Conservation management and processes

Discussion document

May 2022

Department of Conservation
Te Papa Atawhai

Te Kāwanatanga o Aotearoa
New Zealand Government

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Foreword by the Minister of Conservation

One of the key functions of the Department of Conservation (DOC) is ensuring that public conservation lands and waters are appropriately managed, protected and preserved. These areas give all New Zealanders opportunities to connect with nature, provide vital habitat for native species, and afford protection to key historical and cultural places.

There are currently 24 Acts in the suite of legislation that guides our conservation work. Most of the main Acts were developed in an ad hoc manner over the past 70 years.

Conservation management strategies and plans are key tools that help us to manage natural and historic resources by providing guidance on what can and cannot be done in our national parks and conservation areas. Many of these strategies and plans are out of date and no longer fit for purpose. Reviewing them can be a slow and painful process, leading to well-documented frustration among recreational users, businesses, tangata whenua and conservationists.

Concession applications affect a wide range of people, from tourism operators to scientific researchers, but the way we manage these has also failed to keep pace with social and technological changes.

In December 2021, I announced a Conservation Law Reform Roadmap to address long-standing problems in conservation law. The proposals in this package seek immediate improvements to conservation management planning and permissions legislation. This is the start of the groundwork for comprehensive law reform as we look at the wide range of conservation legislation and begin to modernise it.

In the short term, there are ways we can make the current legislative framework more workable. There are areas of conservation legislation, for example, in the Conservation Act 1987, National Parks Act 1980 and Reserves Act 1977 where minor and technical issues cause unnecessary problems for conservation management and planning. Despite DOC's best efforts to address these issues within the current framework, it often comes up against legislative barriers.

This document looks solely at the proposed legislative amendments. It sets out the options for making improvements to our current conservation planning and management system where it is not operating effectively. The first step is retesting the management and process amendments proposed in 2016.

The conservation management and processes amendments proposed in this paper will make the tools within the conservation planning framework more user friendly for everyone, including tourism operators, media, business owners and researchers alike.

Hon Kiri Allan

Minister of Conservation

Executive summary

Conservation management planning and concessions are powerful statutory tools for managing public conservation lands and waters. The decisions made through these systems have environmental, social and economic impacts for tangata whenua, industry, environmental groups, communities and individuals. However, complicated and dated legislation means there are a host of issues that make using and navigating these tools challenging.

This discussion document seeks feedback on options to make targeted amendments to conservation legislation, particularly the Conservation Act 1987, the National Parks Act 1980 and the Reserves Act 1977, to improve specific statutory processes and decision-making frameworks for conservation management planning, and the concessions system. Additional changes are also explored to address minor or technical issues within conservation legislation.

Addressing these issues will make the current legislative framework more workable, help statutory requirements keep pace with societal and technological changes, and improve the often slow and painful process of reviewing out-of-date conservation management planning documents.

The discussion document asks for feedback on legislative changes across three areas.

1. **Changes to the development and review processes for conservation management planning documents**

   There is a significant backlog of conservation management planning documents overdue for review or development. The pipeline of work is increasing as documents reach the end of the 10-year statutory timeframe and become due for review, and Treaty settlements require new documents or reviews of current documents.

   This backlog is in partly driven by the slow and resource intensive process for developing and reviewing planning documents. Frustrations with onerous process requirements are felt by tangata whenua, recreational users, businesses and conservationists alike.

   This discussion document proposes changes to improve the legislative process for developing and reviewing conservation management planning documents by addressing the following issues.

   - Issue 1A: the requirement that conservation management strategies, conservation management plans and national park management plans are fully reviewed every 10 years is contributing to the growing backlog of documents in need of full review or development.
   - Issue 1B: Once a planning document is approved, it cannot be easily updated to reflect changing needs, new technology and evolving pressures.
   - Issue 1C: The current legislative process for public engagement in reviewing planning documents is outdated and inflexible.

2. **Changes to improve efficiency and enable more proactive approaches to concessions management**

   Concession applications affect a range of people, from tourism operators to researchers and farmers. Processing applications under the current statutory framework can be slow and costly. This creates a growing backlog of work and impedes prompt decision making, which results in delayed or missed access to concession opportunities.

There is an opportunity to make targeted amendments to the Conservation Act to enable more proactive and efficient concessions management without removing the Department of Conservation's (DOC's) statutory ability to protect conservation values, by addressing the following issues.

- Issue 2A: Individual concession applications are required for all activities, even where the effects are minimal and well managed.
- Issue 2B: DOC cannot make a concession for pre-approved activities available on demand.
- Issue 2C: There are limits on when concessions can be tendered.
- Issue 2D: The tender process does not allow a successful tender candidate to be offered a concession outright.
- Issue 2E: There is no statutory timeframe to seek a reconsideration on a concession decision.

3. Minor and technical changes for the purposes of regulatory stewardship

Due to the age and complexity of conservation legislation, some provisions are hindered by minor and technical errors, inconsistencies, and/or outdated references. DOC has identified 12 issues that can be easily corrected or updated to make the legislation more usable.

Introduction

Purpose

The purpose of this discussion document is to seek feedback on options to make targeted amendments to conservation legislation, particularly the Conservation Act 1987, the National Parks Act 1980 and the Reserves Act 1977. These changes are primarily focused on specific statutory processes and decision-making frameworks for conservation management planning, and the concessions system. Additional changes are also explored to address minor or technical issues within existing conservation legislation.

Addressing these issues will make the current legislative framework more workable, help concessions management systems to keep pace with societal and technological changes, and improve the often slow and painful process of reviewing out-of-date conservation management planning documents.

Target audience

We welcome input and feedback on these proposals from everybody. As the proposals largely deal with processes rather than the parameters of how conservation decisions are made, we anticipate that they will be of most interest to those who are involved with conservation management planning documents and those who use the concessions management system.

- Chapter 1 (p. 10) relates to conservation management planning.
- Chapter 2 (p. 45) relates to the concessions management system.
- Chapter 3 (p. 73) relates to miscellaneous amendments to ensure our legislation reflects the original policy intent and is up to date.

A Glossary of terms is provided in Appendix 1.

Why are we reviewing the legislation around conservation management and processes?

Ensuring that public conservation lands and waters (PCL&W) are appropriately managed, protected and preserved is one of the key functions of the Department of Conservation (DOC), as these areas allow New Zealanders to connect with nature, provide important habitats for native species, and give protection to key historical and cultural places.

The system for managing PCL&W is based on a tiered framework. This framework outlines how lands and waters administered under conservation legislation[1] should be managed and what activities are allowed to take place. Each level provides more specific guidance and boundaries so that conservation management reflects local issues and environmental circumstances.

Three levels of statutory documents sit beneath conservation legislation: general policies, conservation management strategies (CMSs), and conservation management plans (CMPs) and national park management plans (NPMPs). Together, the legislation and these documents direct DOC's management of PCL&W and set out the Minister of Conservation's and DOC's responsibilities when regulating how others enjoy and use PCL&W.

Most activities on PCL&W beyond personal recreation require authorisation from DOC, which most often comes in the form of a concession.[2] DOC's legislation provides a process for decision making, while the statutory documents determine whether an activity is appropriate for a specific place.

Combined, conservation legislation, the three tiers of statutory documents and the concessions system comprise DOC's framework for managing PCL&W and the activities authorised on them (see diagram).

Overview of the conservation management system

The purpose, parameters and requirements of this framework are set out in conservation legislation. However, there are 24 Acts in the suite of conservation legislation, and the main Acts were mostly

[1] The Conservation Act 1987 and legislation listed in Schedule 1 of the Conservation Act 1987.

[2] A concession is authorisation from the Minister of Conservation to undertake specific activities on PCL&W. Concessions are authorised under Part 3B of the Conservation Act 1987.

developed in an ad hoc way over a span of nearly 70 years. Consequently, and unsurprisingly, there are a host of issues within the legislation that have created systemic challenges to effectively managing PCL&Ws. DOC is pursuing multiple avenues to resolve these issues.

A phased approach for reforming conservation legislation

In December 2021, a Conservation Law Reform Roadmap was announced to address long-standing issues in conservation law.[3] This reform will include making immediate improvements to conservation management planning and permissions legislation, as outlined in this document, as well as looking at the wider reform of conservation legislation, beginning with a review of the Wildlife Act 1953.

Partial reviews of the Conservation General Policy (CGP) and General Policy for National Parks (GPNP)

Partial reviews of the CGP and GPNP are being undertaken to better reflect Treaty responsibilities in conservation. This work will lead to improvements in how DOC gives effect to the principles of Te Tiriti o Waitangi / the Treaty of Waitangi in all aspects of its work, including management planning and concessions.

Continuous improvements to operational practice

The Planning, Permissions & Land Unit within DOC is responsible for implementing the management planning and concessions systems. This includes specific workstreams dedicated to systems maintanence and improvements.

Near-term, targeted improvements to the legislative framework through a Conservation Management and Processes Bill

(The focus of this discussion document)

Fully resolving the systemic problems within conservation management requires coordinated action across these projects, which will take several years to address due to the complexities and public interest involved.

DOC has identified key areas where near-term improvements could be made through targeted legislative changes. These areas of conservation legislation largely relate to management planning and the concessions system. However, additional focus is also given to minor or technical changes to other miscellaneous issues within existing conservation legislation – particularly the Conservation Act 1987, National Parks Act 1980 and Reserves Act 1977. Despite DOC's best efforts to address these issues within the current framework, legislative barriers are often encountered.

The proposals detailed in this discussion document aim to relieve some of the pressures on the system while the big issues are being appropriately addressed over a longer timeframe. DOC has identified three key areas where targeted legislative improvements could remove some significant roadblocks and make the tools within the conservation planning framework more workable for everyone involved.

- **Targeted changes to the statutory process for developing and reviewing conservation management planning documents**

  Many CMSs and CMPs are out of date and consequently do not accurately reflect the current situation. Reviewing planning documents is a slow process, and DOC is aware of public frustrations with its inability to produce updated planning documents in a timely fashion. These frustrations are felt by recreational users, businesses, tangata whenua and conservationists alike.

[3] www.doc.govt.nz/about-us/our-role/legislation/conservation-law-reform/

- **Targeted changes to statutory concessions processes**

  Concession applications affect a range of people, from tourism operators to researchers. The way DOC manages concessions has not kept pace with societal and technological changes, and there are ongoing issues with processing timeframes and costs, as well as inconsistent decision making.

- **Minor and technical amendments**

  Due to the age and complexity of conservation legislation, some provisions are hindered by minor and technical errors, inconsistencies, and/or outdated references. Correcting or updating these provisions will make the legislation more usable.

Scope of this discussion document

The New Zealand Government has directed DOC to identify targeted legislative amendments that would make near-term improvements to the management planning and concessions system. DOC has undertaken careful analysis of the legislation around management planning and concessions processes and has identified areas where minor and technical changes could improve the process in line with the objectives. These issues have been identified by internal reviews of DOC's systems and processes. The Government is interested to hear your views on how the processes outlined in the following sections could be made more efficient and effective.

We are seeking your feedback on options relating to the following areas.

- Targeted changes to the statutory process for developing and reviewing conservation management planning documents
- Targeted changes to concessions processes
- Other minor and technical amendments

The following sections describe the issues in each area and provide options to address these. Each section includes a number of questions to help guide submitters' feedback.

We will consider the views of submitters when undertaking further analysis and use that information to inform any advice on a preferred option under each area.

Aspects that are out of scope

This document focuses solely on identifying areas within legislation that need to be improved to address the identified issues within specific processes, rather than operational policy. This does not mean that improvements to internal operational policy cannot or should not also be addressed, but those workstreams can be progressed without the need for legislative change. Where possible, those non-regulatory workstreams have been outlined and acknowledged to provide context, however.

We are also not seeking views on legislative changes that would address systemic issues within conservation legislation – such work will require a first principles approach (examining the underlying fundamentals of the system) and a longer timeframe that allows for in-depth conversations to be held on areas such as decision making and governance. Other programmes of work are underway that focus on more fundamental changes to the conservation system (see p. 6), and there will be plenty of opportunity for the public to have a say in any such changes. We encourage you to visit the Conservation Law Reform webpage on the DOC website[4] for an overview of the planned programme

[4] www.doc.govt.nz/conservation-law-reform

of changes in the Conservation Law Reform Roadmap. This roadmap, which will be regularly updated, indicates when we will be undertaking public engagement.

Finally, we are not seeking views on the content or process for any specific conservation management plan or strategy, or concession.

Objectives

Through this review we are seeking to meet the following objectives.

- ***Conservation values***
  To ensure processes enhance outcomes to protect conservation values
- ***Public participation***
  To enable appropriate public participation in conservation management processes to ensure statutory decisions are well informed by public preferences on how places should be managed
- ***Cost and time effectiveness***
  To reduce the time and costs required of those involved in conservation management processes; this includes tangata whenua (iwi, hapū and whānau), stakeholders, researchers, businesses, local councils, the public and DOC
- ***Regulatory stewardship***
  To clarify policy intent; this includes transparency and consistency in decision making, and making rules clear for users
- ***Principles of the Treaty of Waitangi***
  To enable DOC to give effect to the principles of the Treaty of Waitangi, as required by section 4 of the Conservation Act 1987, when running conservation management processes
- ***Keeping planning documents up to date***
  To better enable conservation management planning documents to be kept up to date

The options for legislative changes that are described in this discussion document have been assessed against these objectives to determine how well they achieve the purpose of the review. DOC considers each objective to be equally important, and no objective has been given more weight than the others.

For some options, some objectives have not been included in the analysis because DOC considered that there was no notable difference between the options in relation to that objective. Feedback on the relevance of these objectives to the options is welcomed.

Questions

1. Do you agree with the objectives listed above? If not, please explain why.

2. Are there any other objectives you think we have missed? If so, please explain what additional objectives you think we should use and why.

Have your say

How to comment on this discussion document

You can have your say on the proposals in this discussion document by providing a written submission to DOC. You can do this by:

- completing and submitting the form at www.doc.govt.nz/cmap-2022-consultation
- emailing CMAP@doc.govt.nz
- sending a letter to:

  CMAP Consultation
  Policy Unit
  Department of Conservation
  PO Box 10420, Wellington 6143.

Ensure your submission includes:

- your name and title
- the name of your organisation (if you are submitting on behalf of an organisation)
- a statement explaining if your submission represents the views of that entire organisation or a part of it
- your contact details (email preferred).

All submissions must be received by DOC by 30 June 2022.

During the public consultation period, DOC will also undertake more targeted consultation with tangata whenua through meetings (virtually or in place) and regional hui. DOC will also hold meetings with key stakeholder groups that have an interest in the issues under review and will invite individuals and groups to provide written submissions.

DOC will publish a summary of submissions

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 specific reasons for wanting parts, or all, of your submission withheld, please include these reasons in your submission. DOC will consider them when making any assessment about the release of submissions. Please refer to DOC's privacy statement for further information.[5]

What happens next?

DOC will analyse all submissions and then report back to the Minister of Conservation on the feedback with recommendations for consideration in mid-2022. Your submission will help inform policy decisions to develop a Conservation Management and Processes Bill.

If the Government decides to progress with legislative changes, the public will have the opportunity to make submissions during the Select Committee process. This process would likely occur in late 2022.

[5] www.doc.govt.nz/footer-links/privacy-and-security/

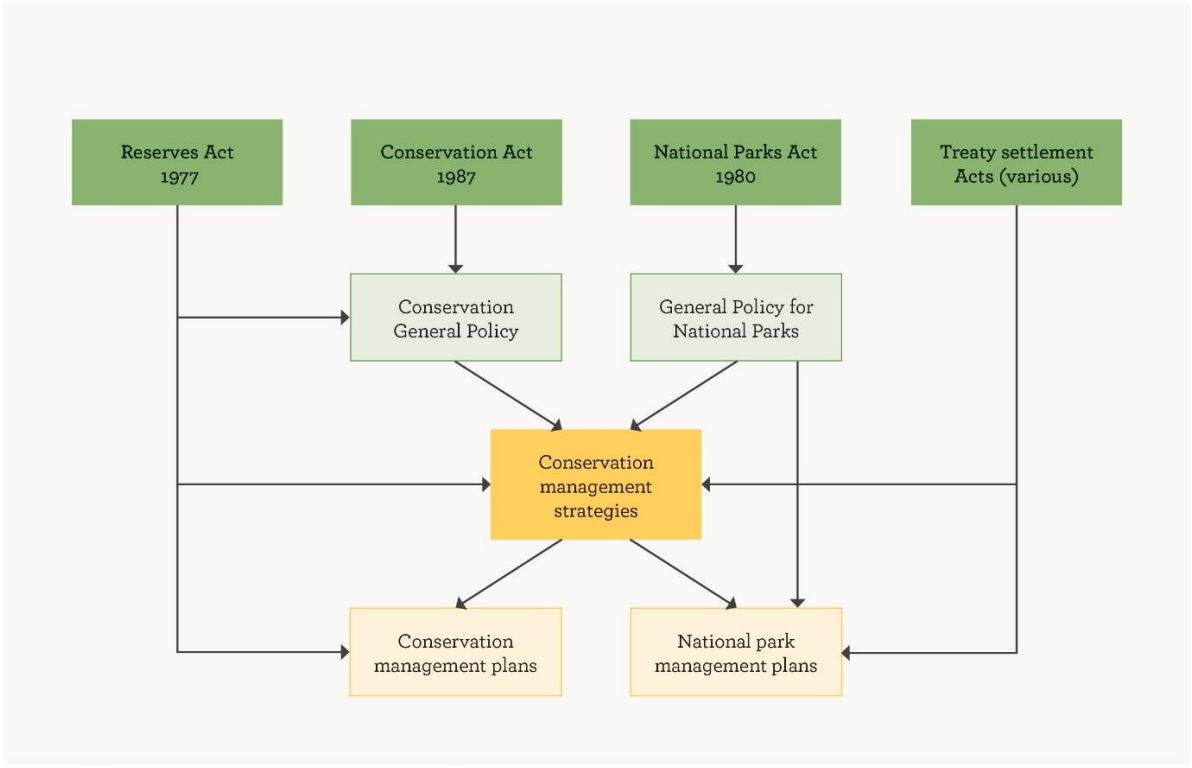
Chapter 1: Conservation management planning

Context

DOC is required to develop statutory documents that guide conservation at place

Legislation prescribes a hierarchical statutory framework to guide the management of PCL&W (see diagram). This hierarchy consists of:

- the Conservation Act 1987 and other conservation legislation, including the National Parks Act 1980, the Reserves Act 1977 and various Treaty settlement Acts
- the Conservation General Policy (CGP) and General Policy for National Parks (GPNP)
- place-based statutory planning documents (collectively referred to as planning documents), including:
  - conservation management strategies (CMSs)
  - conservation management plans (CMPs)
  - national park management plans (NPMPs).



Statutory framework for conservation management

The purpose of planning documents is to guide the management of, and decisions on the use of, PCL&W. They identify what DOC intends to manage in a particular place and why, and include outcomes and policies for places and criteria for making decisions about DOC management activities or activities requiring authorisation (eg concessions). They may also reflect co-management objectives with tangata whenua and give effect to Treaty settlement obligations. DOC is accountable for delivering the outcomes described.

The Conservation Act sets out the requirements and processes for developing and reviewing CMSs and CMPs, while the National Parks Act sets out the requirements and processes for developing and reviewing NPMPs. The CGP and GPNP provide further direction on how planning documents should be developed, what they should contain and how to address various management actions or issues.

Under this legislative framework, the Director-General of DOC is responsible for developing and reviewing planning documents, in consultation with conservation boards, tangata whenua and others. The New Zealand Conservation Authority / Te Pou Atawhai Taiao O Aotearoa (NZCA) and the Minister of Conservation also have a role in determining the final contents of plans.

In some cases, planning documents are developed and reviewed in conjunction with other parties. For example, some Treaty settlement legislation includes bespoke requirements for developing, reviewing and approving planning documents. Requirements vary on a case-by-case basis but often include setting out specific roles in the process or decision making. For example, the Ngāti Whare Claims Settlement Act 2012 requires that the Whirinaki Te Pua-a-Tāne Conservation Management Plan is prepared in consultation with the trustees of Te Rūnanga o Ngāti Whare, and that the Conservation Board and Te Rūnanga o Ngāti Whare have a joint role in approving the plan.

Appendix 2 sets out diagrams that summarise the processes for developing or reviewing CMSs, CMPs and NPMPs for the purpose of facilitating an understanding of the issues presented in this discussion document. For further information, please refer to the full legislation.

The management planning system is under pressure

In 2020/21, DOC initiated an internal systems level review into how the management planning system is functioning. This review was initiated in response to concerns raised by the NZCA, conservation boards, tangata whenua and stakeholders over the functioning of the system.

This review identified three core challenges.

- There is a significant backlog of statutory planning documents that are overdue for review or development. The pipeline of work is increasing as documents reach the end of the statutory 10-year timeframe and become due for review and as new documents are added because of Treaty settlements. This backlog is not meeting statutory requirements and undermines confidence in DOC.

- The system is not adequately meeting DOC's responsibilities to give effect to the principles of the Treaty of Waitangi under section 4 of the Conservation Act 1987 or delivering outcomes for tangata whenua.

- Statutory planning documents are not being optimally implemented within DOC. While they are used to guide statutory decisions, they are no longer frequently used to guide DOC's operational work.

Fully resolving all three of these problems requires a multi-pronged approach across the statutory framework and DOC's operational practices, which will require concerted and coordinated action over time. DOC is pursuing the following long-term work programmes to address these problems.

- **Driving improved performance in the management planning system:**
  Work is underway to implement the shifts identified in the 2020/21 review of DOC's management planning system as being required to drive improved performance in DOC's work to deliver its existing statutory responsibilities for management planning**.**

- **Partial reviews of the CGP and GPNP (see p. 6 above):**
  This work will lead improvements to how DOC gives effect to the principles of the Treaty of Waitangi across its work. This will include improvements within the management planning system.

- **Long-term plans for reforming conservation legislation (see p. 6 above):**
  Fundamental questions about the purpose and role of planning documents need to be considered as part of reforming conservation legislation. This will include discussions about governance and decision making, as well as exploring opportunities for improving Treaty partnership. Decisions on the timing, approach and scope of full reform are yet to be made.

DOC is proposing changes to conservation management planning legislation through a Conservation Management and Processes Bill

(The focus of this discussion document)

DOC has been directed by the Government to identify legislative amendments that would remove pressure on the management planning system in the near term. Such near-term improvements to the system are important, as longer-term work to reform conservation legislation may take several years to progress. These constraints mean that non-regulatory changes are not considered in this discussion document.

The proposals in this discussion document do not consider changes to decision-making or approval roles for planning documents. This is because there are more fundamental issues and questions about the roles of the Minister of Conservation, NZCA, conservation boards and tangata whenua in decision making on PCL&W that require a level of analysis and engagement that cannot be achieved within the timeframes allowed for this work. The drivers of these problems are systemic and complex, requiring extensive analysis within the context of the wider conservation system. Addressing these issues can be more appropriately achieved through the reviews of the CGP and GPNP and through longer-term work on reforming the conservation system.

The proposals in this discussion document focus on removing legislative barriers to addressing the significant backlog of statutory planning documents that are overdue for review or development (see the first challenge above). DOC has undertaken an internal analysis of the existing legislation and identified specific legislative impediments that contribute to slow and resource-intensive processes for developing and reviewing conservation management planning documents.

