Modernising conservation land management

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Te Papa Atawhai

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New Zealand Government

Cover: Cyclist on the Paparoa Track. *Photo: Neil Silverwood*

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Ko tā Te Papa Atawhai he whakahaere i te whenua, tata ki te hautoru o tō tātou whenua ātaahua e whakahaerehia ana, ko tāna hoki he whakahaumaru i te taiao, ngā taonga tuku iho, me ētahi o ngā horanuku rongonui rawa i te ao

E tika ana kia whakaritea he pūnaha whāomoomo e whaitake ana mō Aotearoa whānui hei whakahaumaru i te taiao mō ngā uri whakaheke. Hei āwhina i tā mātou whakatutuki i taua wawata, nōnakuanei au pānui atu ai i ōku whakaarotau mō te Kōpaki Whāomoomo, tae ana ki te waihanga i ngā ara whiwhi pūtea e hou ana, te whakatikatika i ngā utu whāomoomo, te tuku tōtika i te pūtea ki ngā putanga whāomoomo he nui te wāriu, te whakapakari i ngā hononga ki ngā iwi (me ngā hapū), me te whakatika i te hātepe whakamāmā.

Ki te taurikura te taiao, ka taurikura hoki ko tātou. Mā te whakahaumaru me te whakahaumanu i te taiao ka nui ake te taenga mai a ngā wae tāpoi ki ō tātou horanuku rongonui, ka nui ake ngā āheitanga arumoni ki runga i te whenua whāomoomo, ā, ka hua mai ko ngā putanga pai rawa atu mō te rerenga rauropi.

Engari, me whakatika te pūnaha whakamāmā – arā ko te pūnaha e whakariterite ana i ngā mahi ki runga i ngā whenua whāomoomo. He mano ngā pakihi e whakahaerehia ana ki runga i te whenua whāomoomo. E mōhio ana mātou me whakangāwari, me whakatere hoki ngā hātepe whakamāmā, ka tika.

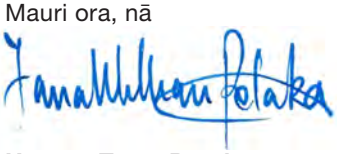
E noho ana te taiao ki te pokapū o te ōhanga o Aotearoa – arā, e whakawhirinaki ana te tāpoi, te ahuwhenua, te mahi ngahere, te mahi ika, te tūāhanga, te pūngao, ngā rauemi, me te tākaro ki te taiao. Ka tautokona ngā ōhanga ā-rohe e te tāpoi e hāngai ana ki te whāomoomo, he 3 piriona ki te 4 piriona te nui o te pūtea e hua mai ana i tēnei momo tāpoi, mā ngā momo mahi me ngā manuhiri e whakapau pūtea ana i ngā hapori.

E rua āku kaupapa matua ki tēnei mahi: te whakaoti mahi mō te whāomoomo te take me te kawe tonu i ngā whakataunga Tiriti. Ko te aronga o ngā whakatakotoranga kōrero ki runga i tēnei tuhinga matapaki ko te whakaiti i ngā utu ki ngā pakihi me ngā hoa haere i raro i te Tiriti o Waitangi, ko te whakatika i te purutiti o ngā manuhiri ki runga i ngā whenua whāomoomo tūmatanui, me te whakarite i ngā āheitanga e toa ai te whāomoomo, te ahurea, ngā hapori, me te ōhanga. Me mahi ngātahi mātou me ngā iwi ki te whakahaere i ngā panonitanga kia pai ai tā te Karauna kawe i ōna haepapa i raro i te Tiriti.

Mā te whakangāwari i te waeture me te whakatupu i te moniwhiwhi, e whakapūmau ana mātou i te anamata o te rerenga rauropi me te pupuri i ngā whenua whāomoomo hei whakangahau mā ngā tāngata katoa o Aotearoa.

E hīkaka ana ahau ki te tirotiro i ā koutou whakahoki kōrero mō ngā whakatakotoranga kōrero ki roto i tēnei tuhinga.

Mauri ora, nā



Hōnore Tama Potaka
Te Minita Whāomoomo

Ministerial Foreword

Toitū te marae ātea a Tāne Mahuta me Hineahuone
Toitū te marae ātea a Tangaroa me Hinemoana
Toitū te taiao.

The domain of Tāne Mahuta and Hineahuone endures
The domain of Tangaroa and Hinemoana endures
The environment endures.

The Department of Conservation Te Papa Atawhai manages nearly a third of our beautiful country and protects some of the world's most iconic landscapes, nature and heritage.

New Zealand deserves a fit-for-purpose conservation system that protects nature for future generations. To deliver this, I have recently announced my priorities for the Conservation portfolio, which include generating new revenue, recalibrating costs for conservation, targeting investment into high-value conservation outcomes, strengthening relationships with Iwi, and fixing the concessions process.

When nature thrives, we all do. Protecting and restoring nature will encourage more visits by tourists to our iconic landscapes, enable more commercial opportunities on conservation land, and deliver the best outcomes for biodiversity.

However, the concessions system – which regulates activities on public conservation land – needs fixing. Thousands of businesses operate on public conservation land. We know we need to simplify and speed up concession processes.

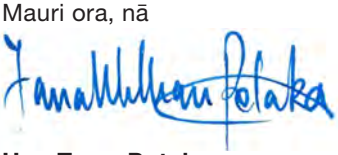
Nature is central to New Zealand's economy – tourism, agriculture, forestry and fisheries, infrastructure, energy, resources, sport and recreation all depend on nature. Conservation-related tourism, already worth between $3 billion and $4 billion per year, supports regional economies through jobs and visitors spending money in communities.

I have two bottom lines for this work: delivering for conservation and upholding Treaty settlements. The proposals in this discussion document aim to lower costs on businesses and Te Tiriti o Waitangi / Treaty of Waitangi (Treaty) partners, fix tourism bottlenecks on public conservation land, and create win-win situations for conservation, culture, communities and the economy. Any changes will need to be worked through with Iwi to ensure the Crown upholds all Treaty responsibilities.

By streamlining regulation and growing revenue, we're securing the future for biodiversity and for the conservation estate that all New Zealanders can enjoy.

I look forward to your feedback on the proposals in this document.

Mauri ora, nā



Hon Tama Potaka
Minister of Conservation

Modernising the conservation system

The Government wants to modernise the conservation system to enhance the care and protection of Aotearoa New Zealand's natural, historic and cultural heritage.[1] In order to do this, the Government has set four clear priorities for the Conservation portfolio.

Fix concession processes

We will reduce red tape to make it easier for businesses, researchers and others to undertake mahi and other activities on public conservation land.

Generate new revenue and recalibrate costs

We will strengthen conservation efforts by generating new revenue and improving outcomes from our investments in conservation.

Strengthen relationships with Iwi and Hapū for better conservation outcomes

We will work closely with Iwi/Hapū and others to meet our Te Tiriti o Waitangi / Treaty of Waitangi responsibilities and achieve shared goals for conservation and kaitiakitanga.

Target investment into high-value conservation outcomes

Our mahi will identify and strengthen protection of high-value conservation areas that deliver the best outcomes for biodiversity and recreation.

To deliver on the priorities of generating new revenue, recalibrating costs and fixing concessions processes, the Government is releasing two discussion documents:

Exploring charging for access to some public conservation land

Seeks feedback on the proposal to introduce charges for access to some public conservation land and the main principles for any charges

Modernising conservation land management

Seeks feedback on proposed updates to the concessions and planning system to make it more efficient and responsive.

The Government has a wider work programme underway to support the achievement of all its conservation priorities, including protecting and enhancing New Zealand's unique biodiversity and realigning the visitor network so it continues to meet the needs of New Zealanders now and in the future.

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[1] The conservation system is the system that supports conservation in New Zealand and includes the Department of Conservation, community groups, not-for-profit organisations and volunteers.

Section 1
Purpose of this document

1.1 Iwi engagement

The Government is seeking feedback on proposals to modernise conservation land management.

During the public consultation period, the Department of Conservation Te Papa Atawhai (DOC) will also undertake targeted engagement with Iwi (and Hapū) through meetings (virtually or in place) and regional hui.

It is anticipated there will be significant interest from Iwi in this topic. Iwi have ancestral responsibilities relating to land and marine spaces, including public conservation land (PCL). Access to public conservation land is important to fulfil roles as kaitiaki, engage in cultural practices, and exercise tikanga and other responsibilities.

1.2 Why the Government is considering changes

A third of New Zealand's land mass is PCL. It includes many majestic and iconic places, and provides the basis for local communities to thrive, including through our important tourism industry. DOC is the country's biggest land manager and regulates how economic activity takes place on PCL by issuing concessions to ensure conservation outcomes are protected.

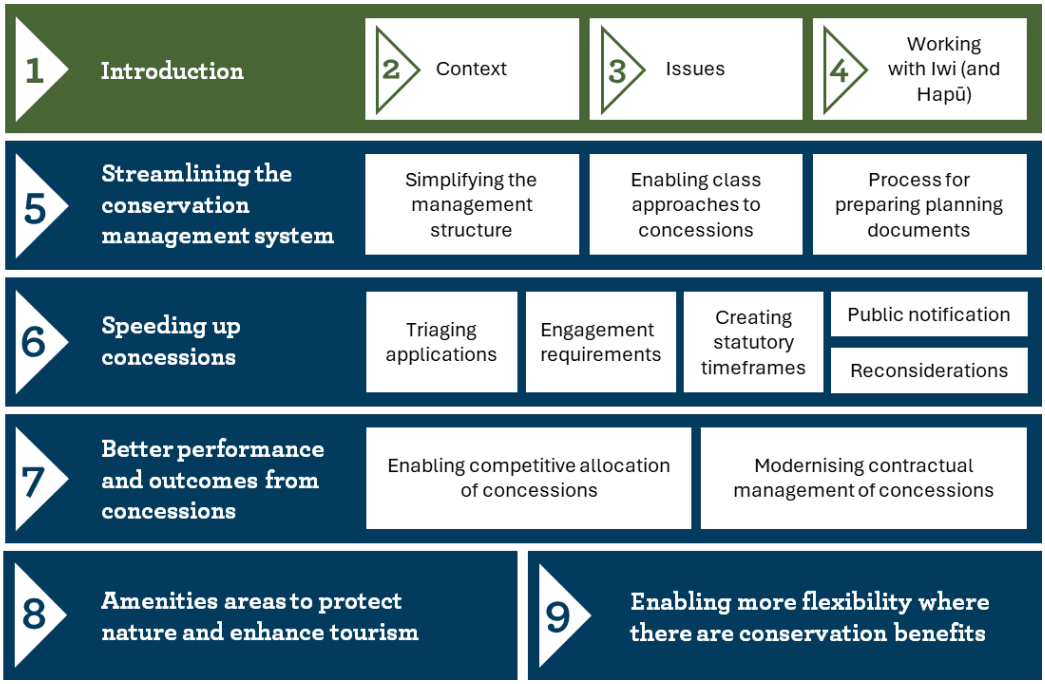
Recently, many organisations and entities have expressed that wide-ranging changes are needed to the management planning and concessions system. Concessions are slow and complicated to process. This leads to frustration and high costs for Tiriti o Waitangi / Treaty of Waitangi (Treaty) partners and businesses, difficulties for DOC, and less fulfilling experiences for those using PCL. Previous governments had also begun work to make targeted changes to improve conservation management and concessions processes.

As a responsible land manager, the Government also wants to ensure conservation land is managed and looked after properly. That includes using exchanges and disposals of PCL to improve conservation outcomes.

The Government wants to improve how concessions are granted and managed to support local communities and businesses, and in turn to preserve our important conservation outcomes. Changes are also needed to clarify how DOC will give effect to Treaty responsibilities, make the system more user-friendly, and support better tourism services and economic activity on PCL over the long term.

1.3 What the Government would like your feedback on

The Government wants your feedback on proposals to modernise land management in the conservation system:



In particular, your views are sought on whether the proposals improve conservation and economic outcomes, and whether better ways are available to solve the issues presented.

The Government recognises the proposals in this document will not address all issues with the management of PCL. The data, examples or information you provide will contribute to a deeper understanding of the issues, informing both present and future work on them.

1.4 Connections to other work

Work is underway on exploring introducing the ability to charge for access to some public conservation land (e.g. national parks). Feedback from the public is being sought on that proposal until 28 February 2025. If the Government progresses access charging following consultation, it will be included in the proposed Conservation Amendment Bill.

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 currently under consideration.

1.5 How to have your say

The Government wants to hear what you think about the ideas in this discussion document. The deadline for providing your feedback is **5 pm on Friday, 28 February 2025**.

1.5.1 How to comment on this discussion document

You can have your say by:

- completing the survey on our website at: www.doc.govt.nz/modernising-conservation-land-management-consultation.
- emailing your submissions to us at: landlegislation@doc.govt.nz
- mailing your submission to us at:
  Department of Conservation
  18 – 32 Manners Street
  PO Box 10420, Wellington 6140
  Attention: Modernising conservation land management consultation submissions.

If you are emailing us an attachment, we prefer Microsoft Word or searchable PDF formats. Inclusion of any relevant facts, figures, data, examples and documents to support your views would be appreciated.

Submissions received after the deadline will only be considered at the discretion of the Director-General of Conservation.

1.5.2 Summary of submissions and privacy

After submissions close, DOC will publish a summary of submissions on its website (www.doc.govt.nz).

All submissions are subject to the Official Information Act 1982 and can be released, if requested, under that Act. If you have any objection to the release of any information in your submission, please set it out clearly in your submission. Clearly indicate which parts you consider should be withheld, together with the reasons for withholding the information and the grounds under the Official Information Act 1982 you believe apply. DOC will consider this when making any assessment about the release of submissions.

Please clearly indicate in your submission if you do not wish your name, or any other personal information, to be disclosed in any summary of submissions or external disclosures. Please refer to DOC's privacy statement for further information.[2]

[2] For further information, visit www.doc.govt.nz/footer-links/privacy-and-security.

1.5.3 Consultation with stakeholders

DOC will hold meetings with key stakeholder groups that have an interest in the issues under review and invite individuals and groups to provide written submissions.

1.6 What happens next

DOC will review all the feedback on this document and report back to the Minister of Conservation with recommendations. Your feedback will help to shape the Government's decisions.

After the consultation period, the Government will decide whether, and how, to proceed with changes to address the issues described in this document. The Government is aiming to pass a Conservation Amendment Bill by the end of the current parliamentary term. A select committee process for the Bill will provide a further opportunity for public input.

Section 2
Context

2.1 About the conservation management framework

Ensuring PCL is appropriately managed, protected and preserved is one of DOC's main functions. Conservation land allows New Zealanders to connect with nature, provides important habitats for native species, and protects significant historical and cultural places. Under the Conservation Act, recreation should only be fostered and tourism allowed for where this is not inconsistent with conservation of natural and historic resources. DOC's administration of PCL must give effect to Treaty principles.

A tiered framework is in place for managing PCL. This outlines how lands and waters administered under conservation legislation should be managed and what activities are allowed to take place. Each level provides more specific guidance and boundaries so conservation management reflects local issues and environmental circumstances. Each level must be consistent with the levels above.

Three levels of statutory planning documents sit under conservation legislation:

- general policies
- conservation management strategies (CMSs)
- management plans, such as conservation management plans (CMPs) and national park management plans (NPMPs).

Each layer of planning documents must be consistent with those in the layers above. Together, the legislation and these documents direct DOC's management of PCL and set out the Minister of Conservation's and DOC's responsibilities when regulating how others enjoy and use PCL.

2.2 Concessions regulate the use of PCL

A concession is an authorisation from the Minister of Conservation to carry out an activity on PCL. Concessions also provide for the use of assets owned by the Crown.

Four types of concessions are available for different types of PCL use, as set out in Table 1.

Table 1. Types of current concessions

Type	Purpose	Term	Examples
Permit	Grants the right to undertake an activity that does not require an interest in the land.	Up to 10 years	Guiding, research, filming, aircraft landings.
Easement	Grants access rights across land, e.g. for business, private property access or public work purposes.	Up to 30 years (60 years in exceptional circumstances)	Conveying electricity, water and gas, or right of way for vehicles or stock.
Licence	Grants the right to carry out an activity on the land.		Grazing, beekeeping.
Lease	Grants an interest in the land, giving exclusive possession for a particular activity to be carried out on the land.		Typically used for building and improvements, e.g. boat sheds, accommodation and storage facilities.

DOC administers concessions on behalf of the Minister of Conservation. Concessions can only be granted if the activity or use is consistent with conservation legislation, including the purpose for which land is held, and all planning documents that apply to the relevant area. Concessions to build structures or facilities also cannot be granted if the activity could be undertaken off PCL, or on different PCL where the impact on PCL would be significantly lower.

2.3 Consultation on concessions and management planning in 2022

In 2022 the Government consulted on the Conservation Management and Processes (CMAP) discussion document.[3] It outlined proposals to make conservation legislation more efficient and user-friendly in three categories:

- **conservation management planning**: improving the ability to develop and review CMSs, CMPs and NPMPs
- **concessions**: improving the ability to process, manage and allocate concession opportunities on PCL
- removing or clarifying **minor and technical** miscellaneous legislative anomalies.

Feedback received at the time highlighted that more significant changes were needed to address issues with land management, concessions and planning, which the Government now seeks your feedback on.

The Government also intends to incorporate the minor and technical changes that were consulted on in 2022 into this work.

2.4 Consultation on changes to the process for reclassifying stewardship land in 2021/2022

The Government also consulted in late 2021 and early 2022 on proposed changes to streamline the process for reclassifying stewardship land by enabling National Panels to undertake parts of the statutory process. The Government does not intend to currently progress legislation to enable National Panels.

[3] Department of Conservation. 2022. Conservation management and processes discussion document [accessed November 2024]. www.doc.govt.nz/cmap-2022-consultation

Section 3
Issues

Thousands of businesses operate on PCL, bringing in millions of dollars a year for local economies. Our goal is to modernise how businesses work on PCL and to make it easier for them to work with DOC. This will in turn support DOC to deliver conservation outcomes.

The concessions system is recognised as being under severe strain and requiring change. Businesses, researchers and community groups want shorter processing times. The rules that govern the system need to be clear, consistent and able to be updated to reflect changes in how people interact with places and how those places can be protected.

The Government is considering making changes through the Fast-track Approvals Bill for qualifying projects to simplify and speed up the process and enable increased activity on PCL. However, better approaches to land management are needed across the rest of the conservation system to support enhanced conservation and economic outcomes.

3.1 The planning system is too complicated

The conservation management framework is a complex hierarchy of policies, strategies and plans empowered by statute. Together with conservation legislation, these documents guide what activities can and cannot be authorised on PCL.

Plans are lengthy and overly prescriptive in parts, and too open to arguments about interpretation in others. They sometimes provide conflicting guidance. Some PCL can be subject to multiple planning documents, with overlaps and duplication causing confusion for all parties engaging with them. Additionally, national parks and other PCL have different management regimes under separate general policies. This creates complexity and slows down concession decisions, with decision makers needing to carefully check and assess consistency across various planning documents before granting a concession even where the effects of the activity are well understood and manageable. Disputes in the courts can result, with a chilling effect on activities and approvals.

Planning documents are meant to be operable for 10 years and kept current. Instead, the rules have not kept pace with evolving economic activities and opportunities over time. The statutory process for updating these documents means reviews can take several years, creating a situation where most CMSs and plans are now outdated. Some plan updates have taken up to 10 years to complete. This makes it too hard to address problems in the system about what is allowed on PCL.

3.2 Concession decisions take too long

Processing concession applications is an increasingly lengthy and burdensome process. This is because the rules governing concessions are highly detailed and prescriptive, and policy and guidance are lacking on how DOC should give effect to Treaty principles. The concessions framework is expected to produce consistency but requires case-by-case consideration of applications. Lengthy processing times reduce certainty for concessionaires, applicants, Treaty partners, businesses, infrastructure partners and the public. This can create undue delays and costs for all parties.

The Government aims to make it easier to update what is allowed on PCL and to increase government's ability to decide this. There is an opportunity to make complementary changes to the regular concessions process, while providing for higher protections for areas and activities as needed.

In addition to concessions, the other major category of authorisations is under the Wildlife Act 1953. The Wildlife Act system is in similar need of modernisation. While this document does not cover Wildlife Act issues, the Minister of Conservation intends for it to be repealed and replaced, and plans to release a discussion document on this during the current parliamentary term.

3.3 The Government could get better performance and outcomes from concessions

Mostly, concessions are applied for as and when applicants seek to operate, or an existing concession expires. The Conservation Act broadly enables contestability in allocation, but there is uncertainty about when and how a competitive process can (or should) be carried out. The need for competitive allocation continues to grow as demand for tourism and other economic uses of conservation land have increased, in some cases outstripping the supply of limited opportunities.

A clearer framework for when a 'first-come, first-served' approach is and is not appropriate could improve recreational, economic and environmental outcomes by encouraging competition for significant opportunities. This includes ensuring concessions can change hands smoothly when businesses are sold, that end-of-term transitions are appropriate for existing business owners, and contestability for concessions for existing operations is workable and fair.

DOC's tools for managing the commercial and contractual aspect of concessions are also outdated. Pricing of concession rents and royalties is difficult, contentious and often leads to lengthy disputes. Incentives are limited for existing concessionaires to agree to new terms and conditions for ongoing activities. This reduces the Government's ability to introduce robust commercial contracts and protect the Crown from ongoing liabilities.

An opportunity exists to achieve better environmental and biodiversity outcomes by expanding the use of conditions included in concession agreements and improving compliance monitoring and enforcement. On the other hand, the Government also wants to ensure that contracts, including the length of leases, licences and easements, are workable from a commercial perspective and incentivise investment in operations over the contract period.

3.4 The Government has limited flexibility to manage land

New Zealand's most precious landscapes attract many visitors, both domestic and international. Some locations have become busy over the past decade, affecting health and safety, recreational enjoyment and the values that make these places so special. While the Government can create amenities areas to ensure an appropriate balance between development and protecting the surrounding environment, the regulatory settings for doing so are inconsistent and rigid. This makes it hard to leverage amenities areas as a tool to support recreation and better economic outcomes in practice.

Land exchange and disposal settings are also restrictive to the point that the Crown cannot use them to better manage PCL for conservation benefit. Although not impossible, current limitations mean it is hard to exchange or dispose of PCL for strategic conservation priorities.

3.5 Consultation questions

#	Questions
1.	Do you agree with the issues?
2.	Have any issues been missed?
3.	Do you have any examples or data that demonstrate your view on the issues?
4.	As you read the proposals in this document: a. Do you think any measures are needed to ensure conservation outcomes, whether in addition to or alongside the proposals? b. Do the proposals allow the Government to strike the right balance between achieving conservation outcomes and other outcomes?

Section 4
Working with Iwi (and Hapū)

Iwi (and Hapū) have a fundamental role in conservation and an intergenerational responsibility for kaitiakitanga. The Government invites Iwi to provide feedback to help shape these proposals, to ensure their rights and interests are upheld, and their contribution to conservation management is recognised.

4.1 Approach to Treaty responsibilities

The Government's Treaty responsibilities relating to conservation are reflected in section 4 of the Conservation Act, specific commitments in Treaty settlement deeds and legislation, and agreements with Iwi/Hapū.

4.1.1 Responsibilities under section 4 of the Conservation Act

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 Conservation Act (or any of the associated Acts listed in Schedule 1 of the Act) to give effect to the principles of the Treaty of Waitangi when interpreting or administering anything under the Act.

In 2018, the Supreme Court issued its decision in *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation*.[4] The case concerned DOC's consideration of Treaty principles when it granted two commercial concessions on Rangitoto and Motutapu Islands to Fullers Group Limited and the Motutapu Island Restoration Trust. The Supreme Court found section 4 was not properly applied in the challenged decisions. The Supreme Court said that 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.

The *Ngāi Tai ki Tāmaki* case highlights the importance of giving effect to Treaty principles as referenced in section 4. Although the decision dealt specifically with concessions, it has wider implications for all of DOC's work.

The Government wants to support effective implementation of section 4 by clarifying its application to concessions and management planning. Many proposals in this document therefore involve specific requirements as a means of giving effect to Treaty principles.

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4 *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation* [2018] NZSC 122. www.courtsofnz.govt.nz/cases/ngai-tai-ki-tamaki-tribal-trust-v-minister-of-conservation-1

4.1.2 Responsibilities in Treaty settlements

Conservation has more Treaty of Waitangi settlement commitments than any other government portfolio. These include management planning, concessions and land management commitments. The Government is committed to ensuring that any changes proposed in this document uphold the intent and mana of these settlement commitments and any rights under the Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

4.1.3 Protocols, relationship agreements and other agreements

Agreements made in protocols, relationship agreements and other agreements will continue where they are consistent with any new legislative arrangements. Specific obligations may be overridden, however, by broader changes to conservation law (e.g. the creation of statutory time frames). The Government will continue to work with Treaty partners during and after consultation to shape the proposals appropriately.

