. This option applies to disposals and not exchanges because exchanges primarily involve an applicant proactively offering DOC an alternative piece of land rather than a piece of land being offered on the market. If it is deemed inappropriate to exchange land due to interests a Treaty partner has in the land, it would not preclude the subsequent consideration of an exchange (or disposal) request from Treaty partners as a separate process.

168. If the Government wanted to explore a proactive approach and look to explore broader exchanges or disposals beyond proposed settings, a review of these settings would be appropriate.

How do the options compare to the status quo/counterfactual?

	Option One – Status Quo	Option B2 – Enable disposals that meet mandatory thresholds [Preferred option]	Option B3 - Enable disposals with Ministerial discretion and mandatory considerations	Sub option for B2 and B3 – Iwi/hapū first option
Effectiveness Contribution to conservation outcomes	0	++ Proceeds spent on conservation and safeguards including thresholds: Disposals must meet thresholds related to conservation value before they can be approved and must be recommended by Director-General. Disposals relating to the most precious PCL (e.g. nature reserves, ecological areas) are explicitly excluded. Covenants can also be applied.	+ Proceeds spent on conservation and some safeguards: Director-General must recommend disposal and there a range of mandatory considerations. Highest value categories excluded. Covenants able to be applied.	0 Unlikely to have a significant impact on conservation outcomes. Iwi/hapū may be more inclined to protect the land beyond a private buyer but only a covenant will guarantee that outcome.
Regulatory Stewardship Improved flexibility and clarity	0	++ Allows greater flexibility for disposals without compromising core purpose of conservation. Increased ability to utilise land disposal when it is costly to continue to hold land of lesser conservation value. Greater clarity on requirements to engage with Treaty partners.	++ Allows greater flexibility for disposals without compromising core purpose of conservation. Increased ability to utilise land disposal when it is costly to continue to hold land of lesser conservation value. Greater clarity on requirements to engage with Treaty partners.	– – Difficulty determining who the first option would apply to where there are overlapping interests – may preclude implementation. Implications for incentives and benefits of existing Treaty settlement process.

	Option One – Status Quo	Option B2 – Enable disposals that meet mandatory thresholds [Preferred option]	Option B3 - Enable disposals with Ministerial discretion and mandatory considerations	Sub option for B2 and B3 – Iwi/hapū first option
Treaty of Waitangi	**0**	**0** Increased options of land available for disposal could positively impact for iwi or hapū if they are in a position to exchange land as well as contributing to future settlement processes. More certainty about what is required to give effect to section 4 in a process to develop national policy. However, this certainty is provided by narrowing the application of section 4, 9(2)(f)(iv) [redacted] The requirement for the Minister to consider Māori rights and interests will ensure consideration of Treaty partners views and settlement matters in land disposal decision-making.	**0** Increased options of land available for disposal could positively impact for iwi or hapū if they are in a position to exchange land as well as contributing to future settlement processes. More certainty about what is required to give effect to section 4 in a process to develop national policy. However, this certainty is provided by narrowing the application of section 4, 9(2)(f)(iv) [redacted] The requirement for the Minister to consider Māori rights and interests will ensure consideration of Treaty partners views and settlement matters in land disposal decision-making.	**+** Recognises cultural connection with the land beyond existing processes through the Māori Protection Mechanism and existing Treaty settlements. Will not go as far as some Treaty partners wish as it will not enable them to have a veto over the disposal.
Overall assessment	**0**	**4**	**3**	**-1**

Key: *Compared to the status quo* **++** *much better* **+** *better* **0** *about the same* **–** *worse* **– –** *much worse*

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

169. The preferred options identified above are:

    a. Option A2 – Enable exchanges with net conservation benefit test, exclusions and process changes

    b. Option B2 – Enable disposals with mandatory thresholds, exclusions and process requirements

170. Both these options for land exchanges (Option A2) and land disposals (Option B2), with the associated changes to land exchange and disposal processes, offer benefits over the status quo and alternative options.

171. The combination of these two options meets the fundamental objective of increasing flexibility for government to pursue disposals and exchanges of public conservation land to more effectively manage the conservation estate, while safeguarding high value conservation areas and protecting conservation values.

172. Exclusions of the highest value land categories protects where there are known significant conservation benefits to holding the land. And the application of the following tests and processes provides safeguards where there are significant conservation values on other land:

    a. The application of a net conservation benefit test supports consideration of the actual or potential net benefit to conservation in New Zealand, rather than to only the conservation estate. The net conservation benefit test does mean that there is an inherent risk of losing some conservation value on PCL to gain/achieve higher conservation value elsewhere.

    b. The requirement for the Director-General of Conservation to recommend disposal, alongside the threshold tests, provides clear safeguards and checks and balances on the land being disposed of.

173. The introduction of clear statutory requirements for engagement with Treaty partners together with Ministerial consideration of impacts identified on Māori rights and interests, will increase certainty, ensure strong mechanisms for iwi and hapū input, and require the Minister to consider Treaty interests in land exchanges and disposals.