Three specific legislative impediments are considered in this discussion document.

- The requirement that planning documents are reviewed in full every 10 years is contributing to the growing backlog of documents in need of full review or development.
- Once a planning document is approved, it cannot be easily updated to reflect changing needs, new technology and evolving pressures.
- The prescriptive requirements for public engagement in developing and reviewing planning documents are inflexible and outdated.

Resolving these impediments would remove roadblocks to more timely and efficient development and reviews of planning documents. Any one of these impediments could be addressed in isolation, but the greatest benefit would be realised by addressing all three together as they are interrelated. It should also be noted that removing legislative barriers will not in and of itself resolve the backlog problem in its entirety. Instead, changes will support DOC's ongoing non-regulatory work to drive improved performance in the management planning system.

Questions

3. Do you agree with how the three major challenges with the management planning system are described above? If not, please explain why.

4. Do you think there are any other challenges we should be aware of? Please use examples or evidence to explain your answer.

Issue 1A – The requirement that CMSs, CMPs and NPMPs are fully reviewed every 10 years is contributing to the growing backlog of documents in need of full review or development

Status quo

There is a statutory requirement for planning documents to be reviewed in full every 10 years.[6] The intention of this requirement is to ensure that planning documents are kept up to date, which is important for ensuring that there is relevant and robust guidance for managing PCL&W.

The Conservation Act 1987 and National Parks Act 1980 set out specific process requirements for conducting a full review (refer to Appendix 2 for detail on the statutory requirements). These requirements are extensive, resulting in long and resource-intensive processes for DOC and others who interact with the management planning system, including tangata whenua, stakeholders and communities.

The overall cost to DOC of running a full review process is variable, depending on the context, as is the length of time taken to complete a full review of a planning document. The location, complexity, level of public interest and engagement required, and specific requirements under Treaty settlement legislation mean that no two processes are the same. Since 2020, COVID-19 has also affected the timing and costs of reviews. There are also significant gaps in the quantitative data held about the management planning system as a whole – for example, there is a lack of accurate records of the time and resources spent on statutory planning processes across DOC.

Based on the available data, DOC has estimated that the average costs involved in an approximately 3-year full review process would be $900,000, although this can be considerably higher or lower depending on the context. This figure does not account for the costs incurred by others who interact with management planning system processes (eg the cost for tangata whenua to engage with a review process, or the cost to stakeholders of preparing a submission on a notified draft planning document).

Full reviews generally take at least 3 years, but some take much longer. For example, the full review of the Wellington CMS began in late 2014 and was approved in early 2019; the full review of the Mount Aspiring National Park Management Plan took approximately 5 years and was approved in 2011; and the Auckland CMS review was initiated in 2005 but the document was not approved until 2014.

In the 2020/21 financial year, DOC spent approximately $1,160,000 on management planning. During any one year, there will be multiple processes underway to develop or review planning documents. However, current resourcing and approaches are unable to keep pace with the demand for full reviews and developing new plans. Consequently, few planning document reviews meet the 10-year timeframe, which has created a backlog of documents that need urgent attention. There are currently 19 planning documents that are more than 10 years old for which a full review has not been initiated, and there are also 4 new planning documents that need to be developed.

[6] Section 17H(4)(b) of the Conservation Act 1987 and section 46(3) of the National Parks Act 1980.

	Status of documents (as at February 2022)				
	Less than 10 years old	**More than 10 years old (currently under full review)**	**More than 10 years old (to be reviewed)**	**New planning document under development or to be developed**	**Existing planning document to be revoked**
Conservation management strategies	7	3	6	2	0
Conservation management plans	5	1	3	2	8
National park management plans	2	1	10	0	0

Case for change

Ensuring that planning documents are regularly reviewed and updated is important for maintaining quality statutory guidance. However, automatically requiring a full review of a planning document every 10 years is failing to achieve this as the associated resource requirements are too high for DOC and others to meet. This has resulted in a backlog of documents that are overdue for full review or development rather than ensuring that documents are regularly updated.

The resource requirements associated with undertaking full reviews every 10 years also mean that DOC is unable to prioritise regular partial reviews of planning documents in between the 10-year full-review requirement. This leads to these documents becoming quickly outdated, further contributing to the backlog.

Many newer planning documents have been developed to provide long-term outcomes, objectives and policies for the management of PCL&W. In these cases, a full review at 10 years may be unnecessary. Instead, smaller-scale or targeted partial reviews may be more appropriate and resource efficient.

Options for change

Options for Issue 1A – The requirement that CMSs, CMPs and NPMPs are fully reviewed every 10 years is contributing to the growing backlog of documents in need of full review or development	
Note: These options are mutually exclusive. It would not be appropriate or effective to amend legislation to enact both Option 1 and Option 2.	
Option 1	Amend the Conservation Act 1987 and National Parks Act 1980 to replace the 10-year full-review requirement with a statutory check-in process at 10 years to assess the need for a review and the scale required
Option 2	Amend the Conservation Act 1987 and National Parks Act 1980 to extend the timeframe for full review of planning documents to 20 years
Option 3	Retain the status quo

Option 1: Replace the 10-year full-review requirement with a statutory check-in process at 10 years to assess the need for a review and the scale required

This option would remove the statutory requirement for planning documents to be reviewed in full every 10 years.[7] The 10-year requirements would be replaced with a statutory check-in process every 10 years that allows DOC (after engaging with tangata whenua, the NZCA and the relevant conservation board(s)) to:

- invite the NZCA or conservation board(s) and/or another decision-maker as defined in Treaty settlement legislation (as relevant) to reapprove the strategy or plan in full; or
- initiate a partial review of the strategy or plan; or
- initiate a full review of the strategy or plan.

The final decision on the most appropriate course of action would sit with the Director-General of DOC, who would be required to have regard to the views of tangata whenua, the NZCA and relevant conservation board(s). Where Treaty settlement legislation identifies additional roles for a post-settlement governance entity (PSGE), the PSGE would be included in the process. Where implementation of Treaty settlement legislation is tied to the existing 10-year full-review requirement, this would be provided for in the changed process.

Documents already requiring full review would not be impacted. Instead, this process would triage documents that reach the 10-year timeframe after the change is enacted. It is unlikely that any documents would meet the test of requiring no review, but if such a decision was made, it would not prevent a full or partial review being initiated within the next 10-year period.

[7] Section 17H(4)(b) of the Conservation Act 1987 and section 46(3) of the National Parks Act 1980.

Option 2: Extend the timeframe for full review of planning documents to 20 years

This option would change the requirement that CMSs, CMPs and NPMPs are reviewed in full every 10 years to every 20 years. Documents already requiring full review would not be affected.

Option 3: Retain the status quo

If current legislation is left unchanged, there may still be some change to the current situation in the near term. DOC is already working to implement the shifts identified in the 2020/21 review of its management planning system as being required to drive improved performance in delivery of its existing statutory responsibilities for management planning. Improved performance within current resourcing will likely result in reduced times and costs for full review processes. In the longer term, the partial reviews of conservation general policies and reform of the conservation system would likely result in further time and cost savings.

Discounted options

The following options were considered but discounted after being determined to be out of scope. They are described below for completeness.

Discounted option: Streamline the process for full review of a planning document

Legislation could be amended to reduce the process requirements for undertaking a full review of a planning document. This option is not being considered as the degree of change and complexity involved falls outside the scope of this work. It would require reconsideration of the current statutorily required levels of public engagement for fully reviewing planning documents and reviewing governance arrangements. It would also have significant implications for existing Treaty settlement requirements.

Discounted option: Increase the funding available to resource 10-year full reviews

The options in this discussion document are constrained to legislative amendments (see p. 12 above). As such, increasing DOC's resourcing has not been considered as an option to address this issue.

Analysis of options against the objectives

Issue 1A			
Objective	**Option 1: Replace 10-year full-review requirement with a statutory check-in every 10 years**	**Option 2: Set timeframe for full reviews at 20 years**	**Option 3: Retain the status quo**
Conservation values	Enables greater use of partial reviews than the status quo, resulting in more up-to-date planning documents. This will lead to more up-to-date guidance of PCL&W. Partial reviews are less resource intensive than full reviews. Additional resources gained by conducting a partial review instead of a full review can be used for additional conservation work.	Increasing the gap between full reviews may result in planning documents becoming more outdated than the status quo. This would result in worse quality guidance for managing PCL&W.	Improvements to DOC's internal processes will enable more efficient use of public conservation resources. This may lead to a marginally increased frequency of reviews, providing more up-to-date and higher quality guidance for managing PCL&W.
Public participation	Fewer full reviews may lead to fewer opportunities for the public to influence the overarching objectives and policies of planning documents. However, if more partial reviews occur then there may be more opportunities to influence planning documents overall.	The greater time between full reviews reduces opportunities for the public to be involved in and influence planning documents.	Always requiring a full review process at 10 years retains the current level of public participation.
Cost and time effectiveness	Allows the type of review (full/partial/no) to match the specific needs of the planning document and location under consideration. This enables more efficient use of public conservation resources, as the cost/time for a partial review is lower. Reduces time and cost pressures for tangata whenua, stakeholders, businesses, local councils and DOC.	The overall cost and time requirements remain but are spread over a longer period. Reduces immediate time and cost pressures for tangata whenua, stakeholders, businesses, local councils and DOC.	Continues current time and cost pressures for tangata whenua, stakeholders, businesses, local councils and DOC. This may be inefficient where a partial review or no review is appropriate but a full process is required.

Issue 1A			
Objective	**Option 1: Replace 10-year full-review requirement with a statutory check-in every 10 years**	**Option 2: Set timeframe for full reviews at 20 years**	**Option 3: Retain the status quo**
Regulatory stewardship	Statutory check-in maintains a safeguard to ensure there is an ongoing commitment to updating planning documents. Enabling more partial reviews would mean statutorily required guidance is updated more regularly.	More planning documents meet the statutory timeframe for full review as the review period is longer. Extended timeframes between full reviews means the statutorily required guidance is likely to become increasingly out of date.	Statutory 10-year full-review timeframe is not being met in most cases. Planning documents are not being updated regularly, impacting the quality of the required statutory guidance.
Treaty principles	Provides a mechanism for Treaty settlement legislation that includes provisions relating to the 10-year full-review timeframe to be fulfilled. Requiring engagement with tangata whenua at the 10-year check-in ensures the decision on the type of review appropriate is informed by tangata whenua interests and aspirations for PCL&W.	Reduces immediate opportunities for engagement with tangata whenua in fully reviewing planning documents. Treaty settlement provisions relating to the 10-year full-review timeframe need to be provided for. This would require exempting some planning documents from the requirement.	Existing Treaty settlement legislation requirements were designed within the current management planning system. Full reviews for all documents at 10 years maintains current opportunities for engagement with tangata whenua in developing planning documents.
Keeping plans up to date	See detailed analysis below.	Substantially reduces the number of documents added to the backlog of planning documents due for full review or development. However, there is a risk that guidance becomes even more outdated than under the status quo.	Non-regulatory work to increase DOC's efficiency may increase the number of full reviews being undertaken. However, this will not offset the fact that more documents will continue to be added to the backlog of planning documents due for full review or development, putting further pressure on resourcing.

Issue 1A			
Objective	**Option 1: Replace 10-year full-review requirement with a statutory check-in every 10 years**	**Option 2: Set timeframe for full reviews at 20 years**	**Option 3: Retain the status quo**
Overall assessment	**This is the preferred option** as it will enable more planning documents to be kept up to date.	This option further risks DOC's ability to meet its regulatory responsibilities for appropriately managing PCL&W, including DOC's responsibilities to give effect to the principles of the Treaty of Waitangi as required by section 4 of the Conservation Act 1987.	This option is unlikely to increase updates to planning documents.

Keeping plans up to date – detailed analysis of Option 1

While the current backlog of planning documents would still require full review to ensure guidance is updated appropriately, Option 1 would reduce the number of documents that are added to the backlog in the future. It is likely that many older documents would still require full review at 10 years, but there would be some that only require updating through a partial review (eg those that have been partially reviewed previously), reducing additions to the backlog compared with the status quo and providing assurance that the guidance is largely relevant.

Since undertaking a partial review is generally a less time- and cost-intensive process, it would be possible to conduct more of these, likely increasing the frequency of partial reviews, which would help keep plans up to date. The options proposed to address Issue 1B (see p. 25) consider ways to enable more partial reviews. Therefore, progressing this option in tandem with the proposals for Issue 1B would likely result in additional partial reviews being conducted.

Recent planning documents are designed to provide relevant and robust guidance over a much longer timeframe than older documents, increasing their longevity. Therefore, this option is likely to substantially reduce the number of documents contributing to the backlog when they reach the 10-year mark as more recent documents are more likely to only require partial review to be updated.

It is unlikely that many documents would be reapproved in full at 10 years, unless there is a significant shift towards more frequent partial reviews of planning documents between statutorily required reviews.

Questions

5. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

6. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

7. If you are / have been engaged in the review of a management planning document, do you think that these options would have an impact on the time and/or costs required for you to engage in planning processes? Please explain your answer.

8. Do you think there are any impacts associated with the options for change that are not identified here? Please explain your answer.

9. Are there any further options you think DOC should consider that would meet the objectives set out above?

Issue 1B – Once a planning document is approved, it cannot be easily updated to reflect changing needs, new technology and evolving pressures

Status quo

New issues often arise that were not considered when a planning document was first developed. Recent examples include the increased popularity of electric bikes and drones, or the growing impacts of climate change. Regularly updating planning documents in between statutorily required full reviews at 10 years allows them to provide relevant and robust up-to-date guidance in the face of emerging issues and changing needs. Once a planning document is approved, the legislation provides several pathways for it to be updated through partial review or amendments.

Pathway	**Process requirements for each category of planning document**		
	Conservation management strategy	**Conservation management plan**	**National park management plan**
1. Review in full	Requires public notification, submissions, hearings, and full consideration and approvals process. * Section 17H(2) of the Conservation Act 1987 (CA)	Requires public notification, submissions, hearings, and full consideration and approvals process. * Section 17H(3) of the CA	Requires public notification, submissions, hearings, and full consideration and approvals process. * Section 46(4) of the National Parks Act 1980 (NPA)
2. Review in part	Requires public notification, submissions, hearings, and full consideration and approvals process. * Section 17H(2) of the CA	Requires public notification, submissions, hearings, and full consideration and approvals process. * Section 17H(3) of the CA	Requires public notification, submissions, hearings, and full consideration and approvals process. * Section 46(4) of the NPA
3. Amendment (If change **will** materially affect objectives or policies, or the public interest)	Requires public notification, submissions, hearings, and full consideration and approvals process. * Section 17I(2) of the CA	Requires public notification, submissions, hearings, and full consideration and approvals process. * Section 17I(3) of the CA	Requires public notification, submissions, hearings, and full consideration and approvals process. * Section 46(4) of the NPA

Pathway	Process requirements for each category of planning document		
	Conservation management strategy	**Conservation management plan**	**National park management plan**
4. Amendment (If change **will not** materially affect objectives or policies, or the public interest)	Does not require public notification, submissions or hearings. Requires approval by the conservation board and the New Zealand Conservation Authority (NZCA). * Section 17I(4)(a) of the CA	Does not require public notification, submissions or hearings. Requires approval by the conservation board (and potentially the NZCA). * Section 17I(4)(b) of the CA	Does not require public notification, submissions or hearings. Requires consideration by the conservation board and approval by the NZCA. * Section 46(5) of the NPA
5. Amendment (if limited to updating statutorily required information)	Does not require public notification, submissions or hearings. Does not require consideration by the conservation board or approval by the NZCA. * Section 17I(1A) of the CA	Not allowed.	Not allowed.

Minor and technical amendments can be made through a relatively fast and inexpensive process. However, the circumstances in which this can be used are very limited. An amendment can only be made if the change will not materially affect the objectives or policies, or the public interest, and (in the case of CMSs) if the change is limited to updating specific statutorily required information.

Any updates to the planning documents that go beyond the criteria for an amendment must essentially go through the same process that is used for a full review (refer to the process diagrams in Appendix 2). Meeting these process requirements is generally costly and lengthy for DOC, as well as tangata whenua, communities and stakeholders who engage in the process. Many partial reviews take multiple years to complete, leaving decision-makers without up-to-date guidance in the meantime. As an example, work is underway to partially review the Otago CMS for cycle tracks and trails – the process was initiated in early 2020 and is currently at the final stages of approval, having taken approximately 24 months so far.

As for a full review process, the overall cost to DOC of running a partial review process is variable, depending on the context, with no two processes being the same. Since 2020, COVID-19 has also affected timing and costs. There are also significant gaps in the quantitative data held about the management planning system as whole – for example, there

is a lack of accurate records of the time and resources spent on statutory planning processes across DOC.

Based on the limited data available, DOC has estimated that the average costs involved in a partial review process are approximately $300,000, but this can be considerably higher or lower depending on the context. This figure does not account for the costs incurred by others who interact with the management planning system processes (eg the cost for tangata whenua to engage with a review process, or the cost to stakeholders of preparing a submission on a notified draft planning document).

There are nearly 40 existing planning documents, of which 5 are under full review, 19 are due for full review and 8 are to be revoked. There are also four planning documents to be developed. In the last 10 years, only two partial reviews and four amendments have been completed.

Case for change

Updating planning documents to reflect changing circumstances and new pressures is important for ensuring that adequate statutory guidance is available to make decisions about the management of PCL&W.

The current statutory pathways for changing existing planning documents do not include a simple and timely process if the changes affect objectives or policies, even if the changes are of low public interest. This contributes to the barriers that prevent documents from being sufficiently agile to keep pace with changing circumstances, technology or pressures, as most changes will inevitably affect existing objectives or policies.

The time and costs associated with process requirements for partial reviews make it hard to justify the use of public resources to undertake the process if the updates are not urgent or of very high public interest. DOC is rarely able to prioritise partial reviews over addressing the extensive backlog of planning documents that are due for development or full review (see Issue 1A), as conducting concurrent processes is challenging with the limited resources available.

Undertaking partial reviews also places a significant and inefficient engagement burden on tangata whenua, as well as stakeholders and the public. DOC has received feedback from those involved that the lengthy and intensive process for partial reviews is often seen as inappropriate and inefficient, which can undermine engagement with tangata whenua, stakeholders and the public. This, in turn, can contribute to relationship tension between DOC and others, reducing their willingness to engage in management planning and other conservation-related projects.

These factors disincentivise partial reviews, meaning that, once approved, planning documents are rarely updated ahead of the legislatively required 10-year full-review requirement (which is rarely met). Given the number of planning documents and the breadth of topics covered within them, the current frequency of partial reviews is insufficient to keep planning documents up to date in between full reviews. There is an opportunity to change the legislation to enable planning documents to be updated more regularly.

Options for change

Options for Issue 1B – Once a planning document is approved, it cannot be easily updated to reflect changing needs, new technology and evolving pressures	
Option 1	Amend the Conservation Act 1987 and National Parks Act 1980 to introduce a new streamlined process for partially reviewing planning documents where public interest is limited
Option 2	Retain the status quo

Option 1: Introduce a new streamlined process for partially reviewing planning documents where public interest is limited

This option would introduce a streamlined process for partially reviewing CMSs, CMPs and NPMPs where the changes are of limited public interest. Circumstances where changes would be considered of limited interest would be where:

- the proposed change relates to a confined issue; and
- consultation with relevant conservation board(s), relevant PSGEs and tangata whenua finds that a streamlined process is appropriate; and
- DOC is able to identify all persons and groups directly affected by the proposed change.

The streamlined process would remove the steps requiring public notification of a draft planning document and the subsequent public submissions and hearings on a notified draft. Instead, DOC would be required to engage with directly affected persons and groups during the drafting of the proposed change and then provide the proposal to the conservation board(s) for consideration. The existing revision and decision-making requirements would remain.

Removing these process steps would reduce the time and costs required to conduct a partial review process. The length of time taken to complete these steps varies depending on the circumstances particular to the process, but DOC estimates that the time saved could equate to 8–10 months.

Option 2: Retain the status quo

If legislation is left unchanged, there may still be some change to the current situation in the near term. DOC is already working to implement the shifts identified in the 2020/21 review of its management planning system as being required to drive improved performance in the delivery of its existing statutory responsibilities for management planning. Improved performance within current resourcing will likely result in reduced times and costs for planning processes, which may increase the number of partial reviews being undertaken. However, given the considerable backlog of full reviews required, it is more likely that any additional resources would be directed towards progressing those. In the longer term, the partial reviews of conservation general policies and reform of the conservation system would likely result in changes to the management planning system that will affect this issue.

Discounted options

The following options were considered but discounted after being determined to be out scope. They are described below for completeness.

Discounted option: Introducing a time limit for conducting a partial review process

Introducing a time limit for conducting a partial review process (eg 18 months) or part of a partial review process (eg reducing the amount of time for providing written submissions to 20 days) could be effective in increasing the speed of partial review processes. However, there is a risk that this would reduce the quality of the process. For instance, putting time limits on engagement may prevent tangata whenua from being able to engage in the process effectively and meaningfully. It is also likely that where roadblocks create delays, timeframes would not be met.

Discounted option: Streamlining decision making for the approval of changes to planning documents

Several different bodies are currently involved in reviewing and approving the final content of planning documents, including DOC, conservation boards, the NZCA and the Minister of Conservation. In some cases, PSGEs also hold roles as set out in Treaty settlement legislation. Streamlining this aspect of the process is out of scope due to the complexities involved with governance of the management planning system. This more systemic issue will be considered as part of planned work for wider conservation system reform.

Discounted option: Increase the funding available to resource more frequent partial reviews

The options considered in this discussion document are constrained to legislative amendments (see p. 12 above). As such, increasing DOC's resourcing has not been considered as an option to address this issue.

Analysis of options against the objectives

Issue 1B		
Objective	**Option 1: Streamline the partial review process**	**Option 2: Retain the status quo**
Conservation values	Enables greater use of partial reviews than the status quo, resulting in more up-to-date planning documents. This will lead to more up-to-date guidance of PCL&W.	Improvements to DOC's internal processes may enable more efficient use of public conservation resources. This may lead to a marginally increased frequency of reviews, providing more up-to-date and higher quality guidance for managing PCL&W.
Public participation	Engagement in streamlined process is limited to directly impacted persons and organisations, conservation board(s), PSGEs, and tangata whenua.	Maintains current opportunities for public involvement in all partial reviews of planning documents.

Issue 1B		
Objective	**Option 1: Streamline the partial review process**	**Option 2: Retain the status quo**
	Reduces opportunities for public involvement in all partial reviews of planning documents. *See further analysis below*	
Cost and time effectiveness	A streamlined process will be less resource intensive than a regular partial review process. Reduces timeframes and costs for DOC, tangata whenua, the public, stakeholders and others who engage in planning processes. In circumstances where a streamlined process is appropriate, process requirements better align with the scale of change needed.	Time and costs for conducting partial reviews remain the same, regardless of the level of public interest or nature of change. Continues potentially inefficient requirements for review processes that do not warrant the associated level of resource. Some frustration from the public/stakeholders where the time and costs associated with processes are inappropriate for the scale of change.
Regulatory stewardship	More regular partial reviews contribute to more up-to-date statutorily required guidance.	Improvements to DOC's internal processes may lead to a marginally increased frequency of reviews, providing more up-to-date guidance for managing PCL&W.
Treaty principles	Where PSGEs have a defined role under Treaty settlement legislation, the streamlined process allows for those requirements where possible. Where the streamlined process cannot allow for requirements, it is not appropriate. Tangata whenua are engaged during the drafting process, reflecting DOC's statutory responsibilities to give effect to the principles of the Treaty of Waitangi.	Treaty settlement requirements for involvement in partial review processes have been negotiated within current legislative requirements. The status quo maintains these settings.
Keeping plans up to date	Provides a pathway to more timely and less complex processes for updating planning documents. This would enable more partial reviews to be undertaken, due to the reduced resource requirements associated with a streamlined	Current timeframes and costs for DOC, tangata whenua, the public, stakeholders and others who engage in planning processes are likely to continue to act as a barrier to more regular partial reviews.

Issue 1B		
Objective	**Option 1: Streamline the partial review process**	**Option 2: Retain the status quo**
	process, resulting in more up-to-date planning documents.	There is unlikely to be any increase in the number of partial reviews undertaken. This would continue to contribute to existing planning documents failing to stay current.
Overall assessment	**This is the preferred option** as it will enable more planning documents to be kept up to date.	This option is unlikely to increase updates to planning documents.

Further analysis – public participation

Option 1 would limit public participation in partial reviews of existing planning documents that are of limited public interest to those persons and organisations that would be directly impacted. Engagement with conservation boards, tangata whenua and PSGEs would be required to determine the circumstances where this is possible and appropriate and would also inform the content of the plan change.

This option would reduce opportunities for general public involvement in planning documents, which may lead to planning documents being less successful in reflecting community aspirations. However, planning documents are thoroughly consulted on during development and full reviews, and thorough public consultation would continue during partial reviews that are of public interest. This means that there would continue to be many opportunities for general public involvement in the substantive content of these documents.

Questions

10. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

11. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

12. Do you think that all types of planning documents (CMSs, CMPs and NPMPs) should be addressed through the same option? If not, please explain why.

13. Do you think there are any impacts associated with the status quo or the proposed options that are not identified here? Please explain your answer

14. Are there any further options you think DOC should consider that would meet the objectives set out above?

Issue 1C – The current process for public engagement in developing and reviewing planning documents is outdated and inflexible

Status quo

Legislation provides roles and opportunities for specific organisations, groups and individuals in developing the content of conservation management planning documents. For instance, local conservation boards, the NZCA, DOC and the Minister of Conservation have defined roles in determining the final content of planning documents. Treaty settlement legislation also specifies roles and opportunities for PSGE participation in planning processes.

The processes for developing and reviewing CMSs, CMPs and NPMPs also has a strong public engagement element. These documents are designed to reflect community aspirations for PCL&W, and there are several opportunities in the process for engaging the public and inviting input. Providing these opportunities is important – for many people, the development of planning documents is the main opportunity they get to share their views and priorities for the management of PCL&W.

The Conservation Act 1987 sets out process requirements for conducting public engagement during processes to develop, review or amend CMSs and CMPs, while the National Parks Act 1980 sets out process requirements for conducting public engagement processes to develop, review or amend NPMPs. Appendix 2 provides a detailed diagram of the process steps involved.

Public engagement takes considerable time and resources for DOC and those who engage in the process, including tangata whenua, stakeholders, community groups and individuals.

Case for change

DOC has identified three specific issues in the required public engagement processes for developing or reviewing CMSs, CMPs and NPMPs that unnecessarily add to the time and costs involved.

- The requirement to publicly notify the intent to develop or review an NPMP duplicates consultation requirements.
- The requirements for public notification and public consultation on draft planning documents are outdated and overly prescriptive.
- The requirements for public notification and publishing approved planning documents are outdated.

The current processes described in legislation are prescriptive about the steps involved in public engagement, restricting the ability to adapt engagement to the situation at hand. The requirements are also no longer in line with modern communication methods. Removing prescriptive and outdated process steps will better enable DOC to use the limited resources available for public engagement to best effect. It will also make the process more efficient for those who engage with developing or reviewing planning documents.

The three issues and options for change are discussed below.

Issue 1C(i) – The requirement to publicly notify the intent to develop or review an NPMP is inefficient

Status quo

Section 47(1) of the National Parks Act 1980 requires that:

> … before preparing or reviewing a management plan for any park, the Director-General shall consult the Board having jurisdiction over that park, and shall—
>
> (a) give notice by advertisement published in a newspaper circulating in the area in which the park is situated and in daily newspapers circulating in the cities of Auckland, Hamilton, Wellington, Christchurch, and Dunedin of the intention to do so; and
>
> (b) in that notice, invite persons and organisations interested to send to the Director-General written suggestions for the proposed plan within a time specified in the notice.

This process step intends to provide opportunity for public input in developing or reviewing a draft NPMP. Public notification of a draft NPMP is also required later in the process, at which time public input on the content of the draft NPMP is sought.

This process step is not required under the Conservation Act 1987 for developing a CMS or CMP.

Case for change

This step currently adds approximately 3 months to the process compared to developing a CMS or CMP. Public notification of the intent to develop or review an NPMP duplicates public consultation requirements, adding unnecessary time and costs to the process for DOC, stakeholders, community groups and individuals.

Options for change

Options for Issue 1C(i) – The requirement to publicly notify the intent to develop or review an NPMP is inefficient	
Option 1	Amend the National Parks Act 1980 to remove the requirement to publicly notify the intent to prepare or review an NPMP
Option 2	Retain the status quo

Option 1: Remove the requirement to publicly notify the intent to prepare or review an NPMP

This option would amend the National Parks Act 1980 to remove the requirement to publicly notify the intent to prepare or review an NPMP. This would reduce the length of planning processes for NPMPs by approximately 3 months.

Option 2: Retain the status quo

This option would retain the existing legislative requirement to publicly notify the intent to prepare or review an NPMP. Fulfilling this requirement takes approximately 3 months.

Analysis of options against the objectives

Issue 1C(i)		
Objective	**Option 1: Remove the requirement to publicly notify the intent to prepare or review an NPMP**	**Option 2: Retain the status quo**
Conservation values	Reducing the cost and length of processes enables more plans to be updated within available resources. This will lead to better management of PCL&W through the provision of more up-to-date guidance.	There is no change to the guidance for managing PCL&W.
Public participation	There are currently two opportunities for the public to provide input to the NPMP process. This option removes one of those opportunities.	Retains existing opportunities to influence the content of NPMPs.
Cost and time effectiveness	Reduces the process time by approximately 3 months. Reduces costs associated with public notification (eg placing newspaper advertisements) and submissions analysis (staff time). Means that submitters only have to prepare a submission once.	Maintains the current time and cost pressures for DOC, stakeholders, community groups and individuals. Submitters must prepare submissions twice.
Regulatory stewardship	Creates consistency across the planning framework.	Inconsistent with other planning processes for CMSs and CMPs.
Treaty principles	DOC continues to engage with tangata whenua throughout the process.	DOC continues to engage with tangata whenua throughout the process.
Keeping plans up to date	Reducing the time and costs required enables more plans to be updated within available resources.	No change to the time or costs required makes it unlikely that more plans will be updated within available resources.
Overall assessment	**This is the preferred option** as it will enable more planning documents to be kept up to date.	This option is unlikely to increase updates to planning documents.

Questions

15. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

16. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

17. Are there any further options you think DOC should consider that would meet the objectives set out above?

18. Do you think there are any impacts associated with these options that are not listed here? If so, please provide information to support your answer.

Issue 1C(ii) – The requirements for public notification and seeking public input on a notified draft planning document are outdated and overly prescriptive

Status quo

Once a draft planning document has been developed, the legislation requires that the public is notified, written public submissions are requested and hearings are held for submitters. Requirements also include that a revised draft of a CMS or CMP must be provided to the relevant conservation board(s) within 8 months of public notification of the draft. The requirements for CMSs are set out in sections 17F(a)–(j), 17N(6) and 49(1) of the Conservation Act 1987; the requirements for CMPs are set out in sections 17G(1), 17F(a)–(j), 17N(6) and 49(1) of the Conservation Act 1987; and the requirements for NPMPs are set out in section 47(1)–(4) of the National Parks Act 1980. Appendix 2 provide detailed diagrams of the process steps involved.

Public notification is limited to placing newspaper advertisements, with no requirement for the information to be publicised online, despite most people accessing public information in this way. The requirements are also prescriptive about how public input is sought on draft planning documents, specifying that it must be sought through requesting written submissions and holding hearings for submitters. It is also unclear if online communications or verbal submissions meet these requirements.

Hearings are resource and time intensive to organise and run. Costs vary on a case-by-case basis, but each hearing is estimated to cost approximately $13,000 per process. Although this is a fraction of the overall cost of a review, the decision-maker (the NZCA for CMSs and NPMPs) is not present to hear submitters and hearings can be inaccessible to many people. The costs and time commitments associated with running hearings can, in some cases, then limit DOC's ability to pursue more innovative approaches to engagement, such as tailoring public engagement to the type of review and the local context and taking advantage of modern technologies.

Case for change

Government policy and services are increasingly being designed and delivered through greater collaboration with the public. As public expectations change and Māori–Crown relationships evolve, there is a need to continually improve and adapt the practice of community engagement. Community engagement can be conducted in numerous ways, so selection of the most appropriate method requires consideration of the particular context and scope of the project, the purpose of the engagement, and the people involved. Engagement could involve methods such as citizens' juries, community advisory groups, hui, interactive online tools and online discussion forums.

Allowing more flexibility in the methods used for public engagement could improve public participation in developing planning documents. It would allow approaches to be adapted to the draft planning document being developed or reviewed and the communities involved. This could increase the accessibility of opportunities for public participation and better allow those who are affected by a decision or interested in an issue to be involved in designing management planning documents and therefore the management of PCL&W.

For instance, instead of holding hearings where participants read out their submission to a panel, facilitated workshops could be run, allowing interested parties to discuss differing viewpoints and hear feedback. Capturing conversations is likely to provide a greater understanding of values and issues and may engage people who would otherwise be put off by the formality of speaking at hearings. DOC could also make greater use of interactive online tools, such as online discussion forums, e-panels, social media and crowd sourcing.

The accessibility of opportunities to provide feedback could also be increased by clarifying that the public notification and public availability of documents can be online.

Requirements that a revised draft of a CMS or CMP must be provided to the relevant conservation board(s) within 8 months of public notification of the draft places an arbitrary requirement on DOC that can lead to rushed processes, impacting the quality of engagement and revisions.

Options for change

Options for Issue 1C(ii) – The requirements for public notification and seeking public input on a notified draft planning document are outdated and overly prescriptive	
Note: These options are mutually exclusive. It would not be appropriate or effective to amend legislation to enact both Option 1 and Option 2.	
Option 1	Amend the Conservation Act 1987 and National Parks Act 1980 to modernise the requirements for public notification and seeking public input on a notified draft planning document, including removing the requirement to hold hearings
Option 2	Amend the Conservation Act 1987 and National Parks Act 1980 to modernise the requirements for public notification and seeking public input on a notified draft planning document, but retain a modified hearings process
Option 3	Retain the status quo

Option 1: Modernise the requirements for public notification and seeking public input on a notified draft planning document, including removing the requirement to hold hearings

This option would simplify and modernise the requirements for public notification and engagement on a draft planning document (section 17F(a)–(h) of the Conservation Act 1987 and section 47(2–3) of the National Parks Act 1987). The core elements of this process would be to:

- require that once a draft is prepared, the Director-General of DOC must make the draft publicly available and seek public input on the draft in such a manner that is likely to encourage public participation in the development of the planning document
- require that public notification includes notification through online channels
- remove prescriptive requirements to:
    - request and provide 40 working days for written submissions for CMSs and CMPs (sections 17F(b)(ii) of the Conservation Act), or 2 months for written submissions for NPMPs (section 47(2)(b) of the National Parks Act)
    - provide any submitter with the opportunity to support their submission by appearing before a meeting of representatives of the Director-General of DOC and the conservation board(s) affected (section 17F(f) of the Conservation Act and section 47(3) of the National Parks Act)
- require that after considering the public feedback, the Director-General of DOC shall revise the draft, and a summary of public feedback and revisions is made available to the public (online and in any other way seen as appropriate) at the same time as the revised draft is sent to the conservation board(s)

- remove the requirement that a revised draft of a CMS or CMP must be provided to the relevant conservation board(s) within 8 months of public notification of the draft (section 17F(i)–(j) of the Conservation Act).

Where Treaty settlement legislation sets out roles or process requirements for public notification and seeking public input on a notified draft planning document, this would be provided for.

Option 2: Modernise the requirements for public notification and seeking public input on a notified draft planning document, but retain a modified hearings process

This would follow the same process as outlined above but would also require that public consultation must include an opportunity for members of the public or organisations to provide feedback on the draft at a public meeting chaired by a panel of representatives of the Director-General of DOC, the relevant conservation board(s) and the NZCA. Where Treaty settlement legislation includes requirements for public notification and engagement on a draft, this will be included in the process (eg a PSGE representative on the hearing panel).

Option 3: Retain the status quo

DOC's non-regulatory work to drive improved performance of the management planning system (see p. 12–13) may result in incremental improvements to how current legislative requirements are implemented. However, maintaining the existing legislative requirements would limit substantive improvements to public engagement.

Analysis of options against the objectives

Issue 1C(ii)			
Objective	**Option 1: Modernise and simplify the requirements for public notification and seeking public input on a notified draft planning document, including removing the requirement to hold hearings**	**Option 2: Modernise and simplify the requirements for public notification and seeking public input on a notified draft planning document, but retain a modified hearings process**	**Option 3: Retain the status quo**
Conservation values	May improve the quality of input received, in turn improving the quality of planning documents and decision making.	May improve the quality of input received, in turn improving the quality of planning documents and decision making.	May be some improvement to the quality of input received, but unlikely to substantively improve the quality of planning documents and decision making.
Public participation	Increases accessibility by enabling online communications.	Increases accessibility by enabling online communications. Increases flexibility, allowing the approach	Current requirements mean there is a 'one size fits all' approach to seeking public input on planning documents,

Issue 1C(ii)			
Objective	**Option 1: Modernise and simplify the requirements for public notification and seeking public input on a notified draft planning document, including removing the requirement to hold hearings**	**Option 2: Modernise and simplify the requirements for public notification and seeking public input on a notified draft planning document, but retain a modified hearings process**	**Option 3: Retain the status quo**
	Increases flexibility, allowing the approach to public participation to be adapted to the situation at hand. Enables better public feedback by providing options for public participation that cater to a wider range of needs. *See further analysis below*	to public participation to be adapted to the situation at hand. Retaining an improved hearings requirement maintains some prescription, which could be limiting in some cases. *See further analysis below*	which could be inefficient. Limits accessibility. *See further analysis below*
Cost and time effectiveness	Improves engagement within the limited resources available. Increases efficiency as engagement can be scaled to the process requirements. Improved engagement can shorten timeframes in the long run by reducing later challenges to content.	Improves engagement within the limited resources available. May limit the resources available for other methods of engagement. Improved engagement can shorten timeframes in the long run by reducing later challenges to content.	Without being able to tailor and scale engagement approaches, there is a continued risk of poor engagement approaches, leading to dissatisfaction with the process and related delays and costs.
Regulatory stewardship	Increased flexibility risks there being less clarity and transparency about	Balances flexibility and clarity about standards for public input.	Prescription sets clear and transparent standards for public input.

Issue 1C(ii)			
Objective	**Option 1: Modernise and simplify the requirements for public notification and seeking public input on a notified draft planning document, including removing the requirement to hold hearings**	**Option 2: Modernise and simplify the requirements for public notification and seeking public input on a notified draft planning document, but retain a modified hearings process**	**Option 3: Retain the status quo**
	standards for public input. Updates legislation to reflect modern communication standards.	Updates legislation to reflect modern communication standards.	Omitting online notification leaves the requirements dated.
Treaty principles	Allows for existing Treaty settlement requirements. If required, exemptions from process changes would be provided. Engagement with tangata whenua continues to occur at multiple points in the planning process. Increased flexibility in the public engagement process may improve accessibility and the ability to design processes that work better for tangata whenua.	Allows for existing Treaty settlement requirements. If required, exemptions from process changes would be provided. Retaining hearings avoids requiring exemptions for existing Treaty settlement requirements related to hearings. Engagement with tangata whenua continues to occur at multiple points in the planning process. Increased flexibility in the public engagement process may improve accessibility and the ability to design processes that work better for tangata whenua.	Engagement with tangata whenua continues to occur at multiple points in the planning process. Inflexibility in public engagement mechanisms can limit accessibility for providing input.

Issue 1C(ii)			
Objective	**Option 1: Modernise and simplify the requirements for public notification and seeking public input on a notified draft planning document, including removing the requirement to hold hearings**	**Option 2: Modernise and simplify the requirements for public notification and seeking public input on a notified draft planning document, but retain a modified hearings process**	**Option 3: Retain the status quo**
Keeping plans up to date	Improved efficiency may make it easier to keep plans updated.	Improved efficiency may make it easier to keep plans updated.	No change is likely.
Overall assessment	This option would improve public engagement in planning processes and make public input more efficient and opportunities more accessible.	This option could improve public engagement in planning processes and make public input more efficient and opportunities more accessible. The additional prescription also reduces the risk of poor implementation.	This option is likely to continue to limit public input in developing/reviewing planning documents.

Further analysis – public participation

Option 1

Requiring that public notification includes notification through online channels provides surety that opportunities for engagement are accessible for a wider audience.

Introducing flexibility to the design of a public engagement approach allows the approach to public participation to be adapted to the circumstances of the planning document development or review, and the communities involved. This enables better public feedback by providing options for public participation that cater to a wider range of preferences.

Requiring that a summary of public feedback is published provides a two-way flow of information between DOC and the public, increasing transparency about how feedback has been used.

Option 2

Many people value the opportunity to meet face to face with government representatives to discuss their feedback on a draft planning document. This option would retain the requirement to hold hearings as one method of consultation, reflecting this preference. However, prescribing hearings may limit public engagement. Most people have not had any experience with such processes and could find them inaccessible and/or challenging to contribute to. Other avenues, such as group workshops or townhall-style meetings, may be a more effective

vehicle for encouraging participation from a wider cross-section of the public. However, the costs associated with hearings would make it unlikely that such alternatives would be considered alongside hearings within current resourcing.

Modifying the current requirements for hearings by requiring the NZCA to be present would increase the value of the requirement. The NZCA is the decision-maker for CMSs and NPMPs (and, in some circumstances, CMPs), so having a presence at hearings would mean that the NZCA hears directly from the public, which may improve decision making.

Option 3 (status quo)

Public engagement is an important step in the process for developing and reviewing planning documents, as it provides opportunities to influence the content of the draft planning document and the management of PCL&W. However, the current requirements do not reflect the prevalence of and preference for online communication.

The requirements also limit the ways in which public input is sought, which, in turn, can limit who provides input. For instance, younger people are less likely to read newspapers or feel confident attending a formal hearings process. This gives certain groups less opportunities to influence the management of PCL&W.

The value of hearings is also reduced as the NZCA (which acts as the decision-maker for CMSs, NPMPs and, in some circumstances, CMPs) is not required to be present. This means there is no clear line of sight between the hearings process and influencing the final content of the document.

Questions

19. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

20. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

21. Do you think there are any impacts associated with these options that are not listed here? If so, please provide information to support your answer.

22. Do you think that CMSs, CMPs and NPMPs should be addressed through different options? If so, please provide information to support your answer.

23. Would newspaper advertisements or online notifications be more effective in making you aware of opportunities to provide input on planning documents? Please explain your answer.

24. Would you prefer to have a wider range of options for providing input on notified planning documents? Please provide information to support your answer.

25. How important do you think the hearings process is for ensuring effective public participation in conservation management planning processes? Please explain your answer.

26. Are there any further options you think DOC should consider that would meet the objectives set out above?

Issue 1C(iii) – The requirements for publishing draft or approved planning documents do not reflect modern preferences for accessing information

Status quo

The Conservation Act 1987 specifies that the draft of any planning document should be made available for public inspection 'in such places and quantities as are likely to encourage public participation' (section 17F), and also requires DOC to specify offices and places where the approved or amended plan can be inspected (section 17N). Similar provisions are in place under the National Parks Act 1980 for draft and approved NPMPs (sections 47 and 48, respectively).

DOC also uploads both draft and approved documents to the DOC website. However, the legislation does not clearly state that the Director-General of DOC must publish these documents on DOC's website because it was drafted at a time before the internet and so 'places' covered the physical locations where information could be accessed. Therefore, it is unclear whether this is a requirement under the legislation.

Case for change

The wording of the requirements for publication differs between the Conservation Act and the National Parks Act. Within each Act, the requirements also differ between the publication of draft documents for the purposes of engagement and approved documents. Clarity and consistency could be achieved by aligning these requirements and how they are prescribed in legislation.

The minimum standard prescribed in the two Acts requires hard copies of documents to be available on hand at DOC offices, many of which are not publicly accessible. Consequently, these hard copies often go unused. This requirement also does not properly reflect the most common ways in which people access information. Most people have internet access at home and/or work or can access the internet in public spaces such as libraries. Consequently, most people do not require access to published hard copies and find these more difficult to access than information posted online. It is important that there is no doubt around DOC and the Director-General's responsibility to publish information broadly, especially through digital platforms. There is an opportunity to future proof the safeguards to public access to information while reducing costs and waste.

Options for change

Options for Issue 1C(iii) – The requirements for publishing draft or approved planning documents do not reflect modern preferences for accessing information	
Option 1	Amend the Conservation Act 1987 and National Parks Act 1980 to modernise the publication requirements for planning documents
Option 2	Retain the status quo

Option 1: Modernise the publication requirements for planning documents

This option would require that any strategy, plan, or review or amendment of a strategy or plan must be made publicly available electronically when publicly notified or once approved. This would allow the document or information to be available at all reasonable times, free of charge, on an internet site. This proposal would seek to enable a 'digital-by-default' approach. Hard copies would not be printed and distributed unless requested, reducing the number of documents that are printed yet go unread.

Option 2: Retain the status quo

Hard copies of approved and publicly notified planning documents would continue to be printed and distributed to DOC offices, many of which would go unread. DOC would continue to publish planning documents electronically on the DOC website, but the legislation would remain dated by not making this a statutory requirement.

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, Treaty principles and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 1C(iii)		
Objective	**Option 1: Enable planning documents to be accessed online**	**Option 2: Retain the status quo**
Public participation	Guarantees that documents will be available online. Still provides access to documents for those without internet services at home or access to a public library. However, there may be delays as this would be upon request rather than documents being printed and distributed in advance.	Enables ready access for the limited number of people who have trouble accessing volumes of material online.
Cost and time effectiveness	Planning documents are more easily accessible at a lower cost. There are lower publication costs for DOC.	Publishing large documents as hard copies that then go unused is costly to DOC.
Regulatory stewardship	Places a clear legislative obligation on DOC to provide and promote documents electronically.	Although DOC enables electronic interactions currently, the statutory requirement on DOC to do so is ambiguous.
Overall assessment	**This is the preferred option** as it would enable access to planning documents at a lower cost to DOC.	This is a less efficient option as it results in costly documents that go unused.

Questions

27. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

28. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

29. Do you think there are any impacts associated with these options that are not listed here? If so, please provide information to support your answer.

30. Are there any further options you think DOC should consider that would meet the objectives set out above?

31. Would you have trouble accessing planning documents online? Please explain your answer.

32. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Implementation and monitoring

Implementation

DOC has a dedicated Statutory Management Planning team within the Planning Permissions and Land unit who are responsible for implementing the statutory processes for developing or reviewing planning documents. Implementing any changes to the legislation will require amending existing operational practices for DOC.

