



Explore Task Assignment Report

Explore Task Details

Task leader	Jo Macpherson, Director Operations Eastern South Island
Team members	Andy Thompson (Operations Manager Mahaanui), Harriet Kemp (Permissions Advisor), Susan Newell (Solicitor), Monica Bean (Community Ranger), 9(2)(a) (Climate Scientist), Michael Hayward (Media and Communications Advisor), Janine Sidery (Statutory Manager)
Applicant & Permission Number	Lower Selwyn Hut Leases 98089-OTH
Explore Task Purpose	Develop a plan to address the lease expiry of the Lower Selwyn Huts and decide on options for managing this (Task Assignment: DOC-6942100).

Released under the Official Information Act

Background, Context and Required Actions

1.1 Background and Context

58 private huts are located at the Lower Selwyn Huts settlement on Greenpark Sands Conservation Area, some dating back to at least the 1920s. The huts were constructed on the edge of Te Waihora to facilitate recreational activities such as fishing and game bird shooting which is popular around the lake margins. The current leases are due to expire on 30th June 2024 with no right of renewal (the last right of renewal was from 2019-2024). The lease holders have made it clear to the Department that they wish to continue occupying the land and will want to apply to renew their lease.

There are multiple leaseholders wanting to make improvements to their structures, ongoing compliance issues with leaseholders living in the huts full time, wanting to sell and re-assign them, not paying rates and the leaseholders often pressuring Department staff for an answer on what will happen when the leases expire in 2024.

There is no clear message for staff members to give to these queries. The last formal communication with lease holders was a letter in April 2021 ([DOC-7161961](#)), setting out the application process and our assessment considerations, specifically recommending they undertake a climate change assessment to understand lake level rise.

In addition, there is significant concern regarding the impacts of climate change, sea level rise and lake level rise of Te Waihora and extreme rainfall events causing increased flooding and evacuation in the settlement most years (most recently in years 2017, 2019, 2021 and 2022) (see Appendix 1 for an aerial view of the settlement following high rainfall and flooding events in 2017 and 2021).

A planned and coordinated approach with relevant parties is needed to ensure consistent messaging is provided to lease holders.

1.2 Conservation General Policy (2005)

An assessment of the relevant statutory management plans were provided in August 2020 ([DOC-6412826](#)) and August 2021 ([DOC-6747833](#)).

The following is a summary of the conclusions:

- The Conservation General Policy (CGP) provides policies and criteria against which accommodation on public conservation land needs to be assessed. Policy 10(h) sets out the expectation that existing private accommodation is phased out and removed (unless retained by the Department for public use).
- The Canterbury Conservation Management Strategy (CMS) states that the CMS does not apply to areas covered by the Te Waihora Joint Management Plan (JMP).
- The JMP is silent on the long-term management approach for the Lower Selwyn Huts.
- Any decisions on future concessions will need to be guided by the CGP, particularly policy 10h (phase out of private accommodation on PCL).

The phase out of existing private accommodation on public conservation land is consistent with the Department's national approach to these situations. The CGP does not allow discretion regarding phasing out of existing accommodation on PCL - however there is discretion to decide the best option locally on the phase-out approach e.g removal, retained by the Department, phase-out approach or transition to public use. This is detailed further in the Departments recently approved national principles for private accommodation on public conservation land ([DOC-7164359](#), attached as Appendix 2).

1.3 Climate Forecasts

9(2)(a), Climate Scientist, has provided initial advice following a preliminary desktop assessment ([DOC-7161960](#)) regarding sea-level rise and extreme rainfall projections. It advises that extreme rainfall events are predicted to become more frequent and more intense in the future, and therefore the huts may become increasingly vulnerable to surface flooding. A more detailed investigation may be needed.