4.2 Proposals with direct Treaty implications

Table 2 indicates the proposals in this document that are expected to have the most direct Treaty implications.

Table 2. Summary of proposals with direct Treaty implications

Section	Proposal
5. Streamlining the conservation management system	
5.2	Enabling class approaches to concessions The Government proposes engaging with Treaty partners on 'classes' of activities rather than on individual applications for some activities. This could reduce the administrative burden on Iwi and is an approach already implemented with some Iwi by agreement, and is being implemented to support faster processing of concessions where appropriate.
5.3	Proposed process for making statutory planning documents Some Treaty settlements provide a process for post-settlement governance entities (PSGEs) to develop statutory planning documents (or parts of documents) themselves or in partnership with the Government or NZCA. These settlement commitments will be upheld and incorporated into any new processes. The Government proposes setting clearer engagement requirements when developing plans, including with Iwi. Changes could help the Government to meet its Conservation Act section 4 responsibilities more consistently and make processes faster through clear expectations of when and how the government must engage Iwi.

Section	Proposal
6. Speeding up concession processing	
6.2	Clarifying Treaty partner engagement requirements The Government proposes clarifying that engagement on individual applications is not needed on some applications where views are already known or the changes are minor. This could reduce the administrative burden on Iwi.
6.3	Creating statutory time frames for some steps The Government proposes introducing a range of time frames for concessions processes, including for Treaty partners to provide any views on an application. This could help set clear expectations around time frames for processing concession applications for all.
7. Driving better performance and outcomes through concessions	
7.1	Enabling competitive allocation of concession opportunities The Government proposes developing guidance on when to run a competitive process and criteria to support decision-makers to consistently choose the most appropriate concessionaire when an opportunity is being competitively allocated. This includes requiring the decision-maker to consider how applicants would recognise Treaty rights and interests.
9. Enabling more flexibility for land exchanges and disposals	
9.1	Enabling more flexibility for exchanges and disposals where it makes sense for conservation Proposals could have positive economic impacts if Iwi/Hapū have ownership or investment in a development seeking a land exchange. Exchanges or disposals may also facilitate the transfer of sites holding cultural significance to Iwi/Hapū including in cases where continued protection remains appropriate. Disposals may give effect to and would not override rights of first refusal, and will take into consideration potential future settlement requirements.

4.3 Links to the Options Development Group report

In 2019, the Minister of Conservation at the time and the NZCA initiated concurrent partial reviews of the Conservation General Policy **(**CGP) and General Policy for National Parks (GPNP) – together known as the general policies.

The purpose of the partial review was to ensure Treaty obligations were both visible and easy to understand in the general policies. The Options Development Group (ODG) was established to provide recommendations on how to achieve this and invited to identify limitations within DOC's wider policy settings and legislation. Amending legislation was out of scope at the time.

The ODG recommendations cover fundamental conservation reform: revising the purpose of the Conservation Act; centring kawa, tikanga and mātauranga within the conservation system; devolving powers, management and decision making to Iwi; remunerating Iwi for involvement in conservation; and enabling broader access and use of lands and waters.[5]

The Government now proposes replacing the general policies completely. The purpose of the partial review of the general policies, and the ODG's recommendations on them, will be able to be considered when redrafting the general policies into one proposed national conservation policy statement. In line with the wider objectives of the proposed changes in this document, it will be important not to introduce further confusion into the system around what is required in this regard and to make the administration of the system simpler rather than more complex.

Proposals in this discussion document also provide an opportunity to address some of the ODG recommendations around how the concessions system expressly engages tangata whenua interests and clarifying engagement with Iwi in the planning system.

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[5] Department of Conservation. 2022. Partial Reviews of the Conservation General Policy and General Policy for National Parks regarding Te Tiriti O Waitangi/the Treaty of Waitangi: Report of the Options Development Group [accessed November 2024]. www.doc.govt.nz/odg-report-march-2022

Section 5
Streamlining the conservation management system

A significant backlog exists of statutory planning documents that are overdue for review or development. This work is increasing as documents become due for review, and as Treaty settlement processes add new documents or additional review requirements. The time taken and costs to review planning documents have increased, and people are unable to agree the purpose, scope and value of the documents.

The state of the planning system contributes to inefficient and unclear concession processes because rules are outdated, uncoordinated and either overly prescriptive or too open to interpretation. They have not kept pace with modern preferences and evolving economic and recreational activities. Planning documents therefore limit opportunities, slow concession processing times and create unnecessary costs for DOC and all parties in the conservation system.

The Fiordland NPMP (2007) includes limits on activities, such as aircraft and guiding, to manage cumulative effects and protect conservation values. The plan was due to be reviewed in 2017 and is now out of date. The limits in the plan remain a fixed cap on concessions for those activities even though the plan is overdue for review.

The Government wants to streamline conservation management planning by:

- simplifying the structure of statutory planning documents
- allowing planning documents to make decisions on categories of concessions, and
- amending the process for making and reviewing statutory planning documents, with the Minister of Conservation as decision-maker.

5.1 Simplifying the management structure

The management planning structure could be simplified. In 2022, targeted amendments to the planning system were consulted on, which raised broader questions about changes to the overall structure. A simplified planning structure has also been suggested by conservation system stakeholders.[6]

[6] Environmental Defence Society. 2024. Restoring Nature: Reform of the conservation management system. Environmental Defence Society Incorporated [accessed November 2024]. https://eds.org.nz/wp-content/uploads/2024/08/Restoring-Nature-Report-FINAL-web-1.pdf

5.1.1 A single national-level policy instead of two instruments

What is currently two national-level policies – the Conservation General Policy (CGP) and the General Policy for National Parks (GPNP) – would be replaced with a single National Conservation Policy Statement (NCPS). The NCPS would have the ability to:

- set national policy relating to management of conservation areas and types of conservation land
- outline what must be considered when determining whether a concession can be granted
- impose effects management and other standard terms and conditions on concessionaires for specific activities at a national level
- take a class approach to concessions by exempting, prohibiting or permitting categories of activities in advance (see section 5.2)
- bind subsidiary documents in the planning hierarchy (see section 5.1.2).[7]

Having a single NCPS would provide more clarity and certainty for concession applicants and support faster concession decision making. It would also align the management of national parks with the rest of the protected area network, and allow rules to be set for all conservation areas at once.

5.1.2 One plan per conservation area

Underneath the NCPS, what is currently two layers of planning documents – CMSs on one level and CMPs[8] and NPMPs on another – could be replaced with a single layer of area-based plans without overlapping coverage. At present, parcels of PCL can be covered and directed by a CMP or NPMP in addition to a strategy. They can duplicate matters, causing confusion. Any conflict between their intents can lead to litigation and ambiguity.

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[7] This differs from conservation approvals under the Fast-track Approvals Bill, where decisions do not need to be consistent with current plans and general policies.

[8] This includes DOC-administered reserve management plans.

Having a single layer of area plans would create significant efficiencies. All relevant rules and guidance would be available in one planning document. For example, NPMPs could be the default plan for each respective national park. It would also be easier to update plans, including to take advantage of evolving economic activities and opportunities, e.g. to allow for more mountain biking or e-bikes.

The objective is for area plans to be simple. They would provide local direction on how the NCPS applies at a given place. The template for area plans would be set in either legislation or the NCPS. Area plans would have the following roles and functions (see Table 3).

Guiding is not dealt with consistently across the spectrum of statutory planning documents, increasing the time taken to process guiding applications. For example, older CMSs do not contain specific policies on guiding, whereas more recent CMSs often have specific provisions. On the other hand, NPMPs contain specific provisions and limits relating to guiding in national parks.

Having two separate regimes for PCL and national parks as well as inconsistent approaches across planning documents creates complex assessment requirements, contributing to the time it takes to process concessions.

Table 3. Proposed roles and functions for area plans

Local conservation outcomes	• Set conservation outcomes for the areas they cover. Concessions would need to be consistent with these outcomes.
Concession management	• Where the NCPS allows for area plans to do so, implement the proposed class approach to concessions by exempting, prohibiting or permitting categories of activities in advance. This would not be necessary for activities in relation to which national decisions are made through the NCPS. • Set a reasonable limit on the volume of an activity that can occur in an area, but only where needed, to protect against harmful cumulative effects on important environmental or recreational outcomes. If limits are specified, area plans must clearly outline how those limits will be reviewed and updated. Area plans would not be able to prescribe the number of operators or concessions that can operate within the limit.

Area plans would not be able to:

- impose conditions on activities, unless they are conditions on classes of exempt activities, activities permitted in advance, or within amenities areas, **or**
- create additional process requirements for concessions.

The Government does not propose unifying all plans in an area into a single regional master plan. However, area plans would need to be set at the right scale, and not for areas that are too small. Having too many plans would make the system harder to administer, diminishing the benefits of a streamlined structure.

At present, CMSs, CMPs and NPMPs must be reviewed ten years after being approved. They continue to have effect regardless of whether they are reviewed. The Government is not proposing to change this for area plans.

Moving to a single layer of area plans would be a significant revision to the current structure of planning documents. This would likely require a multi-year process to make new area plans, but options for speeding this process up will be considered so the benefits of the new system can flow as quickly as possible.

To update a CMS, the Conservation Act requires a partial review or amendment process that follows the same statutory steps as a full review, even when changes only affect part of a CMS. This is a time and resource intensive process. For example, a review of the Otago CMS to add provisions relating to biking began in 2022. This cost $500,000 and took 2 years to complete.

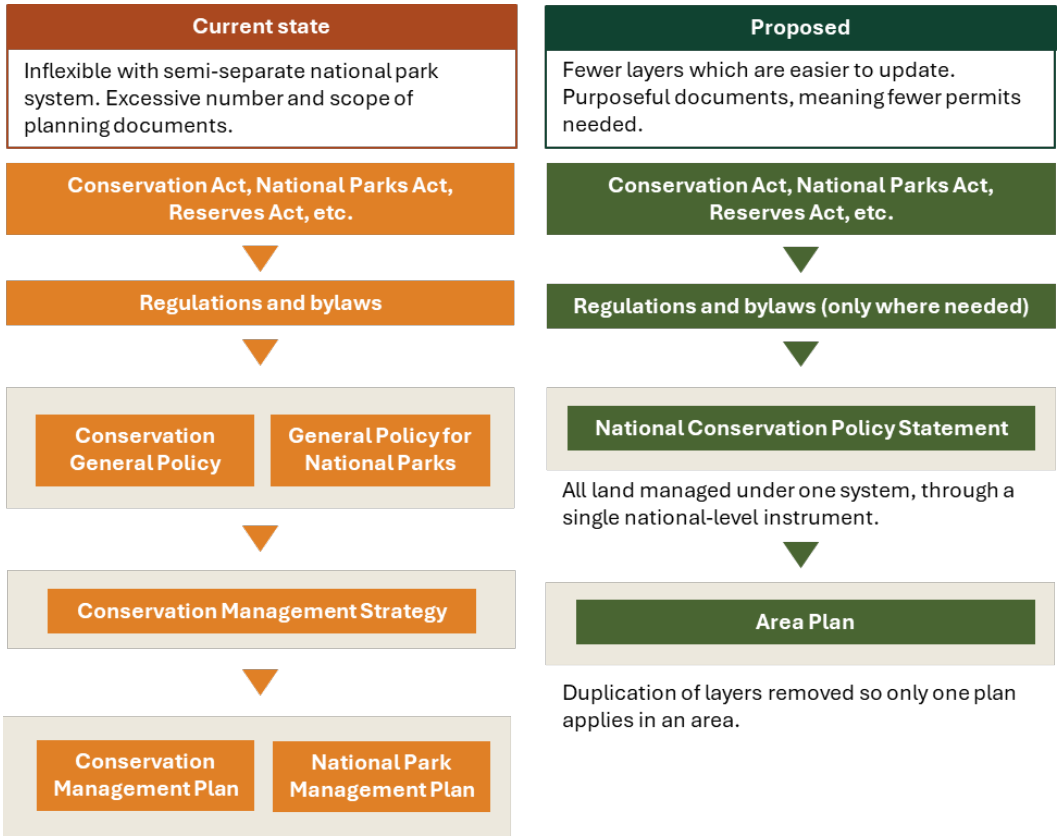
DOC has also attempted to review multiple management plans at the same time for efficiency. An example is an attempt to review the Westland Tai Poutini NPMP and Aoraki/Mt Cook NPMP at the same time. Proposed changes to the Westland Tai Poutini NPMP triggered the need for aircraft provisions in the West Coast CMS to first be updated. This meant a full CMS review was needed before the Westland NPMP could be updated in that respect.