The Department of the Prime Minister and Cabinet provides guidance for government agencies on designing community engagement and choosing the best methods for the circumstances at hand.[8] Each method will have its own strengths and weaknesses, and its own rationale for use. DOC would utilise and adapt this guidance to implement alternative mechanisms for engaging the public in planning processes.

Where planning documents are developed or reviewed in conjunction with others (for instance, as required by Treaty settlement legislation), DOC will work together with affected parties to determine an approach to implementation. DOC will also communicate the changes and implications to others who interact with the management planning system, including tangata whenua, the NZCA, conservation boards, government agencies, territorial authorities, community groups and other key stakeholders.

Monitoring and evaluation

For many of the proposals, the core objectives that success will need to be actively measured against are time and cost effectiveness and keeping plans up to date. While the other objectives are integral to management planning processes, in general they will be best achieved by planning documents providing the most up-to-date statutory guidance and more frequent reviews.

There is no direct measure for how up to date a planning document is. The length of time since the last review is a good indicator, but guidance could remain relevant for years, even beyond the current 10-year cycle. Conversely, social or environmental events could render guidance out of date within months of a planning document being approved.

The volume of concerns raised to DOC and the Minister of Conservation during the life of the document would be an initial indirect measure of its currency. If the volume of concerns or calls for review decreases, then it could reasonably be inferred that the plans better reflect the views of tangata whenua and community preferences. Meaningful evaluation of how effectively the proposals (Issues 1A and 1B) enable planning documents to be kept up to date will need to be undertaken over time.

Likewise, DOC would build an understanding of the extent to which it is more cost and time effective to undertake a partial review of a plan rather than a full review (Issue 1A). The information collected over time would also help DOC to ascertain whether it is more cost effective to use multiple partial reviews across the life of the document to keep plans up to date (as proposed to address Issue 1B) or to identify the parts that are out of date during the statutory check-in and address them collectively at one time (as proposed in response to Issue 1A).

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[8] https://dpmc.govt.nz/sites/default/files/2020-10/policy-project-community-engagement-selecting-methods.pdf

DOC records the time and resources spent on planning document reviews as part of its ongoing business planning. There will be difficulties in making direct comparisons due to the broad range and complexity of planning document reviews and the stakeholders involved. Targeted interviews with staff and stakeholders may be necessary to provide useful context to the data collected.

A simple measure of public participation would be the quantitative aspects of public involvement (eg attendance at public meetings, the number of submissions received). A good measure of the effectiveness of the different engagement mechanisms enabled by a less prescriptive process (as proposed to address Issue 1C) would be the frequency of engagement.

Monitoring the quality of public engagement is more complex. DOC would primarily rely on feedback from stakeholders and staff to evaluate whether different forms of public engagement improve participation. DOC could also interview or survey those involved in engagement processes around planning document reviews. This evaluation of public participation would be most effective over time as experience in deploying a range of public engagement mechanisms grows, allowing the most appropriate mechanism to be tailored to the stakeholders and issues involved.

DOC monitors planning processes that are underway, have been scheduled and are yet to be scheduled and publicly reports this information on its website.[9] DOC will continue to undertake this monitoring and make the information publicly available. This will allow any changes to the number of planning processes to be made apparent.

Conservations boards and the NZCA (which both have statutory roles in the conservation planning processes) also monitor conservation outcomes from DOC activities and provide feedback to the Minister of Conservation. This includes monitoring and providing feedback on the management planning system.

These changes will not occur in isolation but rather will be contribute to a wider programme of work that will impact the management planning system (including the reviews of conservation general policies and DOC's internal work to drive improved performance in the management planning system). It may be difficult to evaluate the specific effect of any regulatory changes in this context.

Question

33. Are there any additional implementation, monitoring or evaluation measures that you think should be considered? Please explain your answer.

[9] www.doc.govt.nz/about-us/our-policies-and-plans/statutory-plans/statutory-planning-status-report/

Chapter 2: Concessions

What are concessions?

A concession is an authorisation from the Minister of Conservation to undertake an activity on PCL&W. A broad range of activities require a concession,[10] with common concession activities including tourism operations, telecommunications infrastructure, collecting samples for research, and collecting plant material for propagation or bioprospecting. All aircraft take offs and landings also require a concession.

The concessions system is responsible for regulating the use of PCL&W. Below we have identified four key functions of the concessions system in managing people's use of PCL&W.

- **Delivering effective land management** – First and foremost, the concessions system is responsible for ensuring that any activities maintain the values of public conservation land. It enables DOC to control which activities can occur, assess any adverse effects and apply any conditions necessary for the activity to take place.
- **Providing well-governed access opportunities** – Appropriate private use and development of public conservation land needs an enabling mechanism. A clearly regulated environment gives legitimacy to that use, provides a reasonable level of certainty and clarifies responsibilities.
- **Securing public benefit from private use and development** – A royalty is paid when the use of PCL&W results in commercial gain. DOC generally refers to these royalties as activity fees. Securing a fair return to the public for the use of a public asset is the basis for charging activity fees.
- **Clarifying public and private entitlements and responsibilities** – A concession agreement clarifies entitlements and responsibilities for both parties in situations where both DOC and the concessionaire have interests and duties relating to the activity.

Part 3B (sections 17O–17ZJ) of the Conservation Act 1987 sets out the statutory framework for the concessions system, including the:

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

[10] Section 17O of the Conservation Act 1987 requires all activities on PCL&W to be authorised by DOC in the form of a concession, with the following exemptions: i) any mining activity authorised under the Crown Minerals Act 1991; ii) any activity that is otherwise authorised by or under the Conservation Act or any Act in Schedule 1; iii) any action or event necessary to protect people, prevent serious damage to property or avoid adverse effects on the environment; iv) any activity carried out by the Minister or Director-General in exercising their duties; and v) any recreational activity undertaken without gain or reward for that activity.

DOC officials consider and decide on concession applications under delegated authority from the Minister of Conservation. Appendix 3 provides a diagram summarising the process for considering a concession application.

Section 4 of the Conservation Act requires DOC to give effect to the principles of the Treaty of Waitangi when implementing any of its legislative responsibilities. This includes DOC's statutory role in processing and managing concessions. All principles of the Treaty apply, but the principles of partnership, informed decision making and active protection are most frequently relevant to concessions management.

The Conservation Act does not prescribe any process or specific requirements for giving effect to Treaty principles in concessions management. The operational approach will differ depending on the Treaty partners, the locations in question and the nature of the activity. Some Treaty settlement Acts also have bespoke requirements and processes outlining how DOC and the relevant iwi or hapū will manage concessions.

Concessionaires (those granted a concession) are provided with a concession document from DOC that sets out the authorised activities, including where they can occur, the frequency with which they can occur and who can undertake the activity. The concession document will also contain any operating conditions to be complied with when undertaking the activity.

There are four types of concessions provided by DOC. Each type is responsible for authorising a different type of use.

Type	Purpose	Term	Examples
Permit	Gives the right to undertake an activity with no corresponding rights over the land	Can be granted for up to 10 years	Guiding, filming, aircraft landings, research activities
Easement	Provides for a right of way access to property or for public work purposes	Can be granted for up to 30 years and in 'exceptional circumstances' for up to 60 years	Access activities only
License	Gives the right to undertake an activity and a non-exclusive interest in the land	Can be granted for up to 30 years and in 'exceptional circumstances' for up to 60 years	Grazing, beekeeping, telecommunications infrastructure
Lease	Gives an interest in land, giving exclusive possession and allowing the leasee to carry out an activity on that land	Can be granted for up to 30 years and in 'exceptional circumstances' for up to 60 years	Accommodation facilities, boat sheds, storage facilities

Source: Koolen-Bourke, D.; Peart, R. 2021: Conserving Nature: Conservation Reform Issues Paper. Environmental Defence Society, Auckland. 162 p.

DOC is proposing targeted changes to the statutory process for managing concessions

DOC has identified that the legislative process for managing concession applications is an area where immediate improvements could be made to the conservation management framework.

Concession applications affect a range of people, from tourism operators to researchers. The current system for processing concession applications is slow and costly, partly because the statutory process for considering whether activities can be authorised is reactive and has become outdated.

Legislation has not kept pace with societal changes and developments in technology. It does not consider that most visitors hold a high-resolution camera in their pocket and unmanned aircraft are available at electronics stores.

Businesses, researchers and other concessionaires have felt the strain on the system through long processing times and uncertainty. Delays have also created uncertainty for members of the public interested in informing what activities can and cannot take place on PCL&W.

These concerns recently manifested in a review of DOC's permit protocols and procedures by the Environment Select Committee. This was prompted by concerns raised to them by the scientific research community who were frustrated by delays in processing and a lack of clarity in the permitting process. The Environment Select Committee released their briefing in March 2022.[11]

DOC is aware of space for improvement. The number of applications pending a decision has sat between 400 and 700 over the last 3 years.[12] When that figure reached close to 700 in December 2021, more than 400 applications had been in the system for 2 months or more.

Creating clear rules around activities on PCL&W and addressing processing times is crucial. In some cases, high processing costs, lengthy processing times or unclear rules may discourage a would-be concessionaire from applying. Assuming the activity would be authorised, this has a negative impact on both the would-be concessionaire and the would-be beneficiaries or users of that service.

Concessions, of which permits are a sub-set, authorise activities that contribute to conservation and New Zealanders' wellbeing. Research activities are crucial in addressing the current climate and biodiversity crises. Concessionaires also play a key role in facilitating the safe and responsible enjoyment of Aotearoa New Zealand's natural environment.

Further problems are created if a person undertakes an activity without the appropriate authorisation from DOC because of perceived difficulties in obtaining a concession. Unauthorised activities not only can negatively affect conservation values but are unfair on any competing concessionaires that have obtained and paid for the appropriate authorisation.

There is an opportunity to make the concession application process more transparent and accessible while reducing the time and costs for those involved in the process of considering concession applications. There is also an opportunity to enable more competitive allocation processes, making the allocation of concession opportunities more effective, efficient and transparent.

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[11] www.parliament.nz/resource/en-NZ/SCR_120000/3aeaf79072fe8ad291c1d72a8bd240bab24ecf86

[12] The figures provided here are averages that have been rounded for simplicity. The specific number fluctuates over time.

DOC has identified a series of specific issues related to the processes for authorising and allocating concession activities. These are outlined in further detail below with their own specific problem definitions and options for addressing them.

Aspects that are out of scope

The purpose of this review is to enable the more efficient and transparent delivery of concession application decisions within the current legislative framework. It is not a review of the statutory considerations DOC must make when deciding whether an application will be accepted or declined, ie it is not seeking to change what activities can and cannot be authorised.

This review will not look to specifically address any slowing down of the processing of Wildlife Act 1953 concession applications related to the effect of the *PauaMAC5* Supreme Court decision.[13] A separate review of the Wildlife Act 1953 has been initiated, which is a more appropriate avenue for addressing issues related to authorising interactions with wildlife.

This review also does not seek to prescribe in legislation how DOC engages with tangata whenua in concessions management. However, better enabling DOC to give effect to the Treaty principles is a key objective of this review to ensure that operational practice can be flexible and develop in a bespoke manner to suit the ways in which different whānau, hapū and iwi wish to engage in concessions management. This will also ensure that any changes to legislation aimed at increasing efficiency will not limit the ability for tangata whenua to be involved in concessions management.

Non-regulatory improvements to concessions processes

Partial reviews of the CGP and GPNP are being undertaken to better reflect Treaty responsibilities in conservation. This includes reviewing the statutory guidance around concessions management. The partial reviews will update the statutory guidance used by decision-makers, enabling more robust and timely concessions decisions that give effect to Treaty principles.

DOC has also begun work on redesigning the database for managing concessions. Improved information management will help to improve the decision-making process and bring greater transparency. DOC relies on a bespoke information management system called the Permissions Database to manage information on concessions and applications. The database has only benefited from incremental improvements since it was designed 20 years ago and has become outdated and cumbersome for some aspects of concessions management.

DOC is also continuing work on developing staff expertise and continuously seeking operational improvements.

[13] *Shark Experience Limited v PauaMAC5 Incorporated* [2019] NZSC 111.

Issue 2A – All activities require individual concessions, even when these activities are commonplace and have no or minimal adverse effects that can be appropriately managed

Status quo

The statutory process set out in Part 3B of the Conservation Act 1987 for determining whether an activity requires a concession is a reactive framework based on an applicant supplying DOC with a proposal, DOC evaluating that proposal and DOC deciding on whether the activity is authorised or not. DOC may impose conditions on the authorisation to mitigate any adverse effects from the proposed activity.

This reactive framework sees DOC assessing whether the activity defined by the applicant can be authorised, which means that assessments are often done on a case-by-case basis, as each application is somewhat unique. This process is resource intensive and can require numerous conversations with an applicant to redefine the scope of an activity into something that can be authorised within the statutory framework.

Also, when an individual, business or organisation is granted a concession, that concession is granted only to them, which means that DOC often assesses and grants applications for a range of similar activities. There may, however, be variation in the nature of the activity and/or the proposed locations meaning that the assessment of one proposal may not be applicable to similar proposals.

Case for change

There is an opportunity to manage some activities more efficiently by taking a proactive approach to assessing impacts and authorising activities that are commonly applied for and present a low risk of cumulative impacts. This would alleviate pressure on the concessions processing system by installing a degree of standardisation and would allow resources and effort to be spent on managing more complex issues. The Stage 1 Cost Recovery Impact Statement in Appendix 4 provides further detail on the resources spent managing such activities, along with some illustrative examples.

Options for change

Options for Issue 2A – All activities require individual concessions, even when these activities are commonplace and have no or minimal adverse effects that can be appropriately managed	
Option 1	Provide the Minister of Conservation with the ability to make regulations that generally authorise specific activities, removing the need for a concession
Option 2	Retain the status quo

Option 1: Provide the Minister of Conservation with the ability to make regulations that generally authorise specific activities, removing the need for a concession

This option would provide the Minister of Conservation with a new power to create regulations that authorise an activity without the need for a concession.

These regulations might be prescriptive in authorising the activity only for specific locations, times or seasons, and people. Likewise, it may be necessary for the authorisation to prescribe conditions to ensure that the activity does not risk having adverse effects on the environment,

people or the interests of tangata whenua. For example, news media organisations may film without a permit so long as filming only takes place on formed public tracks and car parking areas.

The Minister's use of this power would be subject to criteria to ensure that any activity authorised in this way is in line with the environmental protections, the Treaty principles and other parameters required in the concession's regime. The criteria would be based on the existing tests in Part 3B that are used to assess if an activity can be authorised. These criteria would be included in the legislation to ensure authorisation through regulation is limited to circumstances where it is appropriate.

Proposed criteria for authorising activities through regulations

As noted above, regulation-making powers require criteria to be in place to ensure any authorisation decisions are consistent with the statutory framework for regulating concession activities. We have suggested a series of criteria below to facilitate a discussion on what those criteria should be.

- **Authorisation does not provide any corresponding rights over the land**
  The intent here is to limit general authorisations to activities currently authorised by permits because permits provide a non-exclusive right to undertake an activity with no corresponding rights over the land. These activities are more temporary and transient uses that do not limit the rights of others to undertake recreational (or other commercial) activities. Pre-approval would not be suitable for activities requiring an easement, licence, or lease.

- **The nature of the activity is not contrary to the purposes for which the land is held**
  As with current concession decisions, the authorisation should ensure that the activity is not contrary to the purposes for which the land is held.

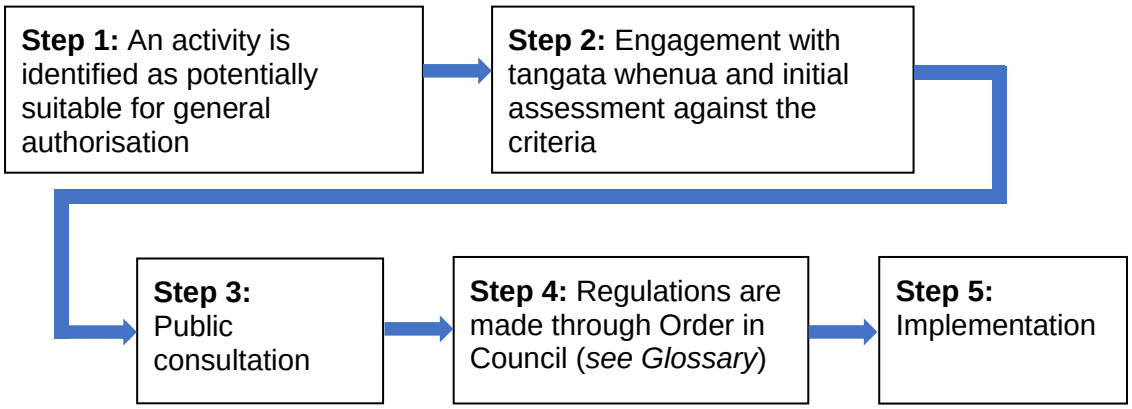
- **Any environmental impacts from the activity can be effectively managed**
  This criterion is necessary to ensure that an activity is not authorised if it might have unacceptable adverse effects. It reflects that the Minister shall have regard to the nature and effects of the activity, and any measures to mitigate those effects, when considering a concession application.[14] This criterion should also require the Minister to consider possible cumulative effects of the activity, as general authorisation would not provide the ability to set limits around numbers. The risk of adverse effects could be mitigated through conditions on the activity (eg time of day or year) or restricting the activity to qualified groups.

- **The nature of the activity and management of any potential effects is consistent with the principles of the Treaty of Waitangi**
  DOC's responsibility to give effect to the principles of the Treaty of Waitangi would apply to the process for creating regulations to authorise activities, in the same manner as it applies to current concessions decision-making processes. Section 4 of the Conservation Act 1987 applies to all elements of decisions made under the Act or any other conservation legislation listed in the Act. However, we recommend including a criterion to this effect to provide clarity.

[14] See sections 17U(1)(a) to 17U(1)(c) of the Conservation Act 1987.

- **It is reasonable to forgo the collection of any royalties, fees, or rents from the activity**
  Section 17X of the Conservation Act currently provides DOC with the ability to waive the collection of any rents or royalties if the activity contributes to the management of the lands, there are other non-commercial public benefits from the activity, the cost of collecting rents outweigh what might be collected, or any other circumstances of the concession justify such waiver or reduction. Drafting of any criteria would need to reflect these principles to ensure that DOC forgoing the ability to collect royalties on behalf of the Crown would be justified.

Proposed process for creating regulations to authorise activities



DOC also has specific Treaty settlement obligations related to concessions processes. In these cases, bespoke processes on top of the prescribed process will be required. This process was designed with flexibly to incorporate bespoke settlement arrangements in mind.

The most efficient way to implement this option would be by undertaking the process for multiple activities at once and creating regulations through a single Order in Council. This would allow for synergies in engagement with tangata whenua and the public and make best use of the Executive Council's time.

The current process requires that the concession and its granting are consistent with the relevant conservation management plans and strategies. This is an important feature of the conservation management hierarchy. Regulations, as secondary legislation, would sit higher in the conservation management hierarchy than conservation management plans and strategies. Therefore, their direction would take precedence.

Where new regulations create an inconsistency with a plan or strategy, the planning document would need to be consequently reviewed and updated. Engagement with tangata whenua, conservation boards and stakeholders would be necessary to inform any exclusions from existing planning documents.

Examples of activities that could be authorised through regulations

The criteria outlined above would limit the use of general authorisations to circumstances where any potential adverse impacts of the activity could be effectively managed without requiring a concession. The concessions framework requires the environmental impacts of an activity to be assessed and the views or concerns of tangata whenua to be considered before an activity can be authorised. DOC must also ensure the decision-making process gives effect to the principles of the Treaty of Waitangi.

These would generally be activities with no or manageable impacts on the environment, noting that tangata whenua concerns may also relate to the nature of the activity rather than the scale. DOC would also need to consider whether a general authorisation is appropriate given it removes the requirement of users to supply DOC with information on who is undertaking the activity, where and when the activity is taking place, and for what purpose.

Examples of activities where these options might be appropriate include:

- the collection of air samples
- the collection of non-protected insect species
- photography or filming by one person with one camera
- news media.

Option 2: Retain the status quo

Under the status quo, any activities not exempted by section 17O of the Conservation Act 1987 would continue to require a concession application to be made and that application to be assessed under Part 3B. The volume of those activities would either continue to put pressure on the system or lead to potential users being discouraged from undertaking their activity with the appropriate authorisation.

Discounted options

The following options were considered but have been discounted. They are described below for completeness.

Discounted option: Expanding the list of activities exempt from concessions in section 17O

The exemptions listed in section 17O allow for activities to be undertaken without needing a concession. These activities are either managed through a separate statutory framework (eg mining authorisations through the Crown Minerals Act) or do not require any authorisation at all (eg measures necessary to save someone's life).

DOC has ruled out adding specific activities to the list of exemptions in section 17O because the mechanism is too blunt. It is likely that exemptions will need to specify which locations are or are not included to protect conservation values and give effect to Treaty principles.

- Such exemptions would not be appropriate for primary legislation as they would be too detailed and prescriptive.
- Having the authorisation set in legislation creates a risk of the tool being too rigid if the authorisation needs to be revoked or amended in the future.
- This approach would not enable DOC to manage other activities in this way without further changes to the Act, should the mechanism prove to be effective.

Furthermore, undertaking robust consultation on which activities should be added to section 17O is not feasible within the directed timeframe for the Conservation Management and Processes Bill.

Discounted option: Provide conservation management planning documents with the ability to authorise activities

Providing conservation management planning documents with the ability to authorise activities was considered in the initial analysis. This option would have the same intent as Option 1 but would authorise activities through a different mechanism.

Establishing general authorisations in this way would be incorporated into the existing processes for reviewing conservation management planning documents. The authorisation of activities could be incorporated into a full review of the document or could be the subject of a partial review specifically looking at creating general authorisations for the area. Similarly, authorisations could be removed during a full document review or through a targeted partial review. Authorisations would need to be subject to similar criteria as outlined for Option 1 above.

This option has been discounted as it would change the decision-maker from the Minister of Conservation to the NZCA and conservation boards, as they approve statutory planning documents. Any review or changes to the role of the NZCA or conservation boards in conservation management processes is beyond the scope of this review. The NZCA and conservation boards currently have no decision-making role on authorisations. Their role is to provide advice in the form of statutory guidance.

Additionally, this option would risk putting additional resourcing pressure on an already strained management planning system. That system pressure could also see any implementation of general authorisations sidelined by more pressing issues.

Analysis of options against the objectives

Issue 2A		
Objective	**Option 1: Authorising activities through regulations**	**Option 2: Retain the status quo**
Conservation values	Clear and consistent rules ensure activities take place where there are no adverse impacts or any adverse impacts can be managed. Criteria in the regulation-making power require DOC to have regard to any adverse effects and mitigations (as is currently required for individual applications). This includes possible cumulative effects from the activity being widely authorised. There is a risk of cumulative effects impacting on conservation values. If necessary, regulations could be amended to no longer authorise that activity or location (see 'Implementation' on p. 71).	Cumbersome process could discourage some users from undertaking activities that are beneficial to conservation (eg conservation research). There is also an increased risk of people undertaking activities without the correct authorisation.
Public participation	Public engagement on what is authorised would be provided for through the proposed process, prior to regulations being made.	Minimal public engagement as the activities Option 1 would likely be used for generally would not be publicly notified.