Critical Issues

Key issues for the overall project have been identified as:

- How to ensure the process is managed consistently with other private accommodation sites on PCL?
- How to ensure there is consistent and quality communication with hut owners prior to expiry?
- How to understand iwi's view regarding the leases expiring?
- How to understand the implications of relevant CMS/JMP policies? (Resolved - management planning advice above)
- How to ensure the Statutory Processing Team and National Transaction Centre team support the approach (consistent messaging)?
- How to finance the removal of the huts?
- How to understand what social/wrap-around support from external agencies can be provided for residents if required?
- How to understand the implications of sea level rise/climate change on the settlement?

Recommendation:

A key recommendation from the Explore Task Team is that a decision is needed to determine the future management of the existing huts. It is considered that two options are available to address the pending lease expiry:

1. A phase-out/transitional approach (short-term leases of between 3-5 years); or
2. The leases will not be renewed when they expire on 30th June 2024.

It is considered that Option 2 (to not renew the leases in 2024) is not feasible due to the short term left available for residents, and the subsequent reputational and political risk.

It is recommended that Option 1 is implemented, and this is strongly supported by the Mahaanui District Office.

Decision required from the Understand Team

1. Understand Team to consider and agree (or otherwise) on the recommendation above.

When a decision is made on the above recommendation, the following actions are also recommended to support the approach:

1. Task the development of a communications plan (internal and external), to support District Office and the National Transaction Centre with the delivery of messaging to lease holders **(short term)**.
2. Undertake a consultation process with the Canterbury Aoraki Conservation Board and Te Rununga o Ngāi Tahu in accordance with section 4 of the Conservation Act, and also to understand their progress with phasing out occupation of the Greenpark Huts (the huts are vested in Ngāi Tahu) **(medium term)**.
3. Financial investigation to understand the Department's liability if the huts are abandoned **(short term)**.
4. District Office to resume regular concession monitoring for the remainder of the lease term (2024) **(short term)**.
5. Permissions to develop a bulk process to manage the lease renewals with a phase out/transitional short-term authorisation **(short term)**.
6. Determine the appropriate mechanism to implement a Department clean-up fund if required when the leases expire i.e bond, trust, increase in activity fees to market rates, and increase in management fees **(short term)**.

Task Leader Endorsement

Task Leader Comments: I endorse the recommendations by the team. On the basis that due to the nature of the effects on the bach owners that we allow reasonable time for them to look for alternative accommodation, remove buildings and relocate. I would also recommend that safety considerations are made in the event of flooding of baches, and that a plan is put in place to ensure the safety of individuals should flooding occur.



Signed by **Jo Macpherson, Director Operations Eastern South Island**

18/1/23

Date

Final Decision

Decision from Steve Taylor, Director Regulatory Services on recommendation and actions:

1. Endorse Option 1 to renew the leases on a short term/ transitional basis

Notes

Yes No

2. Endorse recommended actions

Notes

Yes No

Signed by **Steve Taylor, Director Regulatory Services**

Date

Director Comments

Appendix 1



Aerial view of the Lower Selwyn Huts following flooding in July 2017 (credit: Stuff)



Flooding at the settlement after heavy rainfall in June 2021 (credit: Stuff)

Appendix 2

National principles for private accommodation¹ on public conservation land

The Conservation Act 1987:

conservation means the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

Conservation General Policy 10(g):

New accommodation and associated facilities, including encampments, on public conservation land and waters for exclusive private use should not be permitted.

Conservation General Policy 10(h):

Existing private accommodation and associated facilities, including encampments, on public conservation lands and waters will be phased out, except where specifically provided for or allowed in legislation, in accordance with the conditions and timeframes set out in any relevant concession or conservation management strategy or plan. They should be removed at the end of the phase-out period, unless retained by the Department for public use.