The Government will also ensure that any changes to the management planning framework continue to provide for integrated management of World Heritage Areas.

5.1.3 Broader role of the management planning system

The changes described in sections 5.1.1 and 5.1.2 would result in the structure set out in Figure 1 for the management planning system.

Figure 1. Proposed structure for the management planning system



The NCPS and area plans would focus on setting rules, boundaries and guidance for concessions. This would be narrower than the current functions of statutory planning documents. The Government is interested in your views on whether any other functions for statutory planning documents should be explicitly provided for or ruled out. Clarity about the purposes of these documents is critical to achieving a more effective management planning and regulatory system.

5.2 Enabling class approaches to concessions

In 2022, the Government consulted on a proposal to permit classes of activities to be authorised through national-level regulation. The proposal had general support but was not implemented. Issues raised included the need to consider local factors (such as Iwi rights and interests) and to ensure management of cumulative effects. The proposals in this document are based on the early proposals and address these issues.

Proactive management of common activities would make the concessions system clearer to concessionaires and the public. In addition, removing high-volume and low-complexity applications from the system would allow more complex or high-risk applications to be prioritised.

The Government is considering three ways to take a class approach to concessions through the NCPS and area plans (Table 4).

Table 4 Options for taking a class approach to concessions

		Indicative examples	
		NCPS	**Area plans**
Exempted activities	These are that can be carried out without needing a concession. They would generally be minimal impact activities, where the risk of cumulative effects from the activity is low.	• News media filming on formed tracks and car parks. • Non-extractive research, e.g. collection of air samples.	• Hang-gliding zones.
Activities permitted in advance	These are types of activities that DOC permits in advance and that can be carried out after obtaining a simple permit (e.g. by purchasing a permit online). These would generally be low-risk activities for which effects assessment and setting of conditions can be fully standardised and done in advance.	• Commercial transport in formed car parks. • Small-scale commercial filming on formed trails.	• Guiding. • Drone use. • Harvesting flora (e.g. harakeke).
Prohibited activities	These are activities that are inconsistent with the purpose for which land is held, or the effects cannot be reasonably avoided, mitigated or remedied.	• Grazing in national parks, nature reserves or ecological areas.	• Building structures in kiwi habitats.

Exempted activities and activities permitted in advance would need to be consistent with the purposes for which the land is held. They would relate to activities granted as permits, rather than easements, licences or leases. They would also be for activities where effects assessment and the setting of conditions can be standardised and done in advance. The main difference between these two categories is that activities would be permitted in advance, rather than exempted, where there is a need to actively monitor or manage cumulative effects, or where fees should be collected from concessionaires.

5.2.1 Implications for Treaty settlements

Some Treaty settlements and associated relationship agreements require specific engagement on changes to conservation policy in the rohe or takiwā of a PSGE. Potential requirements for engagement with Iwi when making the NCPS and area plans (which includes setting classes of exempt or prohibited activities or permitting activities in advance through the NCPS and area plans) are discussed in section 5.2. In addition, settlement commitments relating to engagement on changes to conservation policy will also be upheld when establishing these classes of activities.

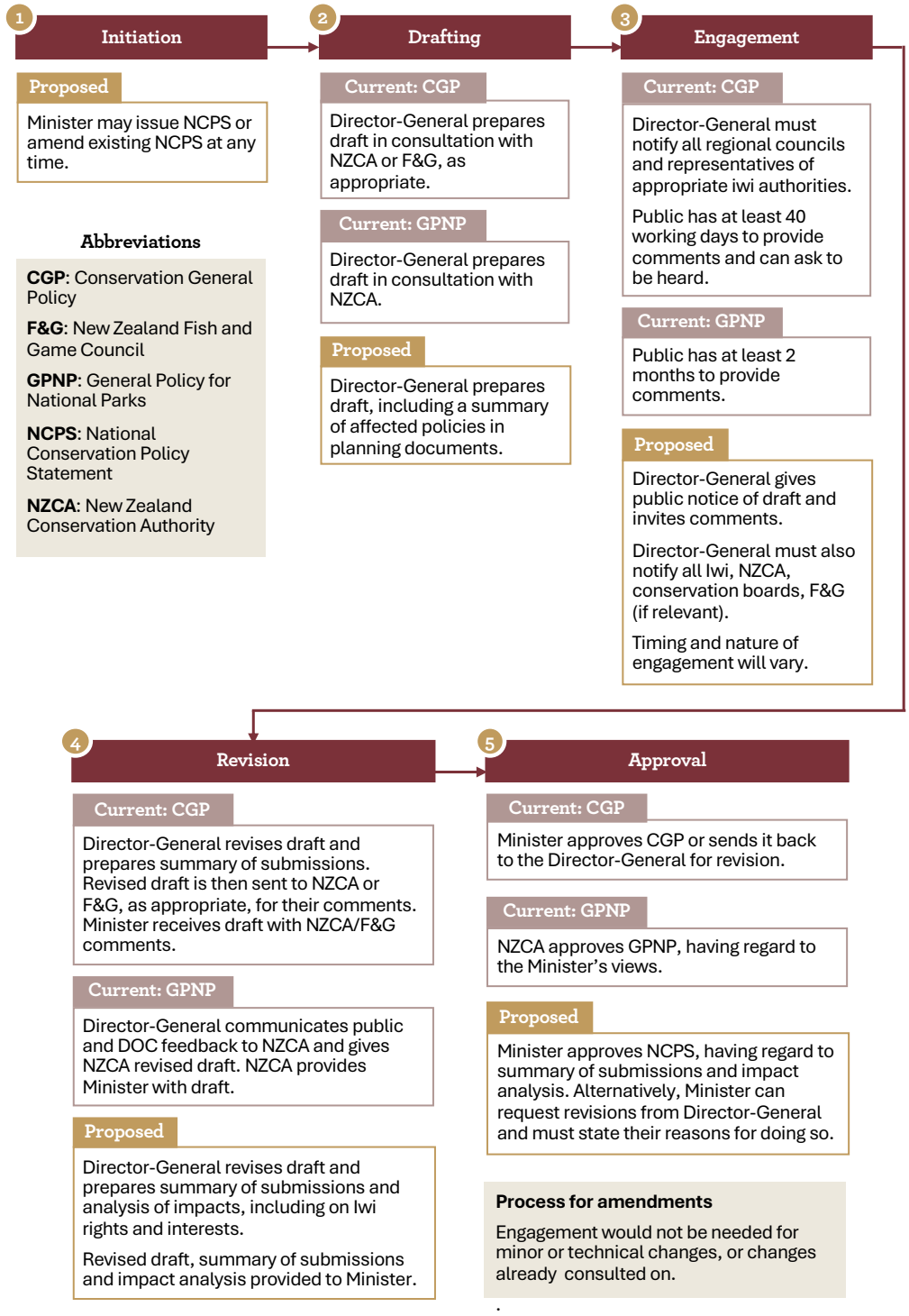
5.3 Proposed process for making statutory planning documents

At present, planning processes can be lengthy and resource intensive, and vary based on plan type. There is an opportunity to streamline existing processes.

5.3.1 Proposed process for NCPS

The Government proposes the following steps for making and reviewing the NCPS, triggered by the Minister (Figure 2).

Figure 2. Proposed process for NCPS

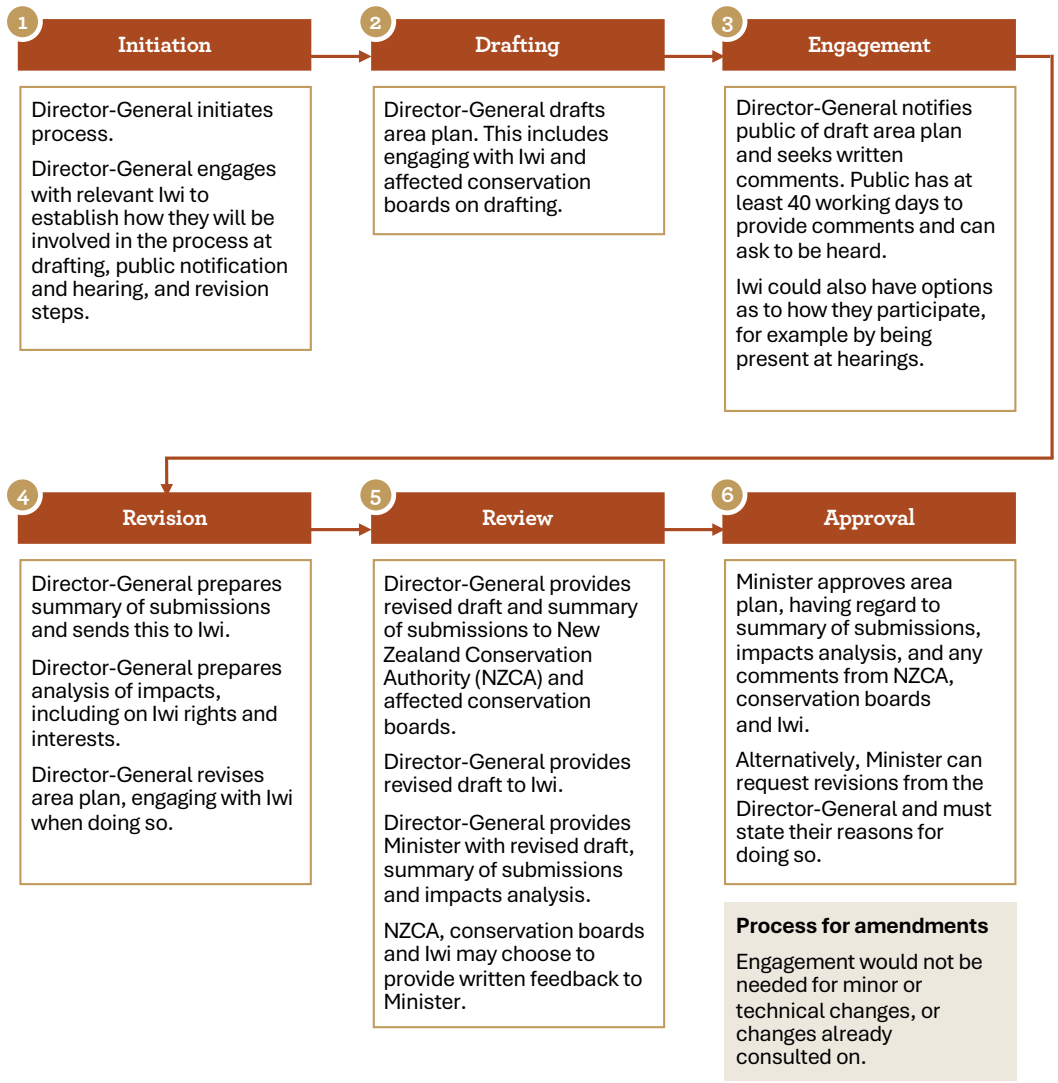


If these changes proceed, the Government is also considering drafting the first NCPS at the same time as the potential Bill to improve concessions. It could then receive public input during the select committee phase and come into force immediately when the Bill becomes law. This would avoid undue delay between a new system taking effect and area plans being able to be created.

5.3.2 Proposed process for area plans

Figure 3 shows the proposed process for making and reviewing area plans, triggered by the Director-General. See the appendix for current processes for CMSs, CMPs and NPMPs.

Figure 3. Proposed process for area plans



5.3.3 The Minister would approve the NCPS and area plans

The Government is proposing the Minister of Conservation approves the NCPS and area plans.

At present, the Minister approves the Conservation General Policy, while the NZCA approves the General Policy for National Parks. This does not ensure consistent government policy settings or the application of government policy to the management of national parks. The NZCA or relevant conservation boards currently approve changes to management plans and strategies. This arrangement fetters ministerial decision making.

With the functions and roles of statutory planning documents more oriented towards guiding regulatory decision making and concessions, and the need for a coherent set of regulatory rules across the framework, it is more appropriate for the Minister to be the decision-maker. This is because the NZCA and conservation boards do not have roles in making regulatory and concession decisions.

The NZCA and conservation boards would still have a role in the development and review of area plans:

- conservation boards would be engaged during the drafting of area plans before the public consultation stage
- conservation boards and the NZCA will review area plans after the public consultation stage
- conservation boards and the NZCA will be able to provide written recommendations to the Minister of Conservation before area plans are approved.

5.3.4 Public consultation for all substantive changes

For both the NCPS and area plans, DOC will seek public comment on proposals, though minor or technical changes would not require public consultation, nor would changes that have already been consulted on. The Minister will be given a summary of submissions and an impact analysis report as part of the advice they consider.

The specific form of engagement would not be prescribed for the NCPS. This would allow engagement to be tailored to the nature and scale of any review. For area plans, the current rules for engagement on Conservation Management Plans would be retained: the public would have at least 40 working days to make a submission and can request to be heard.

5.3.5 Clearer requirements for engaging with Iwi

The Government is proposing clearer requirements for engaging with Iwi when developing the NCPS and area plans (Table 5).

Table 5. Requirements on Director-General for engaging with Iwi

NCPS process	• Ensure Iwi are appropriately engaged throughout the process when developing and reviewing the NCPS. • Include analysis of Iwi rights and interests when reporting to the Minister on engagement.
Area plan process	• Engage with affected Iwi in the drafting, public notification and revision stages when developing and reviewing area plans. • Include analysis of Iwi rights and interests when reporting to the Minister on public consultation.

Minor or technical changes, or changes already consulted on, would not require engagement with Iwi.

All commitments in Treaty settlement legislation about engagement in the planning process will be upheld and incorporated into any new arrangements.

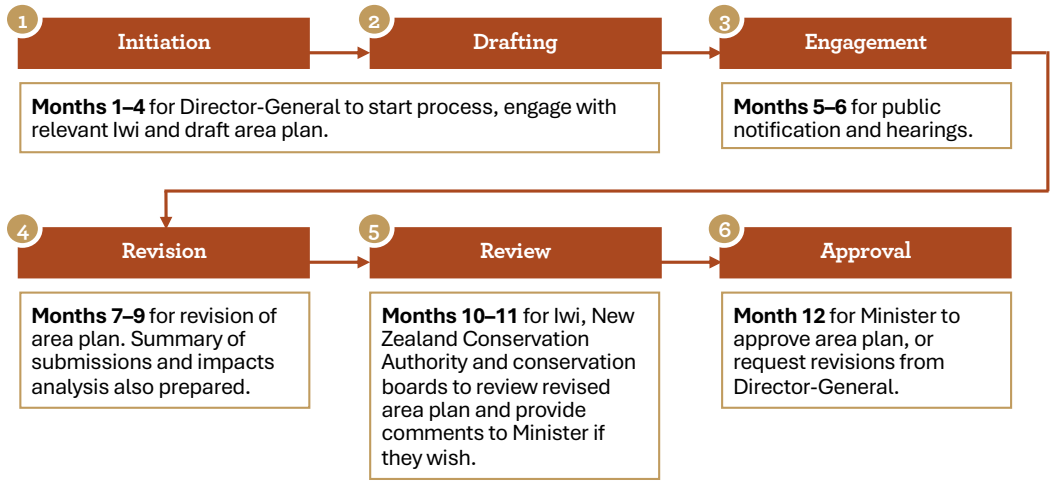
The Government is interested in hearing Iwi views on what meaningful, effective and efficient engagement in the planning process would look like. Engagement on area plans is likely to be more extensive than on the NCPS, given the localised content of area plans. A one-size-fits-all approach to engagement with Iwi is unlikely to work. Shorter time frames than currently experienced or expected will likely be necessary.

5.3.6 Statutory time frames for area plans

The Government wants area plans to be made or reviewed in around a year, with minor and technical amendments also able to be made without significant processes. This will speed up revisions to plans and support them in remaining up to date.

Figure 4 outlines the specific statutory time frames that could be introduced for particular steps (see section 5.1 for more detail on each step).

Figure 4. Proposed time frames for area plan process



In 2022, the Government consulted on options to enable more timely and efficient review of plans to address the backlog. None of the proposals were progressed past consultation because it was determined they would not effectively address the backlog without a broader review of the management planning system. However, feedback noted the importance of maintaining the opportunities for public engagement in the plan development process. These proposals address the concerns raised by retaining the time frames for public notice and the ability to be heard.

5.3.7 Implications for Treaty settlements

The Government will uphold section 4 of the Conservation Act and Treaty settlement commitments when advancing this work. This includes incorporating all specific commitments in Treaty settlement legislation into any new processes.

Some enacted Treaty settlements provide a specific role for the relevant PSGE in CMS and CMP processes. For example, six settlements require co-authored CMS chapters or content to be developed with PSGEs, and six settlements require CMPs which are co-approved or developed with PSGEs. Some of these involve bespoke processes outside the Conservation Act, such as the CMS process in the settlement with Te Hiku o Te Ika-a-Māui Iwi, including co-authorship by Iwi and DOC.

The Government proposes replacing CMSs and CMPs with area plans. In these situations, it may be necessary to incorporate bespoke process and content requirements to provide for Treaty settlement redress and commitments in any new management planning framework. The exact manner of incorporation will require engagement with PSGEs, but could take the form of retaining existing chapters or documents as an area plan or a chapter of an area plan. Bespoke approval processes for certain content in area plans or chapters may also be required.

Other Treaty settlements require PSGEs to nominate representatives for local conservation boards or appointment to the NZCA. This will not be amended, but changes to the approval roles of conservation boards and the NZCA will have an indirect effect. The Government will work with relevant PSGEs on the effect of these proposals.

5.4 Consultation questions

#	Questions
5.	**Simplifying the management structure** a. Do you agree with the issues and how they have been presented? b. Do you agree with the proposed changes to simplify the management planning framework? c. How could this proposal be improved?
6.	**Enabling class approaches to concessions** a. Do you agree with the proposal to introduce classes of exempt activities, prohibited activities and permitting activities in advance through the National Conservation Policy Statement and area plans? b. How could this proposal be improved? c. What types of activities are best suited to taking a class approach, and which activities would a class approach not be appropriate for?
7.	**Proposed process for making statutory planning documents** a. Do you agree with the proposed processes for making, reviewing and updating the National Conservation Policy Statement? b. Do you agree with the proposed processes for making, reviewing and updating area plans? c. How do you think these processes could be improved?
8.	**Giving effect to Treaty principles when making statutory planning documents** a. Do you think the proposals are appropriate to give effect to the principles of Te Tiriti o Waitangi / the Treaty of Waitangi? b. What else should the Government consider to uphold existing Treaty settlement redress?

Section 6
Speeding up concession processing

DOC receives more than 1,200 concession applications each year, with this number growing. Applicants face lengthy waits for decisions. As of September 2024, more a third of concession applications on hand were older than a year.

There are options to amend how concessions are processed to speed up decision making, including administrative improvements in the Department of Conservation and a more fit for purpose legislative framework. The Minister of Conservation is also setting targets for DOC on improving the timeliness of concessions processing. It will also be necessary to increase capacity to better meet demand and ensure cost-recovery mechanisms appropriately charge applicants, to achieve a more efficient and effective system.

6.1 Improving the triage of applications

At present, the Minister has 10 working days to return an incomplete allocation, and a further 20 working days to decline an application that is obviously inconsistent with the Conservation Act. These time frames can be aligned to run within the same 10 working days, allowing applicants to know immediately if their application won't progress. Operational improvements to DOC processes and concession IT systems are also underway and would support this change.

The Government proposes clarifying that the Minister could also decline applications at this early stage if the applicant:

- does not have the financial means to execute the concession, or
- has demonstrated previous non-compliance with concessions.

Section 7.1 proposes that clear processes are established for competitive allocation of concession opportunities. DOC previously consulted on the ability to return applications in favour of running a competitive process (e.g. a tender). Concessionaires told DOC they want a clear time frame for this, so there is clarity about the concession process going forward. For this reason, the Minister could be allowed to return an application within 20 working days in favour of running a competitive allocation process.

6.2 Clarifying Treaty partner engagement requirements

At present, DOC's operational policy is to seek the views of Treaty partners on all applications. Some Treaty partners have told DOC they are overwhelmed by the volume of emails they receive about concessions in their rohe, while others say they are not contacted when they would expect to be.

The changes to the management planning framework in section Section 5 will reduce some of this burden as will the introduction of classes of permits and standardised terms and conditions. However, scope may exist to clarify that engagement on individual applications is not needed when:

- Treaty partners have stated that engagement is not required on certain categories of activities, and/or
- the application proposes only minor changes to existing or previous concessions.

6.3 Creating statutory time frames for some steps

Statutory time frames for key steps in the process can support timeliness and drive efficiency. The Minister of Conservation has recently introduced targets for DOC when processing concession applications to drive improvements to administrative processes. While there are existing time frames for some steps undertaken by DOC (including those proposed to be changed in section 6.1 above), further time frames around DOC's decision making on concessions can also be considered.

In addition, DOC sometimes needs to ask applicants for further information before making a decision. If applicants do not respond within a specified time frame, DOC can return the application. This can be changed to require applicants to provide any further information within 10 working days of DOC's request, or any reasonable, longer time frame specified.

A time frame could also be introduced for Treaty partner engagement. Treaty partners could have 20 working days to respond, or the Minster could allow for a longer time frame (e.g. for more complex applications). At present, if no response is received, decision making could proceed based on existing information held by DOC. Ideally, an improved planning process and ongoing engagement will build a stronger, enduring understanding of Iwi interests, reducing the need for extensive responses on individual applications.

6.4 Amending when public notification must happen

Public notice is currently required for all applications for leases, licences of more than 10 years, and where otherwise considered appropriate. This could be changed so that when public notice is required, DOC only notifies where it intends to grant applications, rather than on all eligible applications. This would not preclude making a different decision, but knowing DOC's preliminary views may help submitters and would reduce notifications.[9] Notification requirements could also be modernised, for example to no longer require newspaper publication.

Other changes to notification requirements could also be considered. These include reduced public notification requirements for some types of longer-term licences, or longer terms that mean public processes are run less frequently for concessions where the proposal is for ongoing similar use (such as grazing licences). Some notification processes currently generate little public input and interest but add time and costs to the overall process.

6.5 Clarifying the reconsideration process

Applicants can currently seek a reconsideration if their application is declined, or if they disagree with the terms and conditions imposed. No statutory time frames are in place, nor limits on the number of times an applicant can ask for the same decision to be reconsidered. This can cause significant churn and create incentives to challenge decisions until the desired outcome eventuates. Also, reconsideration decisions have taken a long time, and statutory limits would impose discipline on DOC and other parties for timely processes.

Reconsideration processes can be amended so that:

- reconsiderations can only be sought once, and need to be sought within 40 working days of the decision
- 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.

In the future, it may be desirable to review whether wider dispute resolution mechanisms for the conservation system are needed.