Issue 2A		
Objective	**Option 1: Authorising activities through regulations**	**Option 2: Retain the status quo**
Cost and time effectiveness	Removes the time and costs of seeking authorisation for individual users. Less time will also be required to work out where an activity can be undertaken. Saves tangata whenua and stakeholders time as assessment of the activity and engagement occurs up front with the efficiencies of a dedicated process (likely for multiple activities). For DOC, there would be an initial upfront cost to engage on and establish regulations, but would lead to cost savings over time. DOC does not fully cost recover processing fees for many of the activities the regulations could include (eg research). There would be some ongoing costs for monitoring and updating regulations over time. *See Appendix 4 for further analysis of the cost impacts for DOC over time.*	Current costs remain in place for applicants. Processing fees continue to be charged. Users are required to search through multiple CMSs and CMPs, but these documents do not authorise, they only indicate that an activity may be acceptable. DOC would continue to repeat the process for each individual application. This also places pressure on tangata whenua as engagement on applications is repetitively sought. Operational improvements to engagement and information management could make the process less cumbersome, but processing times and costs would still be required.
Regulatory stewardship	Provides users with clearer information on the locations and circumstances where their desired activity is acceptable.	Current state is not user friendly and lacks clarity over the regulatory boundaries of activities on PCL&W.
Treaty principles	Creates an opportunity to better inform the regulation of these activities through providing a higher-level platform for discussion than individual (often small-scale) applications. Often engagement is minimal on such applications (see status quo). However, regulations are less responsive than individual decisions to concerns raised by tangata whenua with a particular activity in a particular location. An Order in Council process would be required if the authorisation provided by regulation was deemed to be inappropriate. *See further analysis below*	Engagement to inform decision making occurs on a case-by-case basis. There is currently minimal oversight and input from tangata whenua on many small-scale activities. This is due to the resource pressures on tangata whenua and DOC, with relationships and engagement often focused on more significant matters that are higher priority for tangata whenua. There is a risk that decisions on such authorisations are not fully informed by tangata whenua input. *See further analysis below*

Issue 2A		
Objective	**Option 1: Authorising activities through regulations**	**Option 2: Retain the status quo**
Keeping plans up to date	May put further pressure on the system for reviewing planning documents if regulations require consequential changes to the documents. Those changes will require reviews of planning documents to ensure they provide up-to-date and consistent guidance.	The status quo is neutral to this objective.
Overall assessment	**This is the preferred option** as it would meet the objectives of reducing time and costs, providing clarity around the rules, and enabling public participation, and could improve the protection of conservation values by encouraging compliance and enabling activities that are beneficial to the public good (ie research and recreation). There are risks to conservation values and giving effect to Treaty principles in authorising activities in this way. However, these risks can be considered when engaging on possible regulations and the regulations can be drafted to mitigate these risks (eg exclusions for specific places).	This option does not improve the management of concessions when assessed against the objectives. The cumbersome process for activities that could be standardised would continue to be a time and cost burden on users. It would not relieve pressure on DOC's processing system or tangata whenua.

Further analysis of the Treaty implications of general authorisations through regulations

There would be a clear statutory requirement (through section 4 of the Conservation Act 1987) to give effect to the principles of the Treaty of Waitangi through the process of creating a general authorisation. Concerns with an activity being authorised could be addressed through the regulation either by including conditions on the authorisation or excluding specific places from the authorisation. Alternatively, it may be determined that authorising the activity through regulation is inappropriate.

The creation of regulations would also create a clear forum for discussing the management of these activities at the level of setting boundaries and rules for each activity overall. Under the status quo, there is a lack of a clear process for engaging broadly across all activities. Individual applications for some types of activities can be lower priority for tangata whenua and DOC during engagement, where the focus is on more significant concession applications, or other matters entirely. This risks decisions on authorisations through concessions not being fully informed.

There is a risk that regulations will have less flexibility than individual applications. Although tangata whenua may support an activity being authorised when establishing the general

authorisation, they may seek to withdraw that support and request that the activity returns to applicants being assessed on a case-by-case basis. The most effective way to mitigate this risk would be through robust engagement when developing the regulations and by drafting the regulations accordingly.

Regulations could be updated though a subsequent Order in Council, but the activity would continue to be authorised in the meantime. This would be costly if done repeatedly and regulations would likely lose support as an effective management tool if they had to be frequently updated by the Executive Council.

Further analysis of the implications of general authorisations on Treaty settlement requirements

There are specific requirements in some Treaty settlement legislation regarding concessions decision making and management. The process for creating regulations proposed in Option 1 is intentionally non-prescriptive so that bespoke settlement requirements can be incorporated. Regulations could also exclude specific locations if the process for establishing general authorisation cannot accommodate Treaty settlement requirements.

Further analysis of the implications of Takutai Moana legislation on the use of general authorisations

The Marine and Coastal Area (Takutai Moana) Act 2011 provides for conservation permission rights where customary marine title (CMT) exists. A determination of CMT allows the CMT group to give or decline permission for the Minister of Conservation or Director-General of DOC (as relevant) to consider concession applications for activities wholly or partially within the relevant CMT area. As with Treaty settlement requirements, specific areas could be excluded from the regulations proposed under Option 1 if obligations towards CMT groups cannot be incorporated into the regulation-making process.

Questions

34. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

35. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

36. Do you think the process described in Option 1 for creating regulations to generally authorise specified activities is appropriate?

37. Do you agree with the proposed eligibility criteria for activities that may be generally authorised?

38. Do you think it is appropriate for general authorisations to apply only to specific locations or specific people/organisations?

39. Do you think these general authorisations processes would sufficiently give effect to the principles of the Treaty of Waitangi? If not, do you have any suggestions?

40. Are there any further options you think DOC should consider that would meet the objectives set out above?

Issue 2B – DOC cannot make a concession for pre-approved activities available on demand

Status quo

The Conservation Act 1987 does not allow DOC (under delegated authority from the Minister of Conservation) to pre-approve an activity by considering the activity in advance.

Section 17U of the Act states 'the Minister shall have regard to' a number of matters in considering a concession application. The assessment of activities prior to authorisation ensures that that there are no adverse effects that cannot be mitigated, that the activity complies with the conservation management planning documents, and that the authorisation gives effect to the principles of the Treaty of Waitangi.

While DOC may have regard to those considerations in advance, the decision-maker must actively consider each application, regardless of its similarity to previous approvals.

Case for change

DOC cannot pre-approve a concession for an activity, even though it could assess the activity in advance. The decision to approve or decline an activity must be in response to an application that is then actively considered by a decision-maker.

In practice, this means that DOC cannot provide a pre-approved concession.

Improved relationship and information management can only go so far in delivering lower costs and faster application times, as highlighted by the drone example to the right.[15] There is an opportunity to enable the pre-approval of activities already defined and assessed by DOC so that users can obtain the necessary authorisation instantly, likely through an online portal.

Example: Recreational drone use

All drone concession applications are considered on a case-by-case basis. Approval considerations include:

- the views of whānau, hapū and iwi on drone use at that location
- the effects on conservation values (including effects on wildlife and noise)
- policies and provisions in the relevant CMS and CMP.

DOC introduced recreational drone permits as a specific permit class in late 2017. Since then, DOC has sought to create a list of areas where it is recommended that drone users apply for a concession and a list of national parks where applications are not encouraged. As at April 2022, there are recommended areas in Marlborough, West Cost, Canterbury and Otago, while 8 of Aotearoa New Zealand's 15 national parks are on the 'we do not recommend you apply' list.

These lists encourage users to apply for concessions in areas where the effects of drones on conservation and tangata whenua values can be effectively managed. The aim of these lists is to make the application process more transparent and efficient. However, a drone use application still requires manual processing by DOC staff.

Operational improvements have brought greater transparency and efficiency to the process, but legislation limits the extent to which DOC can achieve greater efficiency gains through automatic decision making on pre-assessed activities.

[15] This case study is included as an example only to illustrate DOC's responsibilities in managing concessions and this specific limitation of the regulatory framework. This discussion document seeks feedback on providing DOC with the ability to make concessions available immediately.

Options for change

Options for Issue 2B – DOC cannot make a concession for pre-approved activities available on demand	
Option 1	Amend the Conservation Act 1987 to clarify that activities can be pre-approved in advance of, or without, an application being received
Option 2	Retain the status quo

Option 1: Amend the Conservation Act 1987 to clarify that activities can be pre-approved in advance of, or without, an application being received

This option seeks to amend the Conservation Act 1987 to explicitly allow DOC to pre-approve concessions where the possible effects of an activity are well understood and have been assessed in advance.

This option would see DOC defining the allowed activity and detailing any necessary conditions to the prospective concessionaire. The assessment of the activity would be undertaken by DOC before the concession is made available, rather than the activity being assessed after an application is made. For example, drone permits could be made available online for the current 'recommended areas' described in the case study above, provided the considerations under Part 3B of the Conservation Act are met.

The person seeking to undertake the activity would need to agree to the terms and conditions set out in the standard concession document or would need to apply for a non-standard concession if they wanted to operate outside those terms and conditions.

This approach would make it easier to acquire an individual concession. Unlike general authorisations (as described as a possible response to Issue 2A), this option would allow DOC to easily collect information on the activity and any concession-related fees from the concession holders.

All the relevant regulatory requirements for permits under Part 3B would still apply. DOC would assess impacts and determine adherence to conservation management planning documents in advance, and these requirements would need to be satisfied before a concession could be made available on demand. DOC would proactively define the activity and set any conditions necessary for sound management of the activity.

DOC would need to ensure that Treaty principles had been given effect to in assessing the activity and offering standardised concessions. In some cases, it might be appropriate to give effect to the Treaty through specific conditions (eg filming must not take place on stated wāhi tapu (sacred sites)).

The range of concessions that would be available for pre-approval would be at DOC's discretion, following appropriate consultation with iwi, hapū and whānau. DOC would therefore retain the ability to remove a concession opportunity from the pre-approved list if required. An activity could be removed quickly if undesirable impacts on conservation values were observed or concerns were raised by tangata whenua.

Option 2: Retain the status quo

Under the status quo, prospective users would continue to submit applications and follow the process in which DOC assesses individual applications.

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: public participation and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 2B		
Objective	**Option 1: Enable concessions on demand**	**Option 2: Retain the status quo**
Conservation values	Consistency and clarity of rules encourages activities to take place where any impact of the activity is known and actively managed.	There is a risk that long processing times are leading to higher levels of non-compliance (eg users flying their drones without a permit.)
Cost and time effectiveness	Removes processing times almost entirely for users and may also reduce processing fees. Although additional time and resources would be required up front to establish defined activities and conditions, efficiency may improve overall. *See further analysis below*	Current time and costs will be borne by concession applicants, DOC, and iwi, hapū and whānau in managing those concession activities that could be standardised.
Regulatory stewardship	Aligns with good regulatory practice as it would make the locations and necessary conditions clearer for users.	Rules are limited to guidance only. Users only know where, and under what conditions, an activity can take place after an application has been made.
Treaty principles	Pre-approved concessions would require giving effect to Treaty principles before being approved. For some areas, pre-approvals may not be compatible with DOC's obligations under some Treaty settlement obligations or te Takutai Moana legislation. Flexibility ensures that DOC can carry out its section 4 responsibilities by removing activities or locations from the list of available concessions if concerns are raised by tangata whenua.	Enables DOC to give effect to Treaty principles when considering individual applications.
Overall assessment	**This is the preferred option** as it enables clearer rules and a faster process.	Places limits on future system improvement.

Further analysis on reducing time and cost pressures through online permitting

Online permitting under Option 1 would significantly reduce the time people need to spend engaging with DOC over concessions for low-impact activities, and the time it takes DOC staff to processes an application. Concessions would be provided to people up front and it would be easier to seek out readily available opportunities for the activity.

This would reduce pressure on DOC's resources once the necessary consultation and advance assessment have taken place. We would also anticipate receiving fewer applications for activities in places requiring an application when that activity can be undertaken elsewhere by obtaining an instantly available concession. This would likely have the effect of streaming these activities into places that DOC has already assessed as appropriate and away from places where the activities may be less appropriate.

A comprehensive schedule of pre-approved activities and locations would take time to establish, but once established would enable the time and cost of processing many applications to be brought down simultaneously. Over time, resources could be redirected to maintaining and improving pre-assessments as pressure on processing resources is alleviated.

Questions

41. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

42. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

43. Are there any further options you think DOC should consider that would meet the objectives set out above?

44. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 2C – It is unclear whether a concession application can be returned if tendering the opportunity would be more appropriate

Status quo

Tendering is an effective mechanism for determining the best use of PCL&W or awarding a concession opportunity to the most appropriate party when there are numerous interested parties. The Conservation Act 1987 provides DOC with the ability to use tendering when allocating concession opportunities. Tendering is also effective in determining the market rate for a concession opportunity where conditions are already set.[16]

In some cases, DOC may tender the right to apply for an already defined opportunity (including any environmental or social conditions that will be attached to the concession). The purpose of the tender in these cases is to determine the most appropriate concessionaire. Tendering guiding opportunities where a limit has been set out in the NPMP is an example of this. Tendering in this manner is often the most accurate way of determining the market rate, especially for unique opportunities where there is no directly comparable market off PCL&W.

In other cases, the tendered opportunity may be less clearly defined. The purpose here is to establish the possible uses for an area and their effects. DOC can then consider the best use for the area and invite that applicant to apply for a concession. This approach is especially relevant when use of the area might limit other uses or public activities.

Both the Parliamentary Commissioner for the Environment (PCE) and the Environmental Defence Society (EDS) have discussed DOC's concession allocation processes in recent reports.[17] The PCE has noted that the historic reliance on allocating concessions on a first-come, first-served basis has led to challenges and fairness concerns in deciding which operators should be awarded concessions where only limited opportunities are available, and in appropriately pricing opportunities and the rents DOC should charge for them.

DOC's current ability to initiate a tender

Section 17ZG(2)(a) of the Conservation Act 1987 allows DOC (under delegated authority from the Minister of Conservation) to invite applications and tender the right to make an application. This mechanism is often utilised for concession opportunities where there are limits on the opportunity (ie carrying capacity) or where multiple parties have expressed an interest in the opportunity, and it would be appropriate to assess which party is the most suitable candidate to acquire the opportunity.

If a tender process is initiated by DOC, a person may not apply to the Minister for the concession opportunity under section 17R(2) of the Conservation Act. Any application submitted would be returned and the applicant encouraged to submit to the tender.

It is unclear if the Conservation Act provides the Minister with the power to return a concession application that has been received if a tender process has not already been initiated but a tender would be suitable. The ambiguity above has led to a 'first-come, first-served' approach

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[16] See Conservation Act 1987, section 17Y.

[17] The February 2021 PCE report *Not 100% – but four steps closer to sustainable tourism* (www.pce.parliament.nz/publications/not-100-but-four-steps-closer-to-sustainable-tourism) and the August 2021 EDS report *Conserving Nature: Conservation Reform Issues Paper* (https://eds.org.nz/resources/documents/reports/conserving-nature-conservation-reform-issues-paper/) both note the opportunities presented by tendering and its low utilisation at present.

where the first application is considered if it meets the statutory requirements of Part 3B, rather than a tender process being run.

DOC may already be aware that multiple parties would be interested in the opportunity, or it may become apparent later that a tender process would be more appropriate.

The case for change

The current ambiguity in DOC's ability to return applications discourages concession opportunities being allocated through a competitive process. It has also limited DOC's ability to consider interest from tangata whenua in the concession opportunity and accommodate an opportunity to apply.

Providing DOC with the ability to return applications in cases where a tender would be more appropriate would enable more transparent allocation of concession opportunities and allow DOC to consider a broader pool of potential concessionaires.

Options for change

Options for Issue 2C – It is unclear whether a concession application can be returned if tendering the opportunity would be more appropriate	
Note: These options are mutually exclusive. It would not be appropriate or effective to amend legislation to enact both Option 1 and Option 2.	
Option 1	Amend the Conservation Act 1987 to provide the Minister of Conservation with the ability to return a concession application if initiating a tender process would be more appropriate
Option 2	Amend the Conservation Act 1987 to provide the Minister of Conservation with the ability to return a concession application if initiating a tender process would be more appropriate, and include a timeframe within which the tender process must be initiated
Option 3	Retain the status quo

Option 1: Amend the Conservation Act 1987 to provide the Minister of Conservation with the ability to return a concession application if initiating a tender process would be more appropriate

This option would allow DOC to return a concession application if multiple parties have informally expressed an interest in the opportunity, there is likely to be wider interest in the opportunity, or the applicant is not the current concession holder and DOC wishes to provide the incumbent with an opportunity to apply as well.

The ability to return an application could be effective in circumstances where DOC has received an application and wishes to consider other potential uses of the opportunity and assess them against the applicant's proposal.

The use of the word 'return' instead of 'decline' is deliberate, as the application would not be considered and no decision on the acceptability of the activity would be made.

Option 2: Amend the Conservation Act 1987 to provide the Minister of Conservation with the ability to return a concession application if initiating a tender process would be more appropriate, and include a timeframe within which the tender process must be initiated

This option is the same as Option 1 but adds a requirement on DOC to initiate the tender process within a certain time after returning the application. If an expression of interest process is not initiated within that time, the applicant whose application was returned would be invited to resubmit their application. We are inviting thoughts on the appropriate timeframe.

Option 3: Retain the status quo

Under the status quo, DOC would continue to manage the ambiguity described above and rely on developing legal advice. The ‘first-come, first-served’ status quo described by the PCE and others would likely continue.

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: public participation and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 2C			
Objective	**Option 1: DOC may return applications to run a tender process**	**Option 2: Same as Option 1, with a timeframe for DOC to initiate the tender process**	**Option 3: Retain the status quo**
Conservation values	Better enables DOC to identify applicants who best support the purposes of the concessions system. An expression of interest process opens the opportunity to a wider group of people, better accommodates innovative ideas and identifies the most appropriate commercial use of public spaces – environmentally, socially and economically.	Same as Option 1.	Limiting opportunities to tender does not promote conservation values in the management of concessions as a wider range of potential concessionaires are not considered. Those that are not considered may have more innovative or ecological proposals.
Cost and time effectiveness	Enables DOC to process applications subject to the current ambiguity faster. Decision-makers seeking to initiate a tender instead of processing an application would not need to wait on legal advice or analyse the potential legal risk of their decision to run a tender process. Time and processing costs may increase for those previously allocated a concession without a competitive process.	Same as Option 1, plus ensures the tender process is initiated by DOC in a timely fashion.	Costs to DOC increase as legal advice on bespoke circumstances continue to be sought. Timeframes for applicants will likely increase too as DOC seeks to manage ambiguity.
Regulatory stewardship	Provides decision-makers with clarity on DOC's ability to return an application received in advance of a concession term ending without having that decision subject to legal challenge. Also provides clarity for prospective applicants on when applications for renewal should be submitted.	Same as Option 1, plus makes the timing of a potential tender process transparent for applicants and the public.	Retains the current ambiguity around the ability to return applications and how early an application can be submitted for consideration, creating problems for decision-makers within DOC. Ambiguity may also create pressure to apply unreasonably early to be the first in.
Treaty principles	Better enables DOC to carry out its section 4 responsibilities when regulating access to	Same as Option 1 in that it enables more informed decision	Creates ambiguity around DOC's ability to return an application for an

Issue 2C			
Objective	**Option 1: DOC may return applications to run a tender process**	**Option 2: Same as Option 1, with a timeframe for DOC to initiate the tender process**	**Option 3: Retain the status quo**
	economic opportunities. It would create more opportunities for tangata whenua to express an interest in, and apply for, concession opportunities, which would provide DOC with more effective mechanisms to consider active protection of tangata whenua interests when allocating concessions.[18] Enables more contested access to economic opportunities but would not prescribe the method for tendering, the role of tangata whenua in informing those processes or situations where a degree of preference should be afforded to tangata whenua applicants. However, this option would provide tangata whenua with greater access to economic opportunities by addressing the 'first-in, first-served' process, which favours incumbents and existing operators.	making and a mechanism to consider iwi preference. Inclusion of a timeframe may limit DOC's ability to fully carry out its section 4 responsibilities. Engagement with tangata whenua needs to occur prior to the tender being initiated and any concerns would need to be addressed before expressions of interest can be invited. This may put pressure on tangata whenua and limit their ability to fully engage in the process or express an interest in the activity.	opportunity that tangata whenua may have an interest in. DOC cannot consider that interest without returning the application that has been received, so this ambiguity does not enable DOC to give effect to Treaty principles by running a tender process.
Overall assessment	**This is the preferred option** as it clarifies the process and enables tender processes to occur more frequently. Enabling tender processes allows DOC to better protect conservation values and give effect to Treaty principles when allocating concession opportunities.	This option provides more clarity to applicants than Option 1. However, Option 1 is preferred due to the potential for a timeframe to not give effect to Treaty principles.	This option is not preferred. The current ambiguity limits both the application of Treaty principles and the protection of conservation values.

[18] In 2018, the Supreme Court's judgement in *Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation* [2018] NZSC 122 heightened public interest in DOC's concession allocation processes, particularly in terms of considering a degree of preference for tangata whenua when allocating concessions. At present, DOC considers its section 4 responsibilities on a case-by-case basis.

Questions

45. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

46. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

47. In which circumstances do you think it would be appropriate for DOC to decline an application and run a tender process instead?

48. If your preference is for Option 2, what do you think is an appropriate time to allow DOC to initiate the tender process?

49. Are there any further options you think DOC should consider that would meet the objectives set out above?

50. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 2D – The tender process does not allow a successful tender candidate to be offered a concession outright

Status quo

Section 17ZG(2)(a) of the Conservation Act 1987 allows for the Minister of Conservation to invite applications or tender the right to apply for a concession opportunity. Under DOC's current operational process, a concession opportunity is identified and advertised. Interested parties then submit applications, which are assessed against the tender criteria. The preferred candidate is then invited to apply for a concession.

The Conservation Act does not allow for the successful tender candidate to be granted a concession immediately, instead requiring the successful candidate to apply for a concession. A concession can only be granted if the statutory provisions of Part 3B of the Act are met.

The case for change

There is an opportunity to make the process faster and more user friendly by allowing DOC to grant a concession contract directly for tendered activities that already meet the statutory tests in Part 3B of the Conservation Act.

In some cases, DOC engages with tangata whenua and assesses whether an activity meets the necessary statutory tests before the opportunity is tendered. This often happens when the activity has previously been permitted in the location or is one that regularly occurs on PCL&W. DOC is then able to describe the locations for the activity and specific conditions in the terms of the tender.

When an application is required following a tender, the applicant must prepare more paperwork and DOC staff must duplicate work already completed when the activity was described for tender. This adds costs and time to the process.

The status quo is appropriate in circumstances where the concession opportunity is not adequately defined during the tender process or it becomes apparent that more conditions are required. In those cases, assessment and engagement on specific applications should continue to be required.

Options for change

Options for Issue 2D – The tender process does not allow a successful tender candidate to be offered a concession outright	
Option 1	Amend the Conservation Act 1987 to allow the Minister of Conservation to offer a successful tender candidate a concession directly, but only if the statutory provisions of Part 3B have been met
Option 2	Retain the status quo

Option 1: Allow the Minister of Conservation to offer a successful tender candidate a concession directly, but only if the statutory provisions of Part 3B have been met

Option 1 would enable DOC to provide a successful tender candidate with a concession document for signing directly after they have been selected. This would remove the need for them to make a subsequent concession application.