174. The potential to apply a protective mechanism, such as a covenant, before exchanging or disposing of land, provides an added safeguard to protect any specific conservation aspect that is linked to a particular area subject to disposal/exchange.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

175. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment.	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
DOC	Greater costs from increased volume of land exchanges and disposals (e.g. surveying, consultation, conveyancing)	*Low*	*Medium*
Iwi and hapū	Costs of engaging with DOC on impact on their rights and interests arising from potential land disposals and exchanges.	*Low*	*Medium*
Public, community and businesses	Depending on the types of land offered, there could be impacts on recreation or public access although these would be considered as part of the decision making.	*Low*	*Medium*
Total monetised costs	Additional costs arising from increased DOC activities on disposal/exchange cannot be estimated in advance but there are not expected to be high volumes.	*Low*	*Low*
Non-monetised costs	Additional time may be required by environmental NGOs, iwi/hapū and public to engage in proposals of land disposal/exchange but there are not expected to be high volumes.	*Low*	*Medium*
Additional benefits of the preferred option compared to taking no action			
DOC	Retention of funds from land exchanges and disposals to cover costs, land purchases and capital expenditure may have small benefits, but proceeds are not expected to be significant. May be reduced liabilities and costs depending on the type of land being disposed of and demand for it. Potential for acquisition of new high value conservation land. Safeguards mean that DOC is likely to benefit from any exchange or disposal.	*Medium*	*Medium*
Iwi and hapū	Opportunities to be able to acquire conservation land through exchanges and disposals (either direct purchases or via settlements).	*Low*	*Low*
Public, community and businesses	Potential opportunity to purchase or exchange unwanted conservation land.	*Low*	*Low*
Total monetised benefits	Primarily revenue recovered from disposals that can be used to fund land purchases and capital expenditure.	*Medium*	*Low*
Non-monetised benefits	Main non-monetised benefits are to the Crown and potential interested parties in being able to pursue mutually beneficial exchanges of land and disposals.	*Low*	*Low*

Section 3: Delivering an option

How will the proposal be implemented?

176. Proposals in this RIS will require legislative change, regulations and operational guidance to implement.

177. Processing exchanges and disposals of PCL are time-consuming and resource intensive. The proposals being considered by the Government are about enabling or adding more flexibility for exchanges and disposals, rather than deciding whether to use that added flexibility to exchange or dispose of certain PCL.

178. Actual decisions about exchanges and disposals will depend on the circumstances of each case, including whether the proposal meets any new statutory criteria, the availability of resource, and whether the proposal accords with DOC's land management priorities and objectives.

179. It was recently agreed by Cabinet [ECO-24-MIN-0154] that additional conservation revenue from the transfer or sale of public conservation land will be reinvested into the conservation estate to improve biodiversity, recreation and heritage.

Exchanges

180. The net conservation benefit test will be broadly outlined and described in legislation. Similar to the Fast-track process, DOC will prepare operational guidance on how to assess net conservation benefit.

Disposals

181. Similar to exchanges, legislation will outline types of factors that must be given regard to when considering a disposal. Operational guidance will also be developed for these assessments.

How will the proposal be monitored, evaluated, and reviewed?

182. DOC holds and manages comprehensive datasets with all the land management units defined by various legislation, which are regularly updated and are publicly accessible. The process for land disposal requires public notification and consultation and Ministerial approval (with briefings being proactively released on the DOC website).

183. DOC will be monitoring changes in its land holdings – any income generated from disposals or exchanges, costs of preparing land and cost recovery will be provided in the usual financial reporting mechanisms (e.g. DOC's annual report). Land exchanges and disposals can take time to process, and are not expected to be in high volumes, so data on changes in the volume and scale of land disposals or exchanges will take some years to flow through before any identifiable trends emerge that require consideration of any adjustment to policy settings.

Appendix 1: Comparison between land exchanges in Fast-track Approvals Act 2024 and proposed approach

The Fast-track Approvals Act (FTA) established new criteria for land exchanges, and was the starting point for the exchanges changes proposed in this RIS. The key differences between the FTA and RIS proposals are outlined below.

	Status quo: Conservation Act, Reserves Act, Conservation General Policy	Fast-Track Approvals Act (FTA)	Proposed: Conservation Act
Test for exchange	The benefits of an exchange cannot be taken into account.	Exchanges are only possible where they would enhance the conservation values of land managed by DOC, including any money received for improvements to enable enhancements of conservation values (i.e. resulting in net conservation benefit).	Exchanges are only possible where they would result in *net conservation benefit*.
Matters to be considered	The exchange must enhance the conservation values of PCL managed by DOC and promote the purposes of the Conservation Act.	The purpose of the FTA Act must be given the greatest weight of all factors, except for the net conservation benefit test above. Other factors that must be considered are: the conservation values of the land concerned; the financial implications for the Crown; whether the consequences of the exchange would be practical to manage on an ongoing basis (including whether enclaves of private land within conservation areas or Crown-owned reserves would be created); legal and financial liabilities, and health and safety risks; Conservation General Policy.	The net conservation benefit test would include: • Assessment of the conservation values of land to be exchanged and land to be acquired • Benefits (including those expected from the improvements the applicant provides money for) must be assessed to be achievable within a reasonable period of time after the transaction • Consideration of the ratio of cash to land • Consideration of the likelihood that conservation value improvements will be achieved. • Otherwise, the other factors are replicated
Scope of PCL available for exchange	Only PCL of *no or low conservation value* can be exchanged. For exchanges under the **Conservation Act**, land must be either a stewardship area or a marginal strip. There is no lawful basis to revoke the status of protected land to hold it as stewardship land. For exchanges under the **Reserves Act**, there must be an equality of exchange (i.e. land being received must have the same values as the land being exchanged).	All conservation areas (excluding most of the land listed in Schedule 4 of the Crown Minerals Act and national reserves) and Crown-owned reserves. No requirement to first revoke protected land status and hold it as stewardship land. .	All conservation areas, excluding the same areas as FTA Act and also: • Any PCL assessed as having national or international significance (e.g. site like *Tāne Mahuta*). • Ecological areas (under the Conservation Act) • Any conservation land within a designated World Heritage Area • Reserves that are not Crown-owned. • No requirement to first revoke protected land status and hold it as stewardship land.