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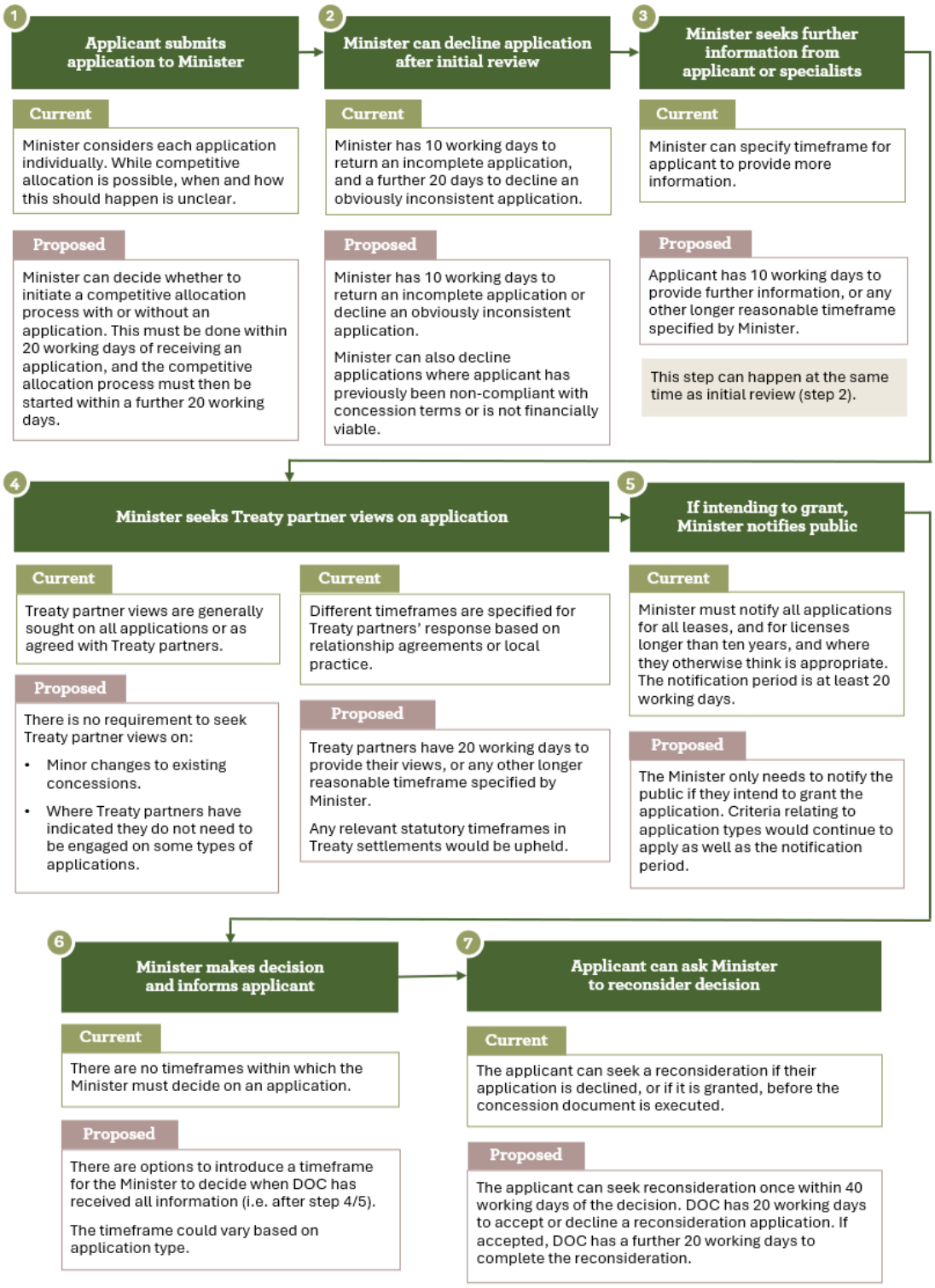
[9] This was the situation prior to 2017, before being changed to align with resource management processes. However, this change did not work given other differences between the two systems and processing times.

6.6 Summary of concession process improvements

Figure 5 shows how a concession application would be processed with the changes described in this section.

Figure 5. Proposed concessions process



6.7 Consultation questions

#	Questions
9.	**Improving the triage of applications** a. Do you agree with the issues in concessions processing and how they are presented? b. Do you agree with how the Government proposes to improve triaging of concession applications? c. How can this proposal be improved? d. What should DOC consider when assessing whether an applicant may not have the financial means to execute a concession?
10.	**Clarifying Treaty partner engagement requirements** How can the Government best enable Treaty partner views on concession applications (e.g. whether Iwi are engaged on all or some applications)?
11.	**Creating statutory time frames for some steps** Do you agree that additional statutory time frames should be introduced, including for applicants (to provide further information) and Treaty partners?
12.	**Amending when public notification must happen** a. Would it be more beneficial if DOC notified only eligible applications where the intention is to grant a concession? b. Do you think any other changes to public notification should be considered?
13.	**Clarifying the reconsideration process** a. Do you agree with setting time frames and limits on reconsiderations? b. How can this proposal be improved?

Section 7
Driving better performance and outcomes from concessions

7.1 Enabling competitive allocation of concession opportunities

Most concessions are granted on a first-come, first-served basis, and the law currently reinforces this.

This does not leverage competitive tension in the market to drive the best outcomes for innovation and conservation. The need for competitive allocation has grown as demand for limited tourism and other economic uses of conservation land have increased.

While the law allows for competitive allocation, it does not set out how this might be done. DOC's allocation of concession opportunities has also been successfully challenged in the courts for not giving effect to Treaty principles.

7.1.1 Recent engagement on competitive allocation proposals

Two of the proposals in the Conservation Management and Processes discussion document consulted on in 2022 suggested clarifying the initiation of competitive allocation processes. These proposals were to:

- clarify the ability to return a concession application to initiate a competitive process within 40 days of returning the application
- remove the two-step process application process and allow the successful applicant to be directly offered the concession.

These proposals intended to enable more competitively allocated concessions by addressing the 'first-come, first-served' settings of the current concessions system. They received majority support in 2022, and the Government proposes to incorporate them into this present work.

In 2022, several submitters also shared their concerns about encouraging more competitive allocation. Commercial operators highlighted that more clarity and certainty are needed, including:

- the need for a clear understanding of when and how a concession would be competitively allocated
- the need for clarity in how existing businesses and fixed assets owned by incumbent concessionaires would be treated in a competitive allocation process.

Further analysis has identified that changes beyond those consulted on in 2022 are needed to support competitive allocation processes.

7.1.2 Criteria for deciding when to competitively allocate

The Government seeks your feedback on how to decide when to run a competitive process. This could resolve some uncertainty that operators experience relating to how their concession will be treated in the future. The proposed criteria are below.

- **The potential supply is limited**: For example, a management plan sets limits on an acceptable number of activities, such as flight landings.
- **A concession is for exclusive use**: Instances where the allocation of a concession will prevent others from undertaking similar activities. This includes important strategic infrastructure that is essential to the visitor experience in high-value sites.
- **A market is likely to exist**: Instances when more than one party is interested and has the means, such as Treaty partners or other prospective concessionaires. This is not always clear because some interested parties may not understand when and where opportunities are available.
- **The costs do not exceed the benefits**: The costs of competitive allocation should not exceed its potential benefits. There are situations where this criterion may be hard to apply, for example when the value of a new activity is uncertain.

The Government is also interested in your views on whether there are any situations in which competitive allocation should not take place, even if the criteria above are satisfied.

7.1.3 Criteria for deciding how to competitively allocate

Standard criteria could also support decision-makers in choosing how to allocate a concession opportunity, and how to identify the most appropriate concessionaire.

Criteria	Description
Performance	• Applicants' experience and compliance record. • Financial sustainability of applicant (and activity if alternative proposals). • Capability of meeting any environmental or cultural conditions.
Returns to conservation	• Financial returns to the Crown. • In-kind returns to conservation (e.g. pest control). • Contribution to conservation, scientific, and mātauranga research.
Offerings to visitors	• The quality of experience offered to customers. • Readiness of the applicant to begin their operation. • How it meets the vision and outcomes for the place.
Benefits to the local area	• Employment or training opportunities. • Enhance the cultural, historic or conservation narratives at place. • Building authentic relationships with tangata whenua and communities.
Recognising Treaty rights and interests	• Importance of taonga (resource or land) to the activity. • Utilises and enhances kaitiakitanga, connection to whenua, and customary practices (may include modern technology). • Promotes general awareness of tikanga and mātauranga Māori.

The inclusion of the 'recognising Treaty rights and interests' criterion is in part a proposed response to the Supreme Court's ruling in the *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation* case.[10] The Supreme Court found that:

- the Treaty principle of active protection may sometimes, or for a period, require a degree of preference to Iwi in relation to concession opportunities over lands where they have mana whenua
- economic interests are also a relevant consideration for this assessment
- section 4 of the Conservation Act 1987 does not create a power of veto by an Iwi or Hapū over the granting of concessions.

The 'recognising Treaty rights and interests' criterion intends to require a decision-maker to determine whether active protection is necessary when certain concession opportunities arise. The criterion would not apply if rights and interests are not present in the opportunity being competitively allocated.

This criterion does not necessarily mean a concession would be awarded to Iwi with mana whenua status, as it would not be the only criterion.

7.1.4 Ensuring a fair valuation of fixed assets required for concessions activities

Many assets on PCL are privately funded or owned and required by concessionaires to carry out their activities. While some of these can easily be removed at the end of a concession term, fixed structures like buildings cannot.

Concessionaires need certainty to invest in quality infrastructure that helps connect people to nature and provides returns for conservation. Some concessionaires believe a concession involving existing operators and infrastructure should never be allocated to another party. Others say this is inappropriate where a monopoly right is at stake and should not be guaranteed in perpetuity.

Time-limited options for commercial opportunities on conservation land are standard internationally. What is needed are concessions of sufficient length, with clear and well understood upfront rules to support:

- changes of owner where the concession continues as is, and
- changes of concessionaire, with appropriate compensation.

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[10] *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation* [2018] NZSC 122. https://www.courtsofnz.govt.nz/cases/ngai-tai-ki-tamaki-tribal-trust-v-minister-of-conservation-1.

There may be situations where competitive allocation of a concession opportunity results in a transition between an outgoing and incoming concessionaire. The Government hears that this can cause concern among longstanding business operators on PCL and may have a chilling effect on investment in critical visitor experiences.

Developing an approach to valuing and transferring private assets on PCL would provide concessionaires with more certainty to invest in the maintenance of infrastructure and reduce risks for the Crown. It would also provide a mechanism for the fair transfer of assets that are being sold following a competitive allocation process.

Approaches to valuing private assets on PCL include:

- **a specific formula**: for example, construction cost (or brick and mortar) plus consumer price index less depreciation for the value of assets
- **the concessionaire sourcing a valuation**: this valuation should cover fixed asset improvements from an independent valuer
- **DOC sourcing a valuation**.

Your views are sought on whether and how other aspects of the value of a business should also be accounted for in the valuation of a going concern or in the way that a concession is transferred from one operator to another by the regulator (i.e. when a concession is awarded to another party).

Your views are also sought on how the Government should fairly meet and balance the interests of existing operators and potential new operators for exclusive commercial opportunities.

7.2 Modernising contractual management of concessions

The Government needs to make sure the right terms and conditions are in place before every concession is granted.

To achieve this, the Government proposes standardising terms and conditions, fees and terms lengths that are set in contractual agreements for concessions. This would support more efficient concession processing, provide transparency for the public and operators, and produce better and more consistent outcomes for conservation. Avoiding costly and lengthy disputes and negotiations on these matters is critical to a more efficient system.

The Government also wants to introduce conditions that measure performance and allow DOC to respond where performance standards are not met.

7.2.1 Setting some standard terms and conditions in the proposed NCPS

The Government has default terms and conditions for most concession contracts. These are available on DOC's website but are often subject to further negotiation and hold out. Setting some standard terms and conditions in the NCPS – or a similar instrument – would make them binding on concessionaires. This would still allow Government flexibility to set additional terms and conditions as needed on a case-by-case basis.

7.2.2 Clarifying when term lengths can be granted for more than 30 years

Leases and licences can currently be granted for 60 years under 'exceptional circumstances'. However, exceptional circumstances are not defined. Criteria could be set in the proposed NCPS to clarify when leases and licences could be granted for more than 30 years. These criteria could include:

- ensuring the activity is appropriate from an effects management basis
- ensuring enough time for a fair return on capital improvements
- protecting intellectual property associated with a new idea.

Some Treaty settlements also include a right of first refusal (RFR) for leases beyond a certain length but less than 60 years. No changes to RFR are proposed.

The Government wants to hear about the circumstances and activities that might justify providing either a longer or shorter term length. Your feedback on how to apply this to new applications/activities and existing operations would also be helpful.

7.2.3 Replacing the reference to a 'market value' with a 'fair return to the Crown'

The purpose of an activity fee is to recognise the value of the use of PCL to the Crown, and that its use should therefore generate an economic return. This applies to, but is not limited to, businesses that benefit commercially from the use of PCL.

Many activities that require a concession are unique and often no clear market comparison is available off PCL. This makes setting a fee according to 'market value' difficult, drawn out, and typically does not allow the Crown to get the full value expected from a concession opportunity. Fee-setting according to a 'fair return to the Crown' would shift negotiation expectations. This aligns with the approach taken in the Crown Minerals Act 1991 and Crown Pastoral Land Act 1998.

7.2.4 Regulating concession fees

The Government proposes regulating concession fees in the proposed NCPS, or a similar binding instrument. This would increase efficiency by removing prolonged negotiations with applicants who otherwise may refuse to sign their concession, in many cases believing that the Government will not suspend or cease their right to occupy and operate.

Set and standardised fees would be more transparent for the public and ensure that concessionaires are being charged a consistent (and therefore fair) rate. It would also remove the need for extensive and expensive valuations and drawn-out contractual negotiations.

Which activities have regulated fees would be optional, not mandatory. If no rate is set in the NCPS for a particular activity, fees would continue to be set for each concession based on operational guidance.

The Minister of Conservation would retain the ability to seek a return greater than the regulated rate by auctioning or tendering the opportunity. In a competitive allocation, the regulated rate would act as a price floor.

7.2.5 Changing the frequency of activity fee reviews

There is an opportunity to increase efficiency by removing or amending the current requirement for three yearly fee reviews, particularly where the activity fee is set as a percentage of revenue. Percentage-based fees already adjust to changes in market demand and inflation, reducing the need for periodic review.

7.3 Consultation questions

#	Questions
14.	**Enabling competitive allocation of concession opportunities**
	a. Do you agree with the issues and how they have been presented?
	b. Do you agree with the proposed criteria to guide **when** concession opportunities are competitively allocated?
	c. How can the proposed criteria be improved for **when** an opportunity should be competitively allocated?
	d. Are there any situations in which competitive allocation should not occur, even if the criteria are satisfied?
	e. Do you agree with the proposed criteria to guide **how** concession opportunities are allocated?
	f. How can the proposed criteria be improved for **how** allocation decisions should be made?
	g. What are your views on a ensuring a fair valuation of assets when transferring a concession?
	h. How can the interests of existing operators and potential new operators both be fairly met in exclusive commercial opportunities?
15.	**Modernising contractual management of concessions**
	a. Do you agree that the proposed National Conservation Policy Statement could guide things like standardised terms and conditions, term lengths, and regulated concession fees?
	b. What are your views on setting standard terms and conditions for concessions?
	c. What circumstances and activities might justify longer or shorter term lengths?
	d. What are your views on setting activity fees based on a fair return to the Crown rather than market value?
	e. What are your views on setting standardised, regulated fees?
	f. What are your views on changing the frequency of activity fee reviews?

Section 8
Unlocking amenities areas to protect nature and enhance tourism

The inherent natural beauty of New Zealand's most precious landscapes attracts many visitors, both from home and overseas. However, some locations have become much busier in recent decades, affecting health and safety, recreational enjoyment and the values that make these places so special. Better-supported development is needed in these areas to provide for public use and enjoyment over the longer term, to support a growing tourism industry and to protect conservation values. Guiding development can also enable and encourage regional economic growth in a sustainable way that benefits both the enjoyment of visitors and the local economy.

8.1 An effective amenities area tool can protect New Zealand's precious conservation areas and support the tourism economy

Two 'amenities area' tools are in the existing law designed to address congestion, in the National Parks Act 1980 and the Conservation Act 1987.

Currently 26 amenities areas are in existence – 22 under the Conservation Act 1987 and four under the National Parks Act 1980 – one in Aoraki/Mount Cook village and three in Tongariro National Park for Tūroa ski field, Whakapapa ski field, and Whakapapa Village.

Amenities areas are small areas in national parks and conservation parks suitable for the development and operation of recreation and related amenities and services appropriate for public use and enjoyment, for example visitor centres and car park areas. They are provided for in both the National Parks Act 1980 and Conservation Act 1987.

However, the existing tools have shortcomings and are inconsistent in what they provide for. The Government cannot use the tools to tackle growing congestion in the country's iconic national parks. Amenities areas can only be established in national parks by the Minister of Conservation on the recommendation of the NZCA. They also do not fully provide for a more modern spatial planning approach, with finer controls on development to foster sustainable economic growth and cater for visitor services.

The Government proposes amending legislation to:

- create a single 'amenities area' tool
- better integrate the concept into the planning system
- enable the Minister to establish an amenities area in a national park without requiring the recommendation of the NZCA as part of a more strategic approach to regulating and managing concessions.

The proposal would allow an area to be set aside for development to tackle congestion and enable more visitor services than would otherwise be allowed. Within these areas, more detailed spatial planning could be undertaken (i.e. determining where important assets and infrastructure ought to go), with finer controls on development and support for sustainable economic activity. By guiding development in a defined space, amenities areas will allow the proper protection of the wider conservation areas they sit within. They can concentrate necessary development in some of the busiest locations, and prohibit unplanned, spread-out development in the wider conservation areas surrounding them.

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 has identified a 'special amenities area' tool like that proposed above and a strong argument exists that this could be useful in other high-pressure areas around the country with amendments.

The following could be considered when declaring an amenities area:

- whether a spatial planning tool with more enabling rules can provide better outcomes for public use, tourism and conservation in a congested conservation area
- whether there are benefits from more stringent controls on development in the wider conservation area surrounding an amenities area, while allowing for finer controls on concentrated development within
- whether the impacts of the amenities area can be reasonably contained.

An area plan will implement an amenities area by setting objectives based on that purpose.

8.2 Consultation questions

#	Questions
16.	Do you agree with the issues relating to amenities areas and how they have been presented?
17.	Do you agree with the proposal to create a single amenities area tool?
18.	How can this proposal be improved?
19.	What should the main tests be to determine if an amenities area is appropriate?

Section 9
Enabling more flexibility for land exchanges and disposals

The Crown is both a land manager and a regulator. Part of being a responsible land manager for conservation is ensuring the land that needs to be managed is retained and looked after and, in limited circumstances, taking opportunities to acquire land where it is precious or significantly enhances the conservation benefits of adjacent areas. It also sometimes means identifying when more benefit can be gained from disposing of land or exchanging it for land that would bring a net conservation benefit to the conservation estate.

Not all conservation land is the same. Some areas need different levels of protection to best preserve their natural, historic and cultural resources. The conservation estate comprises land with various conservation, recreation, and community values, from grazing pastures to nature reserves with threatened ecosystems. PCL also includes some areas with cultural significance for Iwi. The exchange, transfer or disposal of PCL is already provided for in limited circumstances. Rights of first refusal may also apply in the disposal process.

In the 2017 *Ruataniwha* case,[11] the conservation park status of the land was to be revoked so the land could be exchanged as a stewardship area. This step was taken because the Conservation Act only allows for stewardship areas and marginal strips to be exchanged. The Supreme Court held that the status of the land could not be revoked unless the conservation values of the resources on the subject land no longer justified that protection. The decision-maker could consider the fact that revocation was to enable an exchange that would result in an overall conservation benefit.

A **land exchange** is the exchange of land between two parties: the Crown and a private landowner. DOC administers provisions in the Conservation Act 1987 and Reserves Act 1977 under which land exchanges are provided for, each involving different criteria and/or processes. Only public conservation land that is of 'no or very low' conservation value can be exchanged.

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 1977 provides for the disposal of reserves and the Conservation Act provides for the disposal of stewardship areas. Disposals are only allowed if the land is of 'no, or very low' conservation value.

The Fast-track Approvals Bill addresses this and intends to provide for land exchanges of PCL to facilitate the delivery of infrastructure and development projects with **significant regional or national benefits**. However, there is scope to consider whether the Government should have greater flexibility for exchanges and disposals more generally, beyond the scope of the Fast-track Approvals Bill.

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[11] *Hawke's Bay Regional Investment Company Limited v Royal Forest and Bird Protection Society of New Zealand Incorporated* [2017] NZSC 106. www.courtsofnz.govt.nz/cases/hawkes-bay-regional-investment-company-limited-v-royal-forest-and-bird-protection-society-of-new-zealand-incorporated-1

9.1 Enabling more flexibility for exchanges and disposals where it makes sense for conservation

Land exchange settings could be adjusted to support other government priorities while providing a net conservation benefit and safeguarding vulnerable biodiversity. If settings remained unchanged, the Government would continue to be unable to exchange conservation land outside of the Fast-track process even in circumstances where a clear conservation benefit would be gained.

While there are strong conservation reasons for having some restrictions, land disposal settings could also be adjusted to support cases where they can support positive conservation outcomes. For example, there may be small parts of PCL where the costs of maintenance and/or compliance (e.g. fire risk) draw resources away from better investments on other PCL. Neighbour responsibilities are also a significant challenge for DOC and land with lower conservation values can be costly and distract from higher priority conservation efforts.

The current policy settings for disposals and exchanges of PCL are limited. This is partly by legislation – the Conservation Act 1987 and Reserves Act 1977 only allow disposal of stewardship land or reserves respectively, and not land with other protected status – and partly by the policies of the Conservation General Policy, which restricts disposals to land with no or very low conservation values.

Since the Supreme Court's *Ruataniwha* decision, an exchange must be considered to involve a disposal, confirming that the scope for both exchange and disposal is limited to a narrow set of circumstances even for stewardship land.

As the NZCA stated in its 2018 advice after the *Ruataniwha* decision, it was not the intention of either the then NZCA or the then Minister that the disposals provisions in the Conservation General Policy were to apply to exchanges under section 16A of the Conservation Act 1987.[12]

Before the *Ruataniwha* Supreme Court case in 2017, the Government had processed exchanges based on what was being 'received through the exchange', as well as considering what was being given up. Since the *Ruataniwha* decision, a disincentive exists to proceed with exchange proposals or disposals because the 'no or very low' conservation values test is very limiting.

[12] New Zealand Conservation Authority. 2018. Stewardship Land: Net conservation benefit assessments in land exchanges [accessed November 2024]. www.doc.govt.nz/nzca-stewardship-land-advice.

Flexibility to achieve optimal conservation outcomes is important. It is not always desirable for exchanges to be restricted to 'like for like' values. In some situations, an exchange will result in a superior conservation outcome by:

- achieving better representation of high value areas in the protected area network
- presenting opportunities to acquire land with values that are highly threatened or underrepresented within New Zealand's network of protected areas
- expanding on or connecting existing conservation areas. For example, ensuring the protection of a network of wetlands may be a higher priority in an area with extensive areas of protected forest.

Liberalisation of exchange and disposal provisions could allow DOC to better and more strategically manage PCL. Some land has no or low value for conservation, and some higher value land could be managed by others (such as Iwi).

The Government is proposing to:

- allow eligible areas to be exchanged or disposed of directly without having to revoke their status and reclassify them as stewardship land first, where a net conservation benefit exists
- restrict disposals to situations where land is surplus to conservation needs
- remove the threshold that only land of no or low conservation value can be exchanged, noting the most precious land is off limits (see below)
- enable the potential for continued protection for land that is given up, where appropriate, through instruments such as covenants
- enable exchanges in a wider range of circumstances by changing the Conservation Act 1987 requirement to protect specific conservation values in an exchange in favour of a requirement that a transaction would result in an overall net conservation benefit.

To protect areas of high conservation value when considering land exchanges and disposals, the Government is proposing that specific areas would be disqualified from being eligible for consideration for exchange or disposal. A similar approach is being considered for the Fast-track Approvals Bill, albeit with differences in the specific areas excluded.

For this work, the Government is proposing the following exclusions:

Public conservation land is not eligible for disposal where:

- it has international or national significance (for example a site like Tāne Mahuta in the Waipoua Forest)
- is a national reserve (under the Reserves Act 1977)
- is an ecological area (specially protected under the Conservation Act 1987)

- or is land within Schedule 4 of the Crown Minerals Act 1991.

Existing criteria around exchanges and disposals in the Conservation General Policy could potentially be replicated in the new NCPS without the restriction of disposal of land of no or very low conservation value. However, the Government would like your feedback on whether these criteria are fit-for-purpose or whether additional criteria should be considered.

9.2 Consultation questions

#	Questions
20.	**Land exchanges** a. Do you agree with the issues and how they have been presented? b. Do you agree with the proposal to enable more flexibility for exchanges where it makes sense for conservation? c. How could this proposal be improved? d. What should be included in the criteria for a net conservation benefit test for exchanges of public conservation land? e. Are there criteria that should **not** be considered in a net conservation benefit test for disposal of public conservation land? f. Should a net conservation benefit test for exchanges of public conservation land include meeting Iwi aspirations (for example, returning sites of significance to Iwi)?
21.	**Land disposals** a. Do you agree with the issues and how they have been presented? b. How could this proposal be improved? c. Do you agree with the proposal to enable more flexibility for disposals where it makes sense for conservation? d. When should the Crown have the ability to dispose of public conservation land and for what reason(s)? e. What should be included in the criteria for a net conservation benefit test for disposals of public conservation land? f. Are there criteria that should **not** be considered in a net conservation benefit test for disposal of public conservation land? g. Should a net conservation benefit test for exchanges of public conservation land include meeting Iwi aspirations (for example, returning sites of significance to Iwi)?

Section 10
Consultation questions

Issues
1. Do you agree with the issues?
2. Have any issues been missed?
3. Do you have any examples or data that demonstrate your view on the issues?
4. As you read the proposals in this document: a. Do you think any measures are needed to ensure conservation outcomes, whether in addition to or alongside the proposals? b. Do the proposals allow the Government to strike the right balance between achieving conservation outcomes and other outcomes?

Streamlining the conservation management system
5. Simplifying the management structure a. Do you agree with the issues and how they have been presented? b. Do you agree with the proposed changes to simplify the management planning framework? c. How could this proposal be improved?
6. Enabling class approaches to concessions a. Do you agree with the proposal to introduce classes of exempt activities, prohibited activities and permitting activities in advance through the National Conservation Policy Statement and area plans? b. How could this proposal be improved? c. What types of activities are best suited to taking a class approach, and which activities would a class approach not be appropriate for?
7. Proposed process for making statutory planning documents a. Do you agree with the proposed processes for making, reviewing and updating the National Conservation Policy Statement? b. Do you agree with the proposed processes for making, reviewing and updating area plans? c. How do you think these processes could be improved?

8. Giving effect to Treaty principles when making statutory planning documents

a. Do you think the proposals are appropriate to give effect to the principles of Te Tiriti o Waitangi / the Treaty of Waitangi?

b. What else should the Government consider to uphold existing Treaty settlement redress?

Speeding up concession processing

9. Improving the triage of applications

a. Do you agree with the issues in concessions processing and how they are presented?

b. Do you agree with how the Government proposes to improve triaging of concession applications?

c. How can this proposal be improved?

d. What should DOC consider when assessing whether an applicant may not have the financial means to execute a concession?

10. Clarifying Treaty partner engagement requirements

How can the Government best enable Treaty partner views on concession applications (e.g. whether Iwi are engaged on all or some applications)?

11. Creating statutory time frames for some steps

Do you agree that additional statutory time frames should be introduced, including for applicants (to provide further information) and Treaty partners?

12. Amending when public notification must happen

a. Would it be more beneficial if DOC notified only eligible applications where the intention is to grant a concession?

b. Do you think any other changes to public notification should be considered?

13. Clarifying the reconsideration process

a. Do you agree with setting time frames and limits on reconsiderations?

b. How can this proposal be improved?

Driving better performance and outcomes from concessions

14. Enabling competitive allocation of concession opportunities

a. Do you agree with the issues and how they have been presented?

b. Do you agree with the proposed criteria to guide **when** concession opportunities are competitively allocated?

c. How can the proposed criteria be improved for **when** an opportunity should be competitively allocated?

d. Are there any situations in which competitive allocation should not occur, even if the criteria are satisfied?

e. Do you agree with the proposed criteria to guide **how** concession opportunities are allocated?

f. How can the proposed criteria be improved for **how** allocation decisions should be made?

g. What are your views on a ensuring a fair valuation of assets when transferring a concession?

h. How can the interests of existing operators and potential new operators both be fairly met in exclusive commercial opportunities?

15. Modernising contractual management of concessions

a. Do you agree that the proposed National Conservation Policy Statement could guide things like standardised terms and conditions, term lengths, and regulated concession fees?

b. What are your views on setting standard terms and conditions for concessions?

c. What circumstances and activities might justify longer or shorter term lengths?

d. What are your views on setting activity fees based on a fair return to the Crown rather than market value?

e. What are your views on setting standardised, regulated fees?

f. What are you views on changing the frequency of activity fee reviews?

Unlocking amenities areas to protect nature and enhance tourism

16. Do you agree with the issues relating to amenities areas and how they have been presented?

17. Do you agree with the proposal to create a single amenities area tool?

18. How can this proposal be improved?

19. What should the main tests be to determine if an amenities area is appropriate?

Enabling more flexibility for land exchanges and disposals

20. Land exchanges

a. Do you agree with the issues and how they have been presented?

b. Do you agree with the proposal to enable more flexibility for exchanges where it makes sense for conservation?

c. How could this proposal be improved?

d. What should be included in the criteria for a net conservation benefit test for exchanges of public conservation land?

e. Are there criteria that should **not** be considered in a net conservation benefit test for disposal of public conservation land?

f. Should a net conservation benefit test for exchanges of public conservation land include meeting Iwi aspirations (for example, returning sites of significance to Iwi)?

21. Land disposals

a. Do you agree with the issues and how they have been presented?

b. How could this proposal be improved?

c. Do you agree with the proposal to enable more flexibility for disposals where it makes sense for conservation?

d. When should the Crown have the ability to dispose of public conservation land and for what reason(s)?

e. What should be included in the criteria for a net conservation benefit test for disposals of public conservation land?

f. Are there criteria that should **not** be considered in a net conservation benefit test for disposal of public conservation land?

g. Should a net conservation benefit test for exchanges of public conservation land include meeting Iwi aspirations (for example, returning sites of significance to Iwi)?

Appendix:
Current processes for making or amending a CMS, CMP and NPMP

Legislative requirements for developing or reviewing a conservation management strategy (CMS)

The Conservation Act 1987 requires the Director-General (D-G) of the Department of Conservation to prepare CMSs. This diagram provides a summary of the legislative requirements for developing or reviewing a CMS. 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 CMS development or review process

The D-G shall determine the boundaries f a CMS; a *new* CMS shall be prepared by the D-G for approval by the New Zealand Conservation Authority (NZCA) *s17D(2–3)

OR

The D-G, after consultation with the relevant conservation board(s), may at any time initiate a *full or partial review* of any CMS *s17H(1)

OR

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

OR

On declining a concession, if requested by the applicant and after consultation with the relevant conservation board(s), the Minister may initiate a *partial review* of the CMS *s17W(3–5)

New CMS *s17F

Full review of CMS *s17H(2)

Partial review of CMS *s17H(2)

Phase 1: Drafting

Every *draft* shall be prepared by the D-G in consultation with the relevant conservation board(s) and others where considered practical and appropriate *s17F(a)

Extra guidance provided in Conservation General Policy

Conservation boards, people or organisations interested in public conservation lands and waters, including fish and game councils and tangata whenua, will be consulted when developing or reviewing conservation management strategies and plans *Policy 13(d)

Phase 2: Public notification and call for submissions

1. Draft is *publicly* notified and submissions are called for 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 *s49(1), s17F(a), s17F(b)(i), s17F(e)

2. The D-G, after consultation with the relevant conservation board(s), *obtains public opinion* of the draft by any other means from any person or organisation *s17F(d)

3. The draft strategy must be made available for public inspection at specified places and times *s17F(b) and (e)

Phase 3: Public submissions and hearings

1. Any person or organisation may send a *written submission within 40 working days* of public notification *s17F(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); the representatives may hear submissions from any other person or organisation consulted on the draft *s17F(f–g)

The D-G shall prepare a *summary of the submissions and public opinion* *s17F(h)

Phase 4a: revision by D-G

Within 8 months of the date of public notification (phase 2) (can be extended), the *D-G shall revise the draft* and send the draft and summary of public submissions / public opinion (phase 3) to the affected conservation board(s) *s17F(i–j)

Phase 4b: revision by conservation board

Within 6 months of referral (can be extended), the conservation board(s) shall *consider those documents and send the draft to the NZCA* for approval, together with a written statement of any matters that the D-G and board(s) are unable to agree on and the summary of public submissions / public opinion (phase 3) *s17F(k)(ii)

OR

The conservation board(s) may *request that the D-G revises the draft* *s17F(k)(i)

Phase 4c: revision by NZCA

1. The NZCA considers the draft and other information, and may *consult* any person or organisation considered appropriate *s17F(m)

2. After consideration, the NZCA shall make such amendments as it considers necessary and *send the draft and other relevant information to the Minister* *s17F(n)

3. The *Minister* shall consider the draft and provide written recommendations *s17F(o)

Phase 5: Approval by NZCA

The NZCA must have regard to any recommendations from the Minister and either:

1. *Approves* the draft *s17F(p)(ii)

OR

2. Returns the draft to the Minister for further consideration *s17F(p)(ii)

End

Public notification and publication of the CMS, which comes into effect on the date it is approved or such later date as may be specified *s17N, s49(1)

Giving effect to the principles of the Treaty of Waitangi in developing or reviewing a CMS

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

Legislative requirements for amending an existing CMS

If amendments are *limited to updating information*:

The D-G may amend a CMS, in consultation with the conservation board(s) affected, so that the information identifying and describing protected areas remains accurate; *public notification, submissions, hearings, revision and approvals are not required*; the D-G must promptly notify the conservation board(s) affected *s17I(1A)

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

The D-G, after consultation with the conservation board(s) affected, may at any time initiate the amendment of any CMS *s17I(1)

Public notification, submissions and hearings process is not required; the D-G shall send the proposal to the conservation board(s) affected and it then follows the same revision and approvals process as a review (*phases 4b, 4c and 5*) *s17I(4)(a)

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

The D-G, after consultation with the conservation board(s) affected, may at any time initiate the amendment of any CMS *s17I(1)

The amendment follows the same *full process* as a review (phases 1, 2, 3, 4a 4b, 4c and 5) *s17I(2)

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.

Initiating the CMP development or review process

The Director-General (D-G) of the Department of Conservation (DOC) shall *prepare CMPs* as required by the provisions of any CMS *s17E(2)

OR

In areas without a CMS, the Minister, after consultation with the relevant conservation board(s), may require the D-G to *prepare a CMP* *s17E(3)

OR

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

OR

The D-G, after consultation with the relevant conservation board(s), may at any time initiate a *full or partial review* of any CMP *s17H(1)

The preparation of a CMP may also be required as part of Treaty settlement legislation

New CMP *s17G

Full review of CMP *s17H(3)

Partial review of CMP *s17H(3)

Phase 1: Drafting

Every draft shall be prepared by the D-G in consultation with the relevant conservation board(s) and others where considered practical and appropriate *s17F(a)

Extra guidance provided in Conservation General Policy

Conservation boards, people or organisations interested in public conservation lands and waters, including fish and game councils and tangata whenua, will be consulted when developing or reviewing conservation management strategies and plans *Policy 13(d)

Phase 2: Public notification and call for submissions

1. Draft is publicly notified and submissions are called for in local newspaper and (if of national interest) at least in once in each of four daily newspapers published in Auckland, Wellington, Christchurch and Dunedin, and to appropriate regional councils, territorial authorities and iwi authorities *s49(1), s17F(a), s17F(b)(i), s17F(e)

2. The D-G, after consultation with relevant conservation board(s), obtains public opinion of the draft by any other means from any person or organisation *s17F(d)

3. The draft strategy must be made available for public inspection at specified places and times *s17F(b) and (e)

Phase 3: Public submissions and hearings

1. Any person or organisation may send a *written submission within 40 working days* of public notification *s17F(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); the representatives may hear submissions from any other person or organisation consulted on the draft *s17F(f–g)

The D-G shall prepare a *summary of the submissions and public opinion* *s17F(h)

Phase 4a: revision by D-G

Within 8 months of the date of public notification (phase 2) (can be extended), the *D-G shall revise the draft* and send the draft and summary of public submissions / public opinion (phase 3) to the affected conservation board(s) *s17F(i–j)

Phase 5a: consideration by conservation board(s)

Within 6 months of referral (can be extended), the conservation board(s) shall consider those documents and then:

1. May *request that the D-G revises the draft* *s17G(2)(b)

2. *Approves the CMP* *s17G(2)(a)

3. Sends the plan to the New Zealand Conservation Authority (NZCA) for consideration (with supporting information) *s17G(2)(c), s17G(3)(d)

Phase 5b: revision by NZCA

1. The NZCA considers the draft and other information, and may consult any person or organisation considered appropriate *s17G(3)(e)

2. After consideration, the NZCA shall make such amendments as it considers necessary and send the draft and other relevant information to the Minister *s17G(f)

3. The Minister shall consider the draft and provide written recommendations *s17G(g)

Phase 5c: Approval by NZCA

The NZCA must have regard to any recommendations from the Minister and either:

1. *Approves the CMP* *s17G(h)(i)

OR

2. Returns the draft to the Minister for further consideration *s17G(h)(ii)

Publication

Public notification and publication of the CMP, which comes into effect on the date it is approved or such later date as may be specified *s17N, s49(1)

Giving effect to the principles of the Treaty of Waitangi in developing or reviewing a CMP

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

Legislative requirements for amending an existing CMP

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

The D-G, after consultation with the conservation boards affected, may at any time initiate the amendment of any CMP *s17I(1)

Public notification, submissions and hearings process is not required; the D-G shall send the proposal to the conservation board(s) affected and it then follows the same revision and approvals process as a review (*phases 4b, 4c and 5*) *s17I(4)(b)

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

The D-G, after consultation with the conservation board(s) affected, may at any time initiate the amendment of any CMP *s17I(1)

The amendment follows the same full process as a review (*phases 1, 2, 3, 4a 4b, 4c and 5*) *s 17I(3)

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 5a: 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 *s48(3)

Every plan must be available for public inspection, free of charge, at DOC's Head Office and in 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)