# Steps for preparing a Conservation Management Strategy (CMS)

## Introduction

Conservation management strategies (CMSs) are 10-year documents that implement general policies and establish objectives for the integrated management of natural and historic resources, including any species, managed under various Acts and for recreation, tourism, and other conservation purposes. They are prepared under the Conservation Act 1987 (the Act).

Conservation Boards are actively involved in the preparation, review, amendment, and approval of CMSs. Depending on the strategy and geographic area involved, more than one Board may be involved.

A graphical summary of the process is [available here](https://www.doc.govt.nz/contentassets/dc9f002144f24b7cbf0bc746de5b0a71/conservation-management-strategies-timeline.pdf).

## Summary of Conservation Board involvement in statutory steps for preparing a CMS

1. DOC must prepare every draft CMS in consultation with the Conservation Boards affected by it before it is notified in accordance with [section 49(1)](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM106907.html) of the Act [(s17F(a))](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html). DOC may also consult with others at this stage, including tangata whenua[[1]](#footnote-1) (see also section 4 considerations below).

2. If DOC decides to obtain public opinion on the draft outside of the formal process outlined in the Act after the draft CMS has been notified, it may do so after consulting with the Conservation Board [(s17F(d)).](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html)

3. DOC must give every person or organisation that, when making any submissions on the draft, has asked to be heard in support of their submissions a reasonable opportunity of appearing before a meeting of representatives of DOC and the Conservation Boards affected [(s17F(f)).](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html)

4. Representatives of DOC and the Conservation Boards affected may hear submissions from any other person or organisations consulted on the draft CMS [(s17F(g)).](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html)

5. After considering submissions and public opinion, DOC must revise the draft CMS and send it to the Conservation Boards affected along with a summary prepared under [s17F(h)](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html) before—

* the end of 8 months after the date of publication of the notice given under [s17F(a)](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html); or
* a later date as may be fixed by the Minister. ([s17F(i) and (j))](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html)

6. On receiving the draft CMS and the summary, the affected Conservation Boards must consider those documents and then—

* may request DOC to revise the draft; and
* must send the draft to the NZCA for approval, together with a written statement of any matters of content on which DOC and the Boards are unable to agree and a copy of the summary prepared under [s17F(h)](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html) (see [s17F(k))](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html)

7. The affected Conservation Boards must send the draft received under [s17F(i)](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html) to the NZCA before—

* the end of 6 months after its referral to the Boards by DOC; or
* a later date as may be fixed by the Minister [(s17F(l)).](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html)

8. The NZCA must consider the draft and all other information furnished with it and may consult such persons and organisations as it considers appropriate, including the affected Conservation Boards [(s17F(m)).](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html)

9. The Board then advises the NZCA and the DG (via the delegated Operations Director) on the implementation of the approved CMS within its jurisdiction [(s6M(1)(c)).](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104215.html)

## Section 4 considerations

# Conservation Boards need to be aware that [section 4](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104078.html) of the Act is relevant to the discharge of their functions. DOC has the same duty, so it should not generally be necessary for a Board to undertake direct consultation with tangata whenua during pre-engagement discussions, as DOC would already have undertaken consultation. In preparing CMSs, DOC engages with tangata whenua[[2]](#footnote-2) before consulting with Boards under [s17F(a).](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html) DOC will advise the Board when section 4 engagement is occurring and of the nature and results of any engagement it does undertake. The Board may choose to undertake its own consultation with tangata whenua on particular issues, if it wishes to do so.

A Conservation Board needs to ensure it is aware of any Treaty Settlements that create specific obligations on it, in relation to management planning.

## Preparation of CMS prior to public notification

A Board should expect to be involved in the very early stages of developing the CMS, following engagement with tangata whenua. Boards should establish a process for working with DOC on the preparation of the CMS. Many Boards set up a committee to focus on the CMS during development. This contributes to effective communication between the Board and DOC throughout the process, ensuring ‘no surprises’ when the Board receives the revised draft CMS.

Where more than one Board is involved, this process needs to be inclusive of all. But for reasons of efficiency the Board with the largest area of jurisdiction covered by the CMS will generally take the lead, ensuring role clarity and efficient use of time and resources. How information will be shared, circulated, and reviewed throughout the process should be clearly set out.

DOC is required to consult with Conservation Board/s during the initial stages of preparing a CMS [(s17F(a))](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html). In addition, DOC may also be consulting with other parties and the public. Consultation may include discussions or workshops on:

* identification of ‘Places’ within the CMS.
* identification of any major strategic issues relating to natural, cultural, historical, and recreational matters;
* gaining an understanding of the importance of sites to tangata whenua, as well as the associations and values attached to them; and
* developing policy approaches, including Place outcomes and milestones which form the basis of a Board’s CMS implementation and monitoring role.

Being involved in these discussions and workshops will aid Boards in their deliberations later in the process. If a Board has a particular issue it wishes to progress through the CMS it is vital to bring it to DOC’s attention early in the pre-notification consultation. DOC shall also have regard to any relevant concessions for the time being in force [(s17D(8)).](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104299.html)

DOC does not have to seek the approval of the Board on the content of the draft CMS prior to public notification, it must only consult with the Board [(s17F(a)).](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html)

## Seeking public opinion once CMS notified

DOC is required to notify the draft CMS to the public (including tangata whenua) and appropriate regional councils, territorial authorities, and iwi authorities [(s17F(a)).](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html)

If DOC wishes to consult with any party once submissions have closed, and that party did not make a submission, DOC must first consult with the Conservation Board on the appropriateness of this [(s17F(d)).](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104608.html) This ensures the Board is aware of any consultation held with parties not involved in submissions that may influence any revisions DOC makes to the draft CMS before it is presented to the Board.