Conservation General Policy 1(d):

The words 'will', 'should' and 'may' have the following meanings:

- i. Policies where legislation provides no discretion for decision-making or a deliberate decision has been made by the Minister to direct decision-makers, state that a particular action or actions 'will' be undertaken.*
- ii. Policies that carry with them a strong expectation of outcome without diminishing the constitutional role of the Minister and other decision-makers, state that a particular action or actions 'should' be undertaken.*
- iii. Policies intended to allow flexibility in decision-making, state that a particular action or actions 'may' be undertaken.*

General Policy for National Parks has very similar policies, except the 2nd policy for existing private accommodation is a 'should' policy.

National principles

1. Legal requirements

¹ Defined in Conservation General Policy as "Place to live or visit which is not available to the general public on an open basis".

- Any application for a concession for private accommodation will be publicly notified, because this is required for proposed exclusive use of public conservation land. This provides an opportunity for the Department to gather feedback on the application.
- Any applications for authorisations will be considered under Part 3 B Conservation Act 1987. *This includes any private accommodation or associated facilities originally leased issued under the Land Act 1948, Reserves and Other Land Disposal Acts and reflects the Court of Appeal findings in the Otehehi Bay Holdings Ltd v Fullers Bay of Islands Ltd [2011].*
- Relevant legislation, policies (including Conservation General Policies and any relevant statutory planning document) and Treaty settlement provisions will be considered in the assessment of any application.

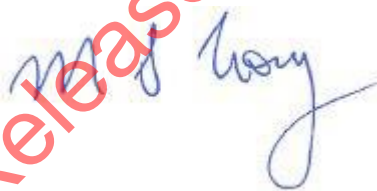
Operational principles

Conservation General Policy does not allow any discretion regarding the phase-out of existing private accommodation on public conservation lands and waters – this must occur. However, we do have discretion to decide what is the best option for the future management of the building(s) e.g. removal, transfer to the Department, leased to concessionaire with conditions for making it available to the public.

- The CMS National Issues paper on private accommodation (doccm 930973) contains a national framework for consistency of approach through conservation management strategies and applies to all reviews of conservation management strategies. This paper is in Appendix A of this document. The public notification stage enables feedback on draft policies and milestones.
- Cultural historic significance may be considered in the assessment of any application, including significant of any buildings, the values of the people, and stories associated with the site itself. Independent advice, for example from Heritage New Zealand, on heritage significance may be sought.
- Application processing fees, including for public notification, and market rate activity and management fees should apply. Any costs of monitoring should also be charged to concession holders.
- Climate change:
 - Risks (eg flooding, slips, coastal erosion, inundation) should be included in the consideration of any concession application for private accommodation, including any implications for sewage disposal.
 - Applicants/concessionaires should not be offered alternative locations on public conservation land for relocation of private accommodation and associated facilities.
 - DOC should not carry out any site protection related to climate change risks.

- DOC is open to considering ways to enable availability of the building and facilities to the general public on an open basis, where appropriate, in line with Conservation General Policies Section 10.
- As part of the phase out nationally, any concession granted for private accommodation and/or associated facilities may include conditions about :
 - Removal of buildings/facilities and rehabilitation of the site;
 - Transition to public use;
 - Mechanisms to enable public use, including fair and reasonable pricing;
 - Climate change risks - no hard coastal structures such as sea walls etc should be allowed;
 - Private accommodation buildings or facilities damaged or destroyed by fire, natural hazards or disrepair should not be able to be replaced;
 - The building footprint cannot be enlarged; and/or
 - Contain a term that demonstrably reduces the time for private accommodation and associated facilities to remain at the site.
- DOC may consider disposal of land occupied by private accommodation where appropriate. The fact sheet of requirements for acquiring land from DOC is attached as Appendix B.
 - Relevant legal requirements and policies (including Conservation General Policies and any relevant statutory plans) will be considered in the assessment of any disposal process.
 - Relevant Treaty settlement requirements, such as Rights of First Refusal, will apply.
 - The costs of any allocation process (eg tender) should also be recovered from participants.
 - Sale price will be at market rate.

Approved by



Marie Long,

Deputy Director-General National Operations and Regulatory Services

04/11/2022