It would be necessary to limit this power to circumstances where the activity had been fully assessed and authorised before the tender process was initiated or was well understood from previous concessions. The activity being authorised would have to match what was described in the tender. This means that DOC would need to consider any effects on conservation

values, ensure the activity is consistent with planning documents and engage with tangata whenua before initiating the tender process. The terms and conditions of the concession would be set at the tender stage.

This option would not prevent DOC from tendering a less clearly defined opportunity (ie an expression of interest) where appropriate. A subsequent concession application would continue to be required in those expression of interest cases.

Option 2: Retain the status quo

Under the status quo, DOC would continue to invite successful tender applicants to apply for a concession. This amounts to doubling up on processing in cases where the activity has already been considered against the statutory tests.

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, public participation, regulatory stewardship, Treaty principles and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 2D		
Objective	**Option 1: Offer a concession directly to successful tender candidate**	**Option 2: Retain the status quo**
Cost and time effectiveness	Reduces the administrative burden on the resources of DOC, tangata whenua and applicants for preparing and assessing applications.	Continues the administrative burden on the resources of DOC and applicants for preparing and assessing applications.
Overall assessment	**This is the preferred option** as it reduces the administrative burden without removing statutory provisions to ensure that any authorised activity is consistent with Part 3B of the Conservation Act 1987.	This is not the preferred option as it continues the administrative burden.

Questions

51. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

52. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

53. Are there any further options you think DOC should consider that would meet the objectives set out above?

54. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 2E – There is no statutory timeframe for when requests for reconsideration of a decision may be sought

Status quo

Section 17ZJ of the Conservation Act 1987 allows an applicant to seek a reconsideration of the decision made on their concession application. The Conservation Act does not provide a statutory timeframe in which a reconsideration may be sought.

The case for change

In 2020/21, less than 10 reconsideration requests were received, all within 6 months of the initial decision being made on the original application. While reconsideration requests are uncommon, the Conservation Act does not provide a statutory timeframe in which a reconsideration may be sought, allowing applicants to submit a reconsideration request months or years after the initial decision on a concession application has been made. Other legislation, such as the Resource Management Act 1991, provides statutory timeframes in which decisions can be appealed.

Options for change

Options for Issue 2E – There is no statutory timeframe for when requests for reconsideration of a decision may be sought	
Option 1	Amend section 17ZJ of the Conservation Act 1987 to provide a statutory timeframe of 15 working days for an applicant to seek a reconsideration of their concession application
Option 2	Retain the status quo

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, public participation, Treaty principles and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 2E		
Objective	**Option 1: Require a statutory timeframe to seek a reconsideration**	**Option 2: Retain the status quo**
Cost and time effectiveness	Applicants could face resource constraints to prepare and submit a reconsideration application within a limited timeframe.	Applicants do not face resource constraints to prepare and submit a reconsideration application as there is no timeframe.
Regulatory stewardship	Provides statutory clarity for users (specifically applicants) about the timeframe in which a reconsideration may be submitted. Ensures consistency with other legislation that requires statutory	May cause statutory uncertainty for users (specifically applicants) on whether a reconsideration may be submitted. Inconsistent with other legislation that requires statutory

Issue 2E		
Objective	**Option 1: Require a statutory timeframe to seek a reconsideration**	**Option 2: Retain the status quo**
	timeframes to seek an appeal or reconsideration.	timeframes to seek an appeal or reconsideration.
Overall assessment	**This is the preferred option** as it provides statutory certainty for users about the timeframes for reconsideration requests.	This is not the preferred option as it reduces DOC's ability to manage the concessions process and fails to provide clear statutory timeframes for when a reconsideration is required.

Questions

55. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

56. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

57. Do you think 15 working days to submit a reconsideration request is appropriate? If not, what would be an appropriate amount of time for submission?

58. Are there any further options you think DOC should consider that would meet the objectives set out above?

59. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Implementation and monitoring – concessions

Implementation

DOC has dedicated Permissions teams within the Planning, Permissions and Land unit who are responsible for processing most concession applications and recommending whether the activity is authorised or not. In some cases, local Operations teams process applications and make recommendations on the outcome of applications.

Implementing any changes to the legislation will require amending existing operational practices for DOC. If legislation is amended, concession applications would be processed or returned under the new statutory requirements. This would include applications to renew a concession that had expired or was due to expire. There would be no effect on existing concessions as the proposed changes relate only to the process for considering and granting concessions.

DOC will communicate the changes and implications to existing concessionaires, prospective applicants and others who interact with the concessions system, including tangata whenua, the NZCA, conservation boards, government agencies, territorial authorities, community groups and stakeholders.

There are some specific implementation considerations for the proposal to generally authorise activities through regulations, as explained under **Issue 2A**. The proposal would provide a regulation-making power only. If the proposal was enacted, a subsequent process would be required to consider the appropriate activities to be covered by regulations and create the regulations in accordance with parliamentary processes. The timeframes for when such regulations would be promulgated have not yet been decided and would be subject to decisions by the Minister of Conservation. DOC has not yet undertaken a comprehensive analysis of which specific activities the mechanism might be used for.

The option for change proposed to address **Issue 2B** would enable an online permitting system for concession activities. Implementing this change would require this system to be funded and built. The timeframes associated with building an online permitting system are not yet decided and would be subject to securing new funding or reprioritisation of the current budget.

Monitoring and evaluation

Successful outcomes for this project would be a reduction in the backlog of concession applications and faster processing times. These measures are already monitored regularly by DOC and evaluated as part of internal system improvement work. Further developments to the Permissions Database will help to improve the quality and accessibility of this data (see ‘Non-regulatory improvements’, p. 48).

If legislative changes to enable general authorisations (Issue 2A) or pre-approved concessions (Issue 2B) were enacted, monitoring of potential impacts would be built into current monitoring programmes. It would also be possible for DOC to undertake bespoke monitoring in response to concerns around the impacts of a generally authorised or pre-approved activity.

DOC could then respond if an impact evaluation suggested that the general authorisation or pre-approved concession was problematic (eg unforeseen or cumulative effects became apparent). DOC could respond immediately for pre-approved concessions by removing the activity (or location) from the list of available pre-approved concessions and revert to assessing applications individually (as occurs under the status quo). For general authorisations, the regulations could be amended or revoked.

Question

60. Are there any additional implementation, monitoring or evaluation measures that you think should be considered? Please explain your answer.

Chapter 3: Minor and technical amendments

There is a range of conservation legislation in Aotearoa New Zealand, including the Conservation Act 1987, Reserves Act 1977 and National Parks Act 1980 among others. These Acts frequently intersect and overlap each other. This, combined with the fact that these Acts have been enacted (and subsequently amended) at various times, has resulted in specific statutory provisions that can be inconsistent with the specific Act and/or other intersecting Acts. Additionally, these provisions may be outdated, not reflecting the current circumstances in which they are applied.

DOC has been directed by the Government to identify and make targeted statutory changes to existing conservation legislation where such changes would result in near-term improvements. Part of this work has included the identification of statutory provisions that are erroneous, inconsistent or outdated but could be resolved through minor and technical amendments.[19] This chapter identifies specific statutory provisions where legislative amendments could provide statutory clarity and certainty, reduce time and costs for users, and better reflect and respond to the needs of the public.

Out of scope

As noted, DOC has been directed to identify statutory provisions where minor and technical amendments to existing conservation legislation could result in near-term improvements. The statutory provisions listed in this chapter have been identified through internal discussions with DOC staff who frequently engage with, and apply, conservation legislation. DOC acknowledges that there are likely to be other minor and technical issues in conservation legislation, but these are out of scope for this review.

Summary of minor and technical amendments

Governance issues

- Issue 3A – NZCA members and conservation board members could be personally liable for their decisions when exercising their statutory powers in role.
- Issue 3B – All reserve boards and reserve administering bodies under the Reserves Act 1977 must be audited, regardless of annual revenue or expenditure.
- Issue 3C – The Public Service Commission must provide written consent for any power delegated to the Director-General of DOC under the Public Service Act 2020 to be delegated to a DOC officer or employee.
- Issue 3D – Under the Reserves Act 1977, the role of Commissioner may only be delegated to a specified individual and their specific role.

Reserve classifications

- Issue 3E – Part of the statutory process to establish a nature reserve or scientific reserve does not contribute to the effective regulation of establishing such reserves.

[19] Broadly, 'minor and technical amendments' can be understood as enacting legislative changes that would resolve or clarify statutory provisions that are incorrect, ambiguous or impractical/inefficient. Targeted amendments to these statutory provisions would likely have no, or only minor, impacts for (1) the internal and administrative or governance arrangements of the New Zealand Government, and/or (2) those outside government.

- Issue 3F – The Reserves Act 1977 only allows public notification via newspapers.

Aircraft concessions

- Issue 3G – The Conservation Act 1987 does not explicitly state when an aircraft concession is required.
- Issue 3H – The Conservation Act 1987 does not explicitly state that recreational aircraft users require a concession to operate on public conservation land.

Miscellaneous

- Issue 3I – The definition of a ‘conservation management plan’ in the Conservation Act 1987 does not include management plans approved under the National Parks Act 1980.
- Issue 3J – The New Zealand Police requires approval from DOC to hold item(s) seized under the Wild Animal Control Act 1977.
- Issue 3K – The Conservation Act 1987 does not appropriately define a ‘disability assist dog’.
- Issue 3L – The National Parks Act 1980 does not correctly refer to the Westland National Park/Tai Poutini National Park.

Issue 3A – NZCA members and conservation board members could be personally liable for their decisions when exercising their statutory powers in role

The Conservation Act 1987 does not explicitly protect NZCA or conservation board members from being held personally liable when they undertake their statutory functions, despite protecting the members of other statutory bodies from personal liability.[20]

The risk of personal liability may impede the ability of these members to make unfettered decisions, particularly if their work is high risk or controversial.

Options for change

Options for Issue 3A – NZCA members and conservation board members could be personally liable for their decisions when exercising their statutory powers in role	
Option 1	Amend the Conservation Act 1987 to ensure that members of the NZCA and conservation boards cannot be held personally liable for decisions they make in good faith when exercising their statutory powers in role
Option 2	Retain the status quo

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, public participation, cost and time effectiveness, Treaty principles, and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 3A		
Objective	**Option 1: Protect NZCA and conservation board members from personal liability**	**Option 2: Retain the status quo**
Regulatory stewardship	Ensures consistency with other statutory provisions of the Conservation Act on 'personal liability'. May improve the statutory decision-making abilities of NZCA and conservation board members as they can make unfettered decisions.	Inconsistent with other statutory provisions of the Conservation Act on 'personal liability'. May impede the statutory decision-making abilities of NZCA and conservation board members

[20] For example, section 26DA of the Conservation Act 1987 specifically states that New Zealand Fish and Game Council members are not personally liable for any actions they undertake in good faith when exercising their statutory powers in role.

Issue 3A		
Objective	**Option 1: Protect NZCA and conservation board members from personal liability**	**Option 2: Retain the status quo**
Overall assessment	**This is the preferred option** as it would mean that NZCA or conservation board members are unfettered when undertaking their statutory functions and duties without fear of personal reprisal.	This is not the preferred option because NZCA or conservation board members may defer or delay in undertaking their statutory functions and duties for fear of personal reprisal.

Questions

61. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

62. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

63. Are there any further options you think DOC should consider that would meet the objectives set out above?

64. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 3B – The financial statements of reserve boards and reserve administering bodies must be audited, regardless of their annual revenue and expenditure

Under the Reserves Act 1977 and the Public Finance Act 1989, the Auditor-General is responsible for annually auditing the financial statements of reserve boards and reserve administering bodies that manage and control reserves under the Reserves Act 1977. These administering bodies are authorised to receive and hold all monies in relation to a reserve, so these audits are undertaken to reassure the public that financial statements fairly reflect the financial performance and financial positions of reserve boards and reserve administering bodies.

Most reserve boards and reserve administering bodies are small, and annual revenue and expenditure is minimal. For example, in 2020/21, DOC published summaries of the most recent financial statements available for 20 reserve boards.[21] The average annual revenue for 17 of these was $11,000, while the remaining 3 had incomes over $500,000. Of these, only two had an income above $1 million: Waipu Cove (approximately $1.3 million in 2018) and Kaiteriteri (approximately $7 million in 2020).

Most reserve administering bodies manage single small reserves of local significance, although there are some (such as a small number of racecourse reserves) that are significant businesses. Local authorities, which manage many reserves, include their financial records in their annual accounts.

Auditing small-scale reserves and reserve administering bodies creates significant costs, which are paid by the Crown rather than the reserve or reserve administering bodies. In most cases, the cost of auditing them outweighs the public accountability benefit. Due to the small scale and localised nature of these reserves, there is limited public interest in the regular audits of small reserve boards and reserve administering bodies.

Audit New Zealand has highlighted that many administering bodies and some reserve boards have not been audited in recent years, primarily due to limited resources (such as staff capacity of reserve administering bodies and reserve boards).

Options for change

Options for Issue 3B – The financial statements of reserve boards and reserve administering bodies must be audited, regardless of their annual revenue and expenditure	
Option 1	Amend the Reserves Act 1977 and Public Finance Act 1989 to require the financial statements of reserve boards and reserve administering bodies only to be audited when their annual revenue or expenditure is over the threshold of $1 million
Option 2	Retain the status quo

[21] www.doc.govt.nz/globalassets/documents/about-doc/annual-reports/annual-report-2021/annual-report-2021.pdf

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, public participation, Treaty principles and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 3B		
Objective	**Option 1: Require the financial statements of reserve boards and reserve administering bodies to only be audited when their annual revenue or expenditure is over the threshold of $1 million**	**Option 2: Retain the status quo**
Cost and time effectiveness	Removes the administrative burden on the resources of Audit New Zealand to undertake audits.	Continues the administrative burden on the resources of Audit New Zealand to undertake audits.
Regulatory stewardship	Provides greater certainty that there will be appropriate public accountability where there is sizable income or expenditure but removes the need for an audit where the costs would be disproportionate to the public benefit. Ensures consistency with other legislation where auditing is only required when a specific financial amount is exceeded.[22]	The public costs of auditing most reserve boards and reserve administering bodies outweighs the public accountability benefit due to the localised nature and small revenue/expenditure of the majority of reserves. Inconsistent with other legislation where auditing is only required when a specific financial amount is exceeded.
Overall assessment	**This is the preferred option** as it retains regulatory safeguards for auditing whilst reflecting public interest in when audits should occur, allowing limited resources to be better targeted.	This is not the preferred option as it requires limited resources to be used for audits where there is little need for regulation and little public interest.

[22] The Charities Act 2005 only audits charitable entities whose total annual operating expenditure is over $550,000.

Questions

65. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

66. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

67. Do you think the minimum requirement of $1 million in annual revenue or expenditure to require an audit by the Auditor-General is a suitable amount? If not, would an alternative minimum requirement of annual revenue or expenditure be appropriate?

68. Are there any further options you think DOC should consider that would meet the objectives set out above?

69. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 3C – The Public Service Commission must provide written consent for any power delegated to the Director-General of DOC under the Public Service Act 2020 to be delegated to a DOC officer or employee

Section 58(3)(c) of the Conservation Act 1987 states that any power delegated to the Director-General of DOC under the Public Services Act 2020 must not be delegated to any officer or employee of DOC unless written consent has been provided by the Public Service Commission.

The intention of this was to prevent any delegation from the Public Service Commissioner to the Director-General of DOC (under clause 6 of schedule 3 of the Public Service Act) from being subdelegated without the Public Service Commissioner's approval. However, section 58(3)(c) is erroneously worded to require consent to be obtained from the Public Service Commissioner in relation to the delegation of any power to the Director-General under the Public Service Act.

This proposal seeks to amend the Conservation Act 1987 so that approval from the Public Service Commission is only required for the Director-General to delegate any powers that they have specifically been delegated under clause 6 of schedule 3 of the Public Service Act.

Options for change

Options for Issue 3C – The Public Service Commission must provide written consent for any power delegated to the Director-General of DOC under the Public Service Act 2020 to be delegated to a DOC officer or employee	
Option 1	Amend the Conservation Act 1987 to only require the Public Service Commission to give written consent for the Director-General to delegate powers to an officer or employee of DOC where the specific delegated powers are authorised under clause 6 of schedule 3 of the Public Service Act 2020
Option 2	Retain the status quo

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, public participation, cost and time effectiveness, Treaty principles, and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 3C		
Objective	**Option 1: Amend when written consent is required for the delegation of powers**	**Option 2: Retain the status quo**
Regulatory stewardship	Provides statutory clarity about when approval must be sought.	The potential for statutory uncertainty continues.
Overall assessment	**This is the preferred option** as it provides statutory clarity.	This is not the preferred option as statutory uncertainty can continue.

Questions

70. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

71. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

72. Are there any further options you think DOC should consider that would meet the objectives set out above?

73. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 3D – Under the Reserves Act 1977, the role of Commissioner may only be delegated to a specified individual and their specific role

The Reserves Act 1977 allows for a 'Commissioner' to exercise the statutory powers, functions and duties of an administering body over a reserve that is not under the control and management of an administering body. Section 2 of the Reserves Act defines 'Commissioner' as 'an officer designated by the Director-General'.

The powers of a 'Commissioner' are designated to a specified individual and their specific role in DOC. The Reserves Act does not currently allow the role of 'Commissioner' to be assigned to a general position or title held by DOC employees or officers. This creates an administrative burden for DOC because the designation of 'Commissioner' must continually be amended if the specified individual changes their role (eg from Operations Manager to Director) or is replaced.

Options for change

Options for Issue 3D – Under the Reserves Act 1977, the role of Commissioner may only be delegated to a specified individual and their specific role	
Option 1	Amend the Reserves Act 1977 to allow the role of Commissioner to be designated to a specific job title or position (rather than a specific individual)
Option 2	Retain the status quo

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, public participation, regulatory stewardship, Treaty principles and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 3D		
Objective	**Option 1: Allow the role of Commissioner to be designated to a specific job title or position**	**Option 2: Retain the status quo**
Cost and time effectiveness	Removes the administrative burden on DOC resources regarding delegations.	Continues the administrative burden on DOC resources to change delegations.
Overall assessment	**This is the preferred option** as it creates efficiencies for DOC without remove or reducing DOC's statutory responsibilities.	This is not the preferred option as it continues the administrative burden on DOC.

Questions

74. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

75. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

76. Are there any further options you think DOC should consider that would meet the objectives set out above?

77. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 3E – Part of the statutory process to establish a nature reserve or scientific reserve does not contribute to the effective regulation of establishing such reserves

Status quo

Under section 16A(2) of the Reserve Act 1977, the Minister of Conservation must make a recommendation to the Governor-General that an Order in Council be made for either a nature reserve or scientific reserve to be established. Under section 16A(3) of the Reserves Act, the Governor-General may, by Order in Council made on the recommendation of the Minister, name and classify the reserve as a nature reserve or scientific reserve.

The statutory purpose of section 16A of the Reserves Act is to remove the Minister's ability to establish a nature reserve or scientific reserve outright.[23] Section 16A achieves this by (a) requiring the Minister to make a recommendation to the Governor-General, and (b) allowing the Governor-General (not the Minister) to establish a nature reserve or scientific reserve.

The Reserves Act states that only a 'reserve' (administered under the Act) may be classified as a nature reserve or scientific reserve. Therefore, if the Minister wishes to establish a 'conservation area' (administered under the Conservation Act 1987) as a nature reserve or scientific reserve, the Minister must take the following steps.

- Step 1 – reclassify the 'conservation area' as any type of 'reserve' (except under a nature reserve or scientific reserve) under the Reserves Act.
- Step 2 – make a subsequent recommendation to the Governor-General for the 'reserve' to be established as a nature reserve or scientific reserve.

Case for change

There is an opportunity to make the statutory process for reclassifying a 'conservation area' as a nature reserve or scientific reserve more efficient.

Step 1 is an additional statutory step that creates an administrative burden for DOC and the Minister of Conservation to establish a 'conservation area' as a 'reserve', and is unnecessary because the Order in Council process for classifying nature reserves and scientific reserves (outlined in step 2) already includes the statutory safeguards that regulate the powers of the Minister to classify a nature reserve or scientific reserve. The Order in Council process is even more robust due to its ability to regulate the Minister having less discretion in the creation of nature and scientific reserves compared with other reserve classifications.

[23] Section 16A of the Reserves Act 1977 was inserted into the Act by section 7 of the Reserves Amendment Act 2013.

Options for change

Options for Issue 3E – Part of the statutory process to establish a nature reserve or scientific reserve does not contribute to the effective regulation of establishing such reserves	
Option 1	Amend section 16A(2)–(3) of the Reserves Act 1977 to allow any 'conservation area' to be recommended for, and established as, a nature reserve or scientific reserve
Option 2	Retain the status quo

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, public participation, Treaty principles and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 3E		
Objective	**Option 1: Allow for any 'conservation area' to be recommended and established as a nature or scientific reserve**	**Option 2: Retain the status quo**
Cost and time effectiveness	Removes the administrative burden on the resources of the Minister of Conservation and DOC to establish a nature or scientific reserve.	Continues the administrative burden on the resources of the Minister of Conservation and DOC to establish a nature or scientific reserve.
Regulatory stewardship	Improves the efficiency of the statutory process without circumventing statutory safeguards to control the establishment of a nature or scientific reserve.	Continues the inefficiency in the legislation that requires an additional step in the statutory process to establish a nature or scientific reserve, despite this additional step having no statutory benefits.
Overall assessment	**This is the preferred option** as it creates efficiencies for the Minister of Conservation and DOC without reducing or removing the statutory safeguards for establishing a nature reserve or scientific reserve.	This is not the preferred option as it continues inefficiencies for the Minister of Conservation and DOC.

Questions

78. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

79. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

80. Are there any further options you think DOC should consider that would meet the objectives set out above?

81. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 3F – The Reserves Act 1977 only allows public notification via newspapers

Section 119 of the Reserves Act 1977 outlines the provisions for when public notification is required and how it may be undertaken. Currently, the Reserves Act only allows for public notification by newspaper and not through electronic communication methods such as websites, emails or social media platforms.

Electronic communication methods are able to reach wider or alternative audiences than traditional print media, and failure to use alternative communication methods can limit or exclude specific social groups (eg young people) from issues that are of interest to them.

Options for change

Options for Issue 3F – The Reserves Act 1977 only allows public notification via newspapers	
Option 1	Amend section 119 of the Reserves Act 1977 to allow public notification to occur electronically alongside notification through newspapers
Option 2	Retain the status quo

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, regulatory stewardship, Treaty principles and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 3F		
Objective	**Option 1: Allow for electronic public notification options**	**Option 2: Retain the status quo**
Public participation	Increases DOC's ability to access and engage with a wider audience, including specific groups that do not typically engage with traditional print media.	Reduces DOC's ability to access and engage with a wider audience. Specific groups that do not typically engaged with traditional print media may be excluded from the notification process.
Cost and time effectiveness	Electronic media can be cheaper to release (eg by notifying on DOC's website or social media platforms).	Traditional print media can be expensive to release (eg by notifying in a national newspaper).
Overall assessment	**This is the preferred option** as it increases public access and engagement with notified topics.	This is not the preferred option as it does not increase public access and engagement with notified topics.

Questions

82. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

83. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

84. Are there any further options you think DOC should consider that would meet the objectives set out above?

85. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 3G – The Conservation Act 1987 does not explicitly state when an aircraft concession is required

Section 17ZF(1)(c) of the Conservation Act 1987 provides that any aircraft landing[24] or taking off from a conservation area (that is not a certified aerodrome)[25] requires a concession to undertake those activities. Failure to obtain a concession is an offence under section 39(1)(bb) of the Act.[26]

While section 17F is clear that an aircraft concession is required to operate in a 'conservation area', it does not explicitly require a concession to operate on land administered under the National Parks Act 1980, the Reserves Act 1977 or the Wildlife Act 1953.

Options for change

Options for Issue 3G – The Conservation Act 1987 does not explicitly state when an aircraft concession is required	
Option 1	Amend the Conservation Act 1987 to explicitly state that an aircraft concession is required for all aircraft landings or take-offs on land administered under the Conservation Act 1987, National Parks Act 1980, Reserves Act 1977 or Wildlife Act 1953
Option 2	Retain the status quo

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, public participation, cost and time effectiveness, Treaty principles, and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 3G		
Objective	**Option 1: Update reference**	**Option 2: Retain the status quo**
Regulatory stewardship	Provides statutory clarity for users (both applicants and decision-makers) about when an aircraft concession is required.	Allows the continuation of statutory uncertainty for users (both applicants and decision-makes) about when an aircraft concession is required.
Overall assessment	**This is the preferred option** as it provides statutory clarity**.**	This is not the preferred option as it creates statutory uncertainty.

[24] Section 17ZF of the Conservation Act 1987 defines 'landing' an aircraft to include 'the hovering or any aircraft and setting down or taking on of goods or persons from an aircraft'.

'[25] Section 2 of the Conservation Act 1987 defines a 'conservation area' as 'any land or foreshore that is (a) land or foreshore for the time being held under this Act for conservation purposes; or (b) land in respect of which an interest is held under this Act for conservation purposes'.

[26] Specific aircraft activities are exempt from requiring a concession if the requirements of section 17ZF(1)(a)–(b) are met.

Questions

86. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

87. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

88. Are there any further options you think DOC should consider that would meet the objectives set out above?

89. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 3H – The Conservation Act 1987 does not explicitly state that recreational aircraft users require a concession to operate on public conservation land

Section 17ZF(1)(c) of the Conservation Act 1987 provides that any aircraft landing[27] or taking off from a conservation area (that is not a certified aerodrome) requires a concession. However, section 17O(4) of the Act states that an individual or organised group undertaking any recreational activity in a conservation area is exempt from requiring a concession. Whilst the statutory requirement of section 17ZF(1)(c) remains (in that aircraft users, including recreational aircraft users, require an aircraft concession to operate on public conservation land), the Act could make this explicit.

Options for change

Options for Issue 3H – The Conservation Act 1987 does not explicitly state that recreational aircraft users require a concession to operate on public conservation land	
Option 1	Amend section 17ZF(1) of the Conservation Act 1987 to confirm that all aircraft activities (whether recreational or not) require a concession for landing or taking off on public conservation land
Option 2	Retain the status quo

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, public participation, cost and time effectiveness, Treaty principles, and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 3H		
Objective	**Option 1: Confirm that all aircraft activities (whether recreational or not) require a concession to operate on public conservation land**	**Option 2: Retain the status quo**
Regulatory stewardship	Provides statutory clarity for users (both applicants and decision-makers) that an aircraft concession is required for all aircraft activities (including recreational users).	Allows the continuation of statutory uncertainty for users (both applicants and decision-makes) about whether recreational aircraft users require a concession.
Overall assessment	**This is the preferred option** as it provides statutory clarity.	This is not the preferred option as it creates statutory uncertainty.

[27] Section 17ZF of the Conservation Act 1987 defines 'landing' an aircraft to include 'the hovering or any aircraft and setting down or taking on of goods or persons from an aircraft'.

Questions

90. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

91. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

92. Are there any further options you think DOC should consider that would meet the objectives set out above?

93. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 3I – The definition of a ‘conservation management plan’ in the Conservation Act 1987 does not include management plans approved under the National Parks Act 1980

Section 2 of the Conservation Act 1987 defines a ‘conservation management plan’ as any management plan that is approved under the Conservation Act or other Acts specifically listed in the definition.[28] However, the National Parks Act 1980 is not specifically listed in the definition. This is a legislative error from previous amendments.

Options for change

Options for Issue 3I – The definition of a ‘conservation management plan’ in the Conservation Act 1987 does not include management plans approved under the National Parks Act 1980	
Option 1	Amend section 2 of the Conservation Act 1987 so that the definition of a ‘conservation management plan’ includes any management plan approved under the National Parks Act 1980
Option 2	Retain the status quo

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options have been included in the table below. The following objectives have not been included: conservation values, public participation, cost and time effectiveness, Treaty principles, and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 3I		
Objective	**Option 1: Amend the definition of a CMP**	**Option 2: Retain the status quo**
Regulatory stewardship	Resolves a legislative error. Provides statutory clarity to users (applicants and decision-makers) that management plans approved under the National Parks Act 1980 are ‘management plans’ under the Conservation Act 1987.	Continues a legislative error. Allows the continuation of statutory uncertainty to users (applicants and decision-makers) on whether management plans approved under the National Parks Act 1980 are ‘management plans’ under the Conservation Act 1987.
Overall assessment	**This is the preferred option** as it provides statutory clarity.	This is not the preferred option as it allows statutory uncertainty to continue.

[28] Section 2 of the Conservation Act 1987 defines a ‘conservation management plan’ as ‘a conservation management plan approved under section 14E of the Wildlife Act 1953, section 8 of the Marine Reserves Act 1971, section 40B of the Reserves Act 1977, section 3D of the Marine Mammals Protection Act 1978, or section 17G of this Act’.

Questions

94. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

95. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

96. Are there any further options you think DOC should consider that would meet the objectives set out above?

97. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 3J – The New Zealand Police requires approval from DOC to hold any item seized under the Wild Animal Control Act 1977

Section 39C of the Wild Animal Control Act 1977 requires the Director-General of DOC to retain any items used in the commission of an offence when those items have been seized by a warranted officer. If proceedings are not commenced within 12 months of the seizure, the Director-General must return the items to the person.

New Zealand Police constables are the warranted officers who are most likely to seize such items and initiate proceedings against the offender. Currently, however, the New Zealand Police must seek authorisation from the Director-General to retain every item seized, creating an unnecessary administrative burden for both the New Zealand Police to seek approval from the Director-General and for DOC to receive and process these authorisation requests.

Options for change

Options for Issue 3J – The New Zealand Police requires approval from DOC to hold items seized under the Wild Animal Control Act 1977	
Option 1	Amend the Wild Animal Control Act 1977 to allow the New Zealand Police to retain seized items that were used in the commission of an offence
Option 2	Retain the status quo

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, public participation, regulatory stewardship, Treaty principles and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 3J		
Objective	**Option 1: Allow the New Zealand Police to retain any item seized under the Wild Animal Control Act 1977**	**Option 2: Retain the status quo**
Cost and time effectiveness	Removes the administrative burden on the resources of the New Zealand Police and DOC to apply for and approve authorisations to hold seized items.	Continues the administrative burden on the resources of the New Zealand Police and DOC to apply for and approve authorisations to hold seized items.
Overall assessment	**This is the preferred option** as it creates efficiencies for the New Zealand Police and DOC without reducing or removing the statutory safeguards for seizing items.	This is not the preferred option as it creates inefficiencies for New Zealand Police and DOC.

Questions

98. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

99. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

100. Are there any further options you think DOC should consider that would meet the objectives set out above?

101. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 3K – The Conservation Act 1987 does not appropriately define a ‘disability assist dog’

The Conservation Act 1987 uses the definitions of ‘guide dog’[29] or ‘companion dog’.[30] These definitions are outdated and do not reflect how ‘disability assist dogs[31]’ are currently used in Aotearoa New Zealand.

Options for change

Options for Issue 3K – The Conservation Act 1987 does not appropriately define a ‘disability assist dog’	
Option 1	Amend sections 2 and 26ZZK of the Conservation Act 1987 to replace ‘guide dog’ and ‘companion dog’ with ‘disability assist dog’ as defined under the Dog Control Act 1996
Option 2	Retain the status quo

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, public participation, cost and time effectiveness, Treaty principles, and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 3K		
Objective	**Option 1: Use the definition of ‘disability assist dog’**	**Option 2: Retain the status quo**
Regulatory stewardship	Ensures consistency with other statutory provisions for ‘disability assist dogs’.	Inconsistent with other statutory provisions for ‘disability assist dogs’.
Overall assessment	**This is the preferred option** as it provides updated legislation that improves the ability of ‘disability assist dog’ users to access public conservation land.	This is not the preferred option as outdated legislation affects the ability of ‘disability assist dog’ users to access public conservation land.

[29] Section 2 of the Conservation Act 1987 defines a ‘guide dog’ as ‘a dog certified by the Royal New Zealand Foundation of the Blind as being a guide dog or a dog under training as a guide dog’.

[30] Section 2 of the Conservation Act 1987 defines a ‘companion dog’ as ‘a dog certified by Top Dog Companion Trust as being a companion dog or dog under training as a companion dog’.

[31] Section 2 of the Dog Control Act 1996 defines a ‘disability assist dog’ as ‘a dog certified by one of the organisations listed in Schedule 5 as being a dog that has been trained (or is being trained) to assist a person with a disability’.

Questions

102. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.

103. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.

104. Are there any further options you think DOC should consider that would meet the objectives set out above?

105. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

Issue 3L – The National Parks Act 1980 does not correctly refer to the Westland National Park/Tai Poutini National Park

Section 6 of the National Parks Act 1980 refers to the existing national parks, including the 'Westland National Park'. The correct title of this national park is the 'Westland National Park/Tai Poutini National Park', following the enactment of the Ngāi Tahu Claims Settlement Act 1998,[32] which amended places names within the takiwā of Ngāi Tahu.

Options for change

Options for Issue 3L – The National Parks Act 1980 does not correctly refer to the Westland National Park/Tai Poutini National Park	
Option 1	Amend section 6 of the National Parks Act 1980 to update the title of 'Westland National Park' to 'Westland National Park/Tai Poutini National Park'
Option 2	Retain the status quo

Analysis of options against the objectives

Only those objectives that were considered to have different outcomes across the options are included in the table below. The following objectives have not been included: conservation values, public participation, cost and time effectiveness, Treaty principles, and keeping plans up to date. Feedback on the relevance of these objectives is welcomed.

Issue 3L		
Objective	**Option 1: Update the title of 'Westland National Park'**	**Option 2: Retain the status quo**
Regulatory stewardship	Updates legislation to ensure consistency with the Ngāi Tahu Claims Settlement Act 1998.	Legislation remains inconsistent with the Ngāi Tahu Claims Settlement Act 1998.
Overall assessment	**This is the preferred option** as it ensures legislative consistency.	This is not the preferred option, as legislation remains inconsistent.

Questions

106. Do you agree with how we have described the problem and its impacts? If not, please explain your answer.
107. Which of the above is your preferred option? You may provide further analysis or comments to support your choice.
108. Are there any further options you think DOC should consider that would meet the objectives set out above?
109. Do you think any of the objectives not included in the analysis are relevant? If so, please let us know which objectives are relevant and why.

[32] Schedule 96 of the Ngāi Tahu Claims Settlement Act 1998 lists 'Westland National Park/Tai Poutini National Park' as the amendment name of 'Westland National Park'

Implementation and monitoring

Implementation

The proposals in this chapter seek to resolve a range of legislative issues through minor and technical amendments.

Given the range of legislation proposed for amendment, these changes will impact (either directly or indirectly) the work of various units across DOC (rather than one specific unit). These changes will also impact (either directly or indirectly) tangata whenua, government agencies, concessionaires and community groups.

Implementing any changes to the legislation will require relevant DOC operational policies and processes to be reviewed and updated. This will be progressed through normal business processes. Where necessary, DOC will ensure that organisations and individuals impacted by the changes are made aware of the changes and the implications for them.

Monitoring and evaluation

The proposals in this chapter seek to resolve minor and technical issues. Such changes would (where applicable) remove inconsistent or erroneous statutory provisions, provide statutory clarity and improve the efficiency of statutory processes. A successful outcome of this work is that these minor and technical issues are resolved.

There is not a dedicated monitoring programme to measure the success of these proposals (given the breath of the proposed amendments). Should issues with any legislative changes be identified, DOC may again review how the legislative amendments intersect with operational policies and processes.

Question

110. Are there any additional implementation, monitoring or evaluation measures that you think should be considered? Please explain your answer.

Appendix 1: Glossary of key terms

Administering body: A board, trustees, local authority, society, association, voluntary organisation, or person or body of persons that is appointed under the Reserves Act 1977 (or any other corresponding Act) to control and manage a reserve under the Reserves Act 1977.

Concession: A lease, license, permit or easement granted under Part 3B of the Conservation Act 1987.

Concessionaire: An individual or organisation granted a concession under Part 3B of the Conservation Act 1987.

Conservation: 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 (section 2 of the Conservation Act 1987).

Conservation board: An independent body that empowers local communities and iwi to contribute to the management of conservation areas. Board members are appointed by the Minister of Conservation, in some cases on the recommendation of local tangata whenua. Members are appointed as individuals for their experience, expertise and links with the local community.

Conservation General Policy (CGP): A policy approved by the Minister of Conservation that contains unified policy to implement the Conservation Act 1987, Wildlife Act 1953, Marine Reserves Act 1971, Reserves Act 1977, Wild Animal Control Act 1977 and Marine Mammals Protection Act 1978. The CGP guides the administration and management of all lands and waters, and all natural and historic resources managed under the above Acts. More information can be found on the Conservation General Policy webpage on the DOC website at www.doc.govt.nz/about-us/our-policies-and-plans/conservation-general-policy/.

Gazette: The New Zealand Gazette is the official newspaper of the New Zealand Government. Legislative Instruments are notified in the Gazette after they are made. The date of notification is given at the end of the Legislative Instrument, under administrative information or the Gazette information. Other Instruments are usually either published or notified in the Gazette.

General Policy for National Parks (GPNP): A policy approved by the New Zealand Conservation Authority that provides direction for the administration of national parks across Aotearoa New Zealand. More information can be found on the General Policy for National Parks webpage on the DOC website at www.doc.govt.nz/about-us/our-policies-and-plans/statutory-plans/statutory-plan-publications/national-park-management/general-policy-for-national-parks/.

New Zealand Conservation Authority / Te Pou Atawhai Taiao O Aotearoa (NZCA): An independent statutory body that advises the Minister of Conservation and the Director-General of the Department of Conservation (DOC) on conservation priorities at a national level. The NZCA is closely involved in conservation planning and policy development that affects the management of public conservation areas administered by DOC. It has 13 members who are appointed by the Minister of Conservation. The Minister has regard for the interests of conservation, natural sciences and recreation in making the appointments.

Order in Council: A type of Legislative Instrument that is made by the Executive Council presided over by the Governor-General.

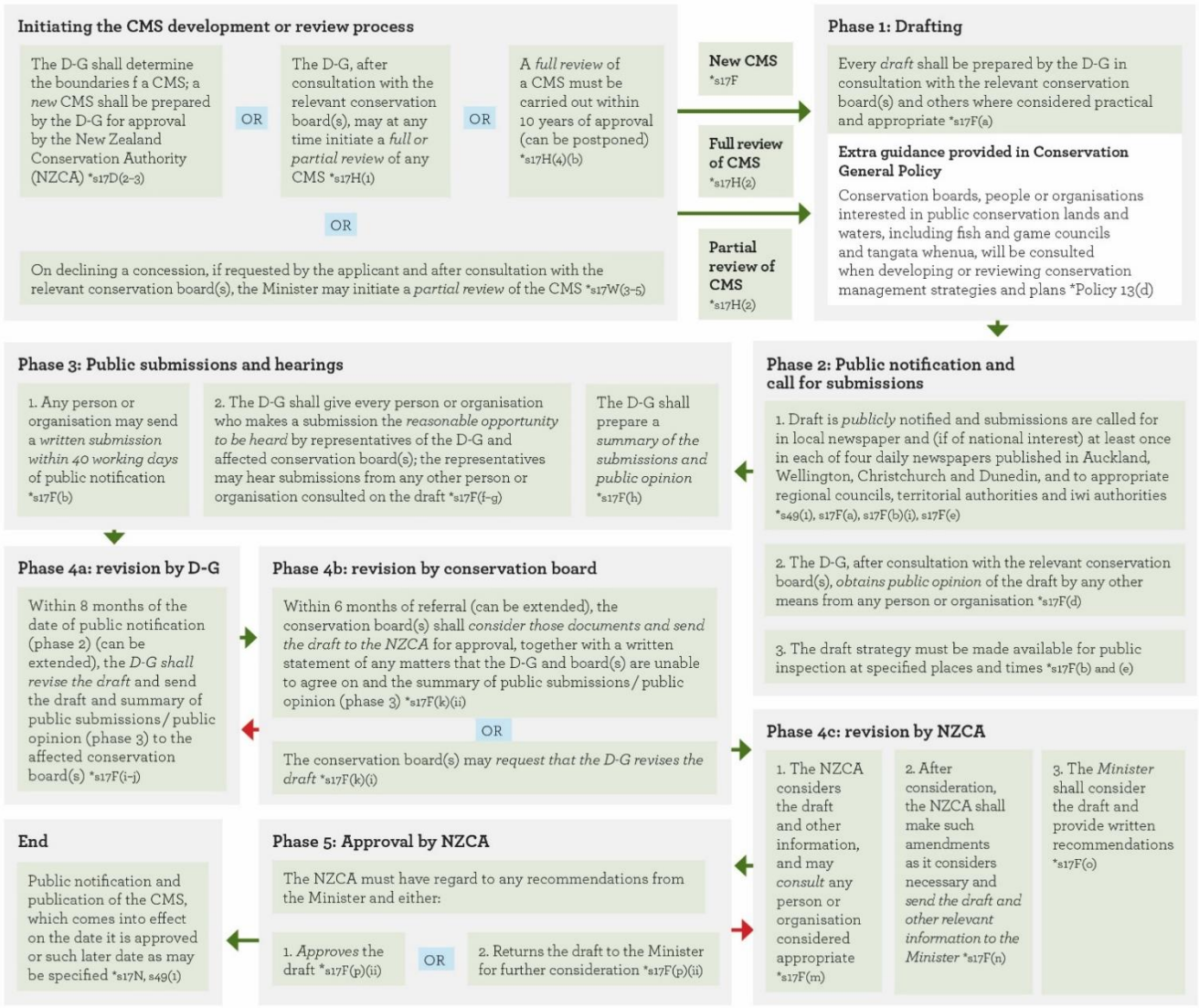
Public conservation lands and waters (PCL&W): All land and water areas administered by DOC for whatever purpose, including natural and historic resources. Public conservation land has different layers of protection, depending on which category or status the parcel of land holds under various pieces of legislation.

Reserve: Land that is set apart to provide for the preservation and management of an area for the benefit and enjoyment of the public. Under the Reserves Act 1977, a reserve must be classified according to its principal or primary purpose. It is then managed/preserved according to that purpose.

Appendix 2: Process diagrams for developing and reviewing conservation management strategies, conservation management plans and national park management plans

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.



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)

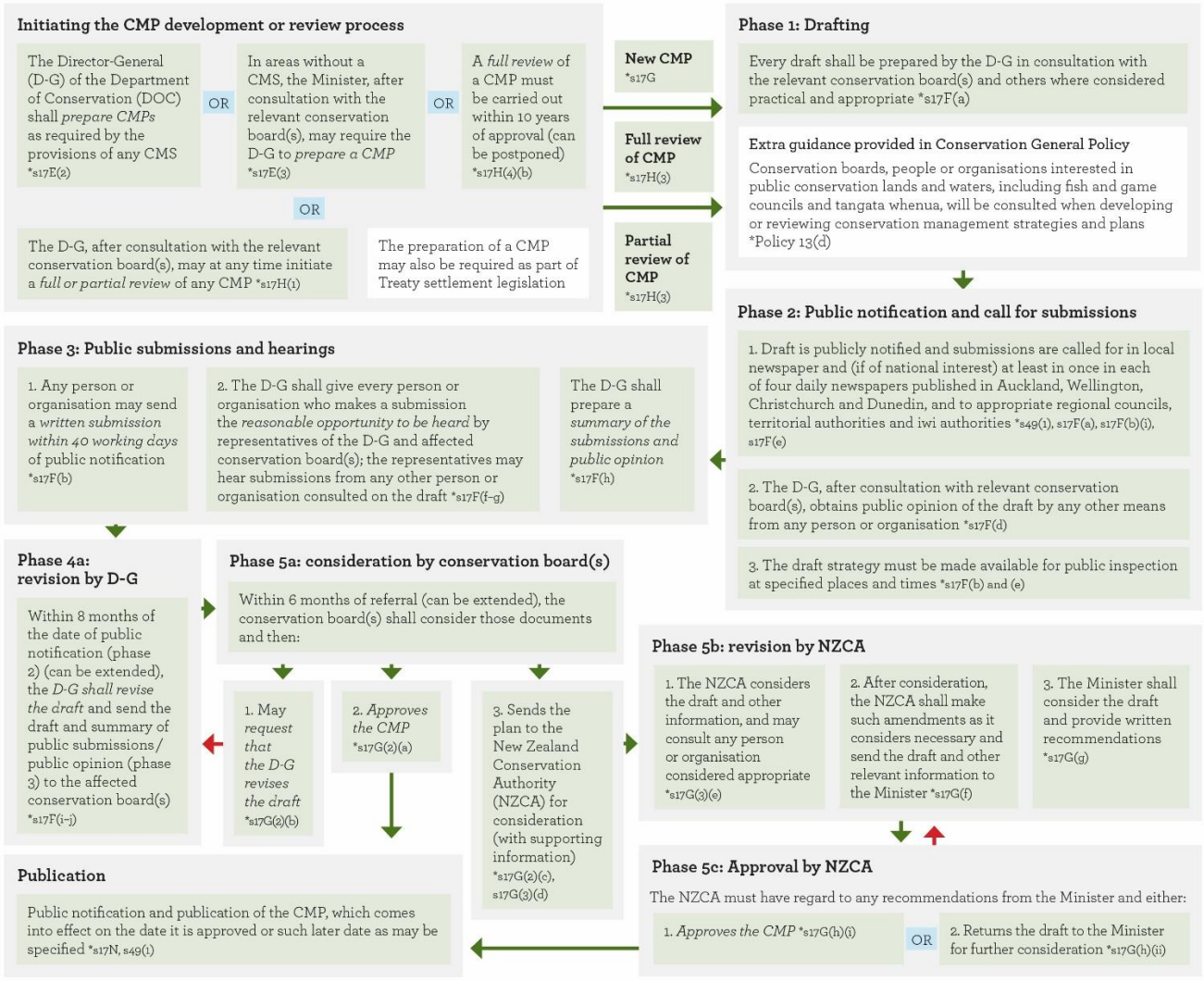
If amendments *will* materially affect objectives or policies in the CMS, or the public interest:

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.



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)

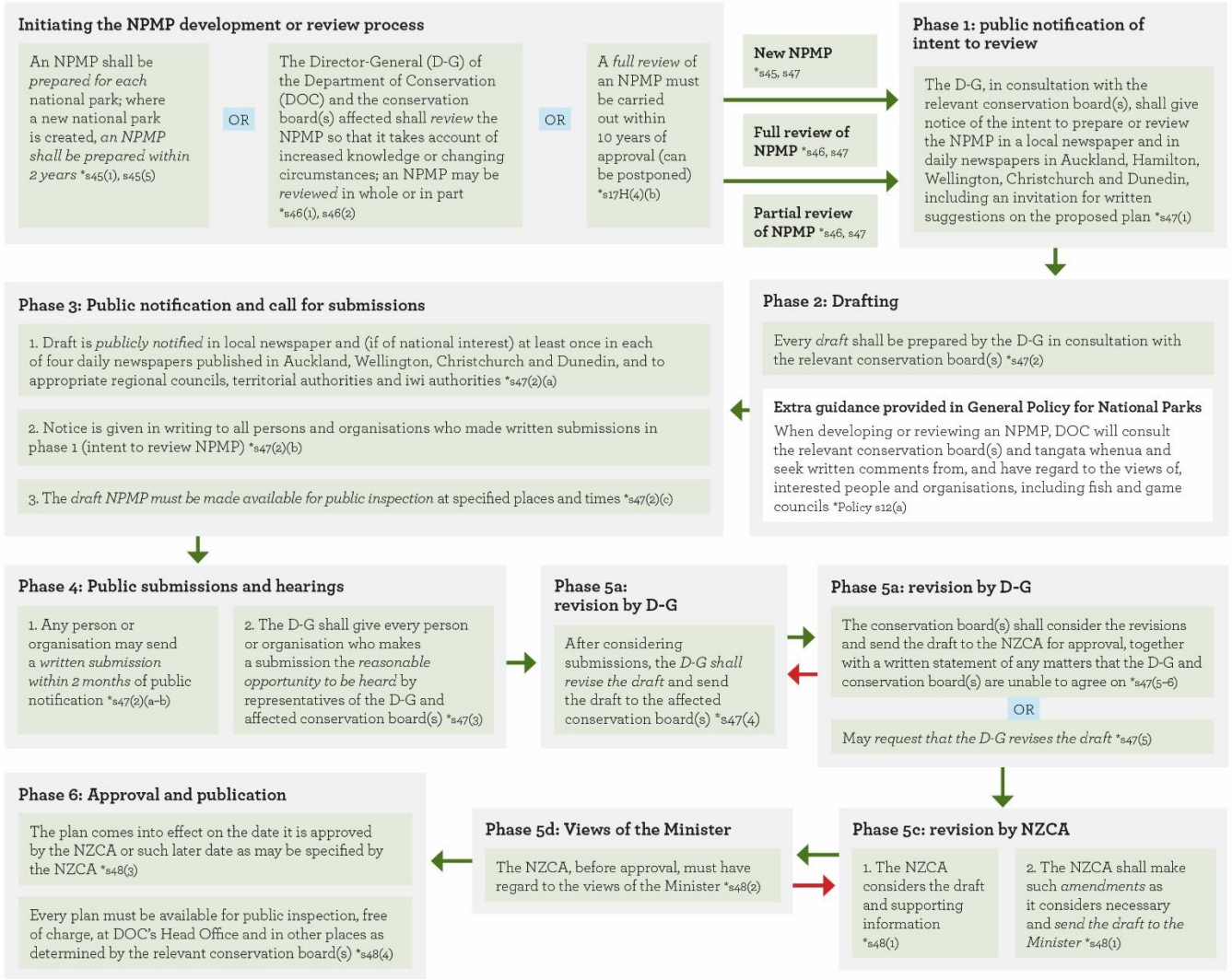
If amendments *will* materially affect objectives or policies in the CMP, or the public interest:

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.



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)

Appendix 3: Process diagram for obtaining a concession through Part 3B of the Conservation Act 1987

Obtaining a concession through Part 3B

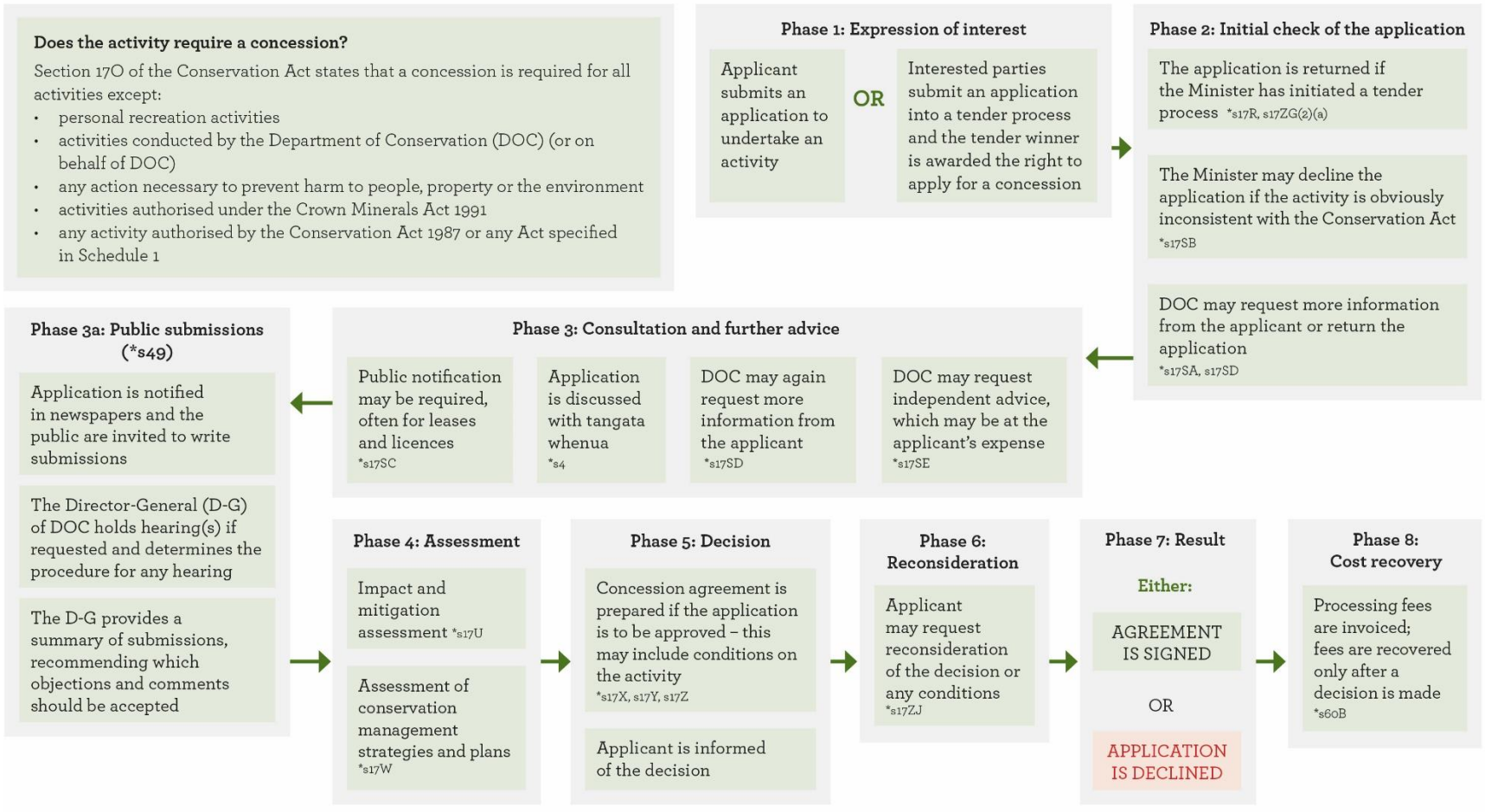
Part 3B of the Conservation Act 1987 sets out the process for the Minister of Conservation to consider if an activity can be authorised by a concession.

This diagram provides a summary of the legislative requirements for considering concession applications for authorisation. This is a process summary for the purpose of facilitating an understanding of the issues in this discussion document. Please refer to the full legislation for completeness.

Giving effect to the principles of the Treaty of Waitangi in concessions management

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 locations and the nature of the activity.

Some Treaty settlement Acts have bespoke requirements regarding processes and responsibilities in managing concessions.



Appendix 4: Stage 1 Cost Recovery Impact Statement (CRIS) – General Authorisations

The discussion document that this CRIS accompanies includes a proposal to have specific activities exempt from requiring individual concessions to operate on public conservation lands and waters (PCL&W) in prescribed areas. The proposal is outlined in the discussion document above under Issue 2A (p. 49).

The proposal would remove the status quo in which those seeking to undertake activities on PCL&W must apply for, and obtain, a concession from the Department of Conservation (DOC). DOC would no longer recover application processing costs, or associated activity fees, for those specific activities that are exempt from requiring a concession.

The analysis below outlines the cost recovery implications of this proposal and is based on the Treasury's requirements for initial assessment of cost recovery implications from regulatory change.

Status quo

Current activities and why they are undertaken

- Many activities on PCL&W require a concession unless the activity is exempt under Part 3B of the Conservation Act 1987.[33]
- Under Part 3B of the Conservation Act, DOC is responsible for accepting and processing concession applications. Applications may only be approved if the application is consistent with the statutory tests of Part 3B.
- DOC incurs costs when processing a concession application, as DOC resources are required to undertake a statutory assessment of the application. Section 60B of the Conservation Act allows the Minister of Conservation to recover the costs of processing an application. However, DOC is not **required** to recover costs and has an operational policy outlining when processing fees may be waived, either fully or partially.[34]
- Section 17Y of the Conservation Act also allows the Minister of Conservation to charge rent, fees or royalties for a concession activity ('activity fees'). Like processing fees, DOC is not **required** to charge activity fees and has an operational policy outlining when activity fees may be waived, either fully or partially.
- Typically, DOC will charge processing fees and activity fees when an activity has a commercial element and/or private benefit to the concessionaire (eg a commercial guiding concession or commercial transport concession). DOC does not typically charge processing fees and activity fees for activities that do not have a commercial or private benefit (eg research applications to collect plant samples from PCL&W).
- Although DOC has the power to recover costs, it does not currently fully recover **all** processing costs. This may be because DOC makes an operational decision that waiving processing fees for certain activities would result in better conservation

[33] Section 17O of the Conservation Act 1987 lists which activities are exempt from requiring a concession.

[34] DOC's operational policy allows for processing fees to be waived if the activity does not have a commercial benefit and/or the activity contributes to the protection and preservation of conservation including natural, historic and cultural resources. However, discretion for waiving fees is advised and will be applied on a case-by-case basis. DOC may also waive fees in full, or partially.

outcomes[3] or because it is unable to fully capture all costs (staff and time) involved in the processing of an application, resulting in lower processing fees being charged.[35]

What policy outcomes does the status quo achieve?

- The concessions process:
  - allows DOC to manage and protect PCL&W and their associated values by regulating the activities that occur on PCL&W; activities may only be approved if they are consistent with the protection of conservation values
  - allows DOC to manage public use of PCL&W and provide opportunities and access to PCL&W as long as these activities do not impede the protection of PCL&W and their associated values.
- The cost recovery model for processing fees ensures that the private individuals, businesses or organisations who primarily benefit from the concession cover the costs of regulating that activity. If the costs are not recovered from the beneficiary of an activity, they are covered by the public through DOC's baseline funding.

The proposed change

What is the rationale for government intervention?

- There is an opportunity to remove the need for specific activities to require a concession within certain areas. Such activities would also have a consistent set of rules for operating/undertaking the activity on PCL&W. Removing the need for a concession could reduce costs for applicants (although it may also potentially result in increased costs for DOC, so a balance would need to be sought when assessing if an activity was suitable for a general authorisation). The proposed mechanism is to authorise activities through regulations under the Conservation Act.
- The key benefits of this approach are:
  - **increased time and cost efficiencies for users** – applicants would not be required to prepare and provide an application, and DOC would not need to process the application, thus removing the requirement for applicants to pay processing costs and, if required, activity fees
  - **consistent decision making –** processing individual applications can result in inconsistent decision making, whereas assessing activities and authorising them through regulations would result in greater consistency of what is authorised, including consistent operating conditions for users
  - **improved concessions process –** removing the requirement that specific activities need a concession would free up limited DOC resources to process other, more complex applications
  - **increased compliance –** information on where an activity can be carried out is more accessible and immediately available, encouraging users away from restricted areas.

[35] In 2021, DOC completed 140+ research and collection applications, less than 10% of which had processing fees recovered (because they met the criteria to have processing fees waived). Using a conservative estimate of the average processing costs per application, DOC would have accumulated around $280,000–$300,000 in processing fees had the fees not been waived.

- Across the concessions system, DOC currently recovers around $3 million of the estimated $9.6 million total costs for processing concessions, equating to a total cost recovery of around 30–35% each year.
    - $2.4 million of the total costs relate to staff time and other costs that cannot be directly related to third-party applicants. This includes things such as training and upskilling staff, system improvement work, and responding to official information requests.
    - Approximately $800,000 of the shortfall relates to fees waived or reduced through operational policy. While legally cost recoverable, fees are not charged for public interest reasons.
    - The remaining gap of around $3.4 million relates to activities where DOC endeavours to achieve a reasonable degree of cost recovery but does not achieve full cost recovery due to current practice. For example, sometimes an application triggers analysis of broader implications should an application be approved. In these cases, DOC may only recover the portion of costs of the wider analysis that specifically apply to that individual application.

- DOC also has a responsibility to recover royalties, fees and rents from commercial activities. The criteria proposed for limiting the scope of general authorisations through regulation would limit the cases where royalties are forgone. The discussion document suggests that a commercial activity should only be generally authorised if there is a public interest in waiving royalties and rents, or the cost of collecting would outweigh the royalties and rents collected (see p. 51).

What are the relevant policy decisions that have been made?

- The New Zealand Government has indicated the need for targeted legislative amendments to provide near-term efficiencies for applicants (refer to the Introduction to the discussion document above). The proposal to enable general authorisations through regulations would save time and costs for applicants.
- The discussion document that this CRIS accompanies seeks feedback on the proposed options outlined in this CRIS (Issue 2A, p. 49). No policy decisions have been made on these options.
- The discussion document is not seeking specific feedback on which activities might be authorised through regulations, how activities would be assessed for inclusion in regulations or what operating conditions for any activities authorised under regulations would be. Examples in the discussion document and this CRIS are for illustrative purposes only.
- No policy decisions have been made on these options. Should a decision be made following public consultation to pursue this option, a full CRIS will be developed.

What is the statutory authority to charge (ie the Act that gives the power to recover costs)?

- Section 60B of the Conservation Act provides the Minister of Conservation with the power to recover the costs of processing concession applications.
- The proposed mechanism would see DOC forgo the ability to recover application processing costs for specific activities because these activities would no longer require a concession application.
- The proposed options would not remove or impede DOC's ability to recover processing costs for activities that still require a concession under the Conservation Act.

Is this a new or amended fee?

- The proposed mechanism represents the removal of a fee. It would remove concession application fees for specific activities that have been authorised through regulations.

Rationale

Why is it appropriate to forgo cost recovery for the activity (ie why should it be funded by the Crown rather than third-party funded)?

- The proposed criteria for general authorisations detailed in the discussion document seek to ensure that any activity with a strong commercial element (where third-party funding is desirable) is not eligible for general authorisation. Therefore, general authorisations would focus on activities where fees are actively waived or reduced through operational policy, or where difficulties administering the activity mean that costs cannot be effectively recovered.
- As noted above, DOC may continue to collect royalties, fees and rents. DOC may at times waive such fees, or charge below a market rate, if the activity is for conservation management or public good reasons. The intention of the proposed criteria is that activities with commercial benefit are not exempt from requiring a concession unless there is a strong rationale for a general authorisation and a policy rationale to forgo any royalties, fees and rents.

What is the nature of output from the activity (ie the private/public/club good or service; see section 3.2 of The Treasury guidelines)?

- A concession authorises the holder to derive benefit from the use of PCL&W. It is an authorisation from DOC on behalf of the public for the individual, business or organisation to undertake their desired activity. The concession received from DOC is a private good in that it is rival and excludable – it authorises only the concession holder.
- Some activities have public good benefits. Research and collection activities related to the conservation of native flora and fauna is a good example of this.
- The proposed mechanism to remove the need for a concession retains the public benefits of regulating the activity while removing the private good element because the authorisation would no longer be rival and excludable. The authorisation moves from being a private good to a public good in the form of system-level rules.
- The requirement for a concession has public benefits as it ensures that the activity is managed and conservation areas are protected. Therefore, there are public benefits to improving access to getting the correct authorisation and reducing the associated costs.
- For this reason, we consider that general authorisations should be limited to activities where the land management benefits of treating the authorisation as a public good suitably outweigh any private commercial benefits that could be obtained through requiring a permit. This would apply to DOC forgoing the ability to both recover administrative costs and collect any royalties, fees or rents.

Is full or partial cost recovery being proposed and what is the rationale for the proposal?

- This question is not applicable to this case as the proposal would see DOC forgo the ability to recover costs from activities authorised through regulation, for the reasons detailed above.

What type of charge is being proposed (eg fee, levy, hourly charge) and what is the rationale for the proposal?

- There is no proposal to change DOC's legislative ability to recover costs. DOC would continue to seek to recover costs for concession applications where appropriate.
- The proposals would see some activities no longer requiring a concession as they would be authorised through regulation. The rationale is that these activities are largely non-rival and/or are often non-excludable due to compliance constraints.
- The rationale for forgoing cost recovery powers by regulating these activities in either of the proposed ways is to clarify rules, improve compliance and save DOC resources over time.

Who will pay the cost recovery charges? Include data on the number and size of businesses, individuals, etc if possible

- If activities are authorised through regulation, no application will be received and processed by DOC. This would mean that DOC would not accumulate processing fees (and therefore not need to recover these fees). Under the status quo, DOC would be able to accept applications and recover the processing fees directly from the application (unless a fee waiver is applied).
- DOC would need to assess which activities would be authorised for exclusion from the standard concession application process. DOC (not concession applicants) would then be responsible for paying the costs of this assessment work. There is a risk that further costs would be borne by DOC if the regulation needs to be adjusted or reversed in the future.

High-level cost recovery model

The purpose of this section is to demonstrate the potential cost implications of DOC defining and assessing activities for general authorisation, rather than recovering the costs of processing individual applications.

DOC cannot currently confirm what the costs of selecting and assessing activities that could be exempt from requiring a concession are because it has not designed the criteria for this work (or created a subsequent work plan, including staff time and resources).

Despite this, DOC would seek to ensure the cost of this assessment work does not accumulate costs greater than the status quo *in the long term*. To ensure this work is cost efficient, a potential assessment criterion could include seeking to assess activities:

- that are frequently processed / make up the bulk of applications received (eg recreational drone applications[36] – the ability to exempt activities that are frequently received by DOC would be more cost effective than seeking to exempt activities that are uncommon and do not significantly add to the permissions system workload
- where processing fees are not currently cost recovered or are waived (eg research applications to collect plant material) – if DOC is not recovering these costs, the short-term cost of assessing these activities for exemption could outweigh the long-term costs of not needing to process these applications and *not* recover the processing costs
- that are deemed to have little to no adverse impact and would require minimal operating conditions – such assessment would incorporate views of tangata whenua, the public and technical specialists on what a 'low-risk' activity is (eg this could include the collection of harakeke/flax for personal use).

DOC would need to assess the suitability of any selected activities against the statutory provisions of Part 3B of the Conservation Act. This would require:

- assessing if the activity is consistent with the purpose for which the land is held
- assessing if the activity is consistent with the purpose of the Conservation Act
- assessing if the activity is consistent with the relevant statutory plans (including the relevant conservation management strategies, conservation management plans and national park management plans)
- assessing if the effects of the activity can be understood, and if there are any methods to avoid, remedy or mitigate these effects
- consulting with iwi, hapū and whānau at place.

On consideration of the above criteria to (a) identify activities for assessment and (b) assess those activities, DOC could reduce the costs of this work by assessing:

- activities together (eg by combining consultation with Treaty partners on multiple activities at the same time, rather than running individual rounds of consultation on individual activities at different times)
- applications on a regional rather than national scale, reducing the number of statutory plans to assess and the number of Treaty partners to engage with.

[36] In 2021, 25% of the 1500+ applications processed were for one-off permits covering recreational drone use, events and filming/photography. These activities could be suitable for assessing if they can be exempt from requiring a concession.

The following illustrative example is provided to highlight the above.

- DOC processes 'research and collection' applications under Part 3B of the Conservation Act and currently has over 200 active research and collection concessions.[37] Of these 200 concessions, around 25% authorise the study and/or collection of invertebrates. Given the public benefit of conservation research, processing fee costs are waived (as per DOC's internal fees policy[38]).
- Typically, these applications require multiple DOC resources to assess them.[39]
- If processing fees for these applications were recovered, the average application processing cost would be around $1,500–$2,000 + GST. However, processing costs can be significantly higher for applications seeking to undertake the activity across multiple locations. For instance, in 2021, several large-scale research and collection applications would have accumulated processing fees of $4,000–$5,000 + GST (had these fees not been waived).
- Conservatively, based on an average of 10–12 invertebrate research and collection applications being received annually,[9] it can be estimated that the total accumulated processing costs of these applications was around $15,000–$25,000 + GST per annum.[40]
- If DOC used the provisional model discussed above to (a) identify activities for assessment and (b) assess those activities, the costs of this assessment work could be around $30,000–$35,000.[41] Therefore, if invertebrate research and collection activities were exempted from requiring a concession, DOC would save costs in the long term. For example, over a 5-year period, the initial assessment work of $30,000–$35,000 to exempt this activity would be more cost effective than DOC processing these applications over the 5-year period and losing an estimated $75,000–$100,000 in processing fees.

Consultation

Who has been (or will be) consulted, what form will consultation take and what options are being canvassed?

- The proposal to enable specific concession activities to be authorised through regulations will be consulted on in a public discussion document and will be one of the issues that DOC engages tangata whenua and conservation stakeholders on.

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[37] Research and Collection applications are not defined by the Conservation Act 1987 but rather are an internal application classification created by DOC. Typically, these can be summarised as applications that seek to observe and interact with resources on PCL&W. Common examples include applications to collect plants or plant material, non-protected invertebrates, as well as soil, air and water. However, this list is not exhaustive.

[38] There was cost recovery for less than 10% of the 145 research and collection applications processed in 2021.

[39] The standard resources assigned to these applications are a Permissions Advisor, Community Ranger, Operations Manager and Technical Specialist.

[40] This is based on a conservative estimate of applications received from 2018 to 2021.

[41] This is a conservative estimate of staff time and resources to assess the suitability of exempting these activities. Costs may be higher due to a range of internal and external factors (such as consultation with tangata whenua and the public). Similar work to assess activities in advance, such as guiding on conforming tracks, costs around $40,000.

- Public sector agencies consulted on this proposal have not raised any concerns with DOC around not recovering costs from would-be concession applicants.

What key feedback has been received and were any significant concerns raised about the preferred option?

- This is an interim CRIS to accompany the discussion document; it will be revised based on feedback from consultation.

How will consultation be managed for the rest of the process (ie while the detailed cost recovery model is developed and through implementation)?

- A detailed cost recovery model would not be appropriate as no cost recovery would be taking place and pre-assessment would be on an activity-by-activity basis.
- DOC may build a more detailed understanding of the costs for certain activities during public consultation and engagement with tangata whenua on the proposal.