A Board whose area is covered by the CMS should not make a submission on the draft CMS. This is primarily due to its role in decision-making on the document. However, other Boards who do not have jurisdiction over any area covered by the CMS may make submissions.

## Hearings

Every person who makes a submission can ask to be heard in support of their submission. Representatives of DOC and the Conservation Board affected sit on the hearing panel.

Preparing for and attending hearings can be time consuming. Board members may wish to share the work involved, but it would be beneficial to have at least one Board member who is able to hear all submissions, to provide consistency. Before the hearing, Board members should give thought to what questions they may wish to ask of submitters. Board members should ensure they have copies of submissions and any other information supplied to DOC that is relevant to the hearing.

While Conservation Board representatives are part of the hearing panel, the hearing process is managed and led by DOC (the chair of the hearing panel will be a DOC staff member).

The purpose of hearings under the Conservation Act, is so that submitters can clarify points in their submissions. It is not for decisions to be made, like RMA hearings. The hearing panel does not make decisions on submissions or subsequent changes to the draft CMS.

## Revision of the draft CMS

DOC is required to forward a revised draft CMS with a summary of submissions and public opinion known on it to each affected Board within 8 months of notifying the draft CMS, or within some other time-period approved by the Minister. While not required, DOC also provides a Certificate of Compliance setting out how all relevant legislative and statutory requirements have been met. The Board may also like to consider viewing a full set of submissions.

DOC can make changes to the draft CMS following notification, to bring information up to date and/or correct errors. Minor changes made in this manner will not require partial or full re-notification of the CMS.

During the process of revising the draft the Board may be asked to provide comment or input.

## Receipt of the revised draft CMS

When a Board receives the draft CMS from DOC, it has 6 months to consider the draft, request changes, and forward it to the NZCA for approval – a busy time. This period can be extended with approval from the Minister. During this time, the Board is now ‘in charge’ of the draft CMS: the Board has the most extensive input into the draft CMS at this stage.

The Board should receive a version of the draft CMS with tracked changes, to show what has been revised following the public notification and submission process. The Board receives a summary of submissions and any known public opinion on the draft CMS, and how DOC has responded to each submission or matter of public opinion.

The Board may be required to consult about specific sites with named iwi authorities, arising from Treaty settlement legislation. The Board and the iwi authority will agree on the best process for this, which may include face to face meetings.

The Board can only consider matters raised in submissions, public opinion known on the draft, or through consultation required by Treaty settlement legislation. A Board cannot make changes on any matters that are not addressed in submissions, known public opinion, or communicated through Post Settlement Governance Entities (PSGEs) in accordance with Treaty settlement requirements.

It is important that the Board establishes a programme and protocols for working with DOC on the revised draft. If more than one Board is affected, the one with the largest area of jurisdiction will take a coordinating and leadership role. Again, a Board committee is often the most efficient mechanism for working with DOC.

What a Conservation Board can do with a draft CMS

If a Board wishes to make any changes to the draft, it can request DOC to revise the draft CMS. The Board and DOC should attempt to agree on any further changes. If agreement is not reached, DOC and the Conservation Board can ask the NZCA to reconcile the difference.

The Board then presents the revised draft, with a written statement of any matters of difference between DOC and the Board, and a summary of submissions to the NZCA for its approval. This is accompanied with a Certificate of Compliance prepared by the Conservation Board and DOC. This states, among other things, that all the legal requirements to this point have been met, and how they have been met. The NZCA should also receive a report on the consultation undertaken and an outline of the key issues raised through the preparation of the CMS.

The NZCA may contact DOC and/or the Board for clarification or further discussion while it considers the draft.

Advice to NZCA and implementation

Over the life of a CMS the relevant Conservation Board is required to advise the NZCA on how the CMS is being implemented. Each Board has its own process for doing this, but it is often done through the annual report provided to the NZCA. The Board that took the lead during the CMS development process usually discharges this function for the whole CMS area.

(DOC has a standard operating procedure for the CMS process. It includes a module on Conservation Boards providing advice on the implementation of the CMS to the NZCA. This provides detail on best practice for implementing the conservation board’s role.)

Each CMS contains milestones that will assist in determining how the CMS is being implemented. Conservation Boards are required to seek regular updates from DOC regarding implementation. However, Boards may wish to establish other indicators relating to implementation and reporting in consultation with the Operations Director.

The [Conservation General Policy 2005](https://www.doc.govt.nz/about-us/our-policies-and-plans/conservation-general-policy/) (CGP) requires:

* Conservation Boards to be consulted on matters relevant to the implementation of CMSs, including applications for a concession requiring an interest in land (policy 13(e)); and
* DOC to provide a report, at least annually, on the implementation of CMSs (policy 13(f)).

Reviewing a CMS

* DOC must review a CMS no later than ten years after its approval unless the Minister (after consultation with the NZCA), extends the time period.
* CMS reviews can occur at any other time, and they can be a review in whole or in part. Reviews are initiated by DOC, as set out above.

Amending a CMS

Three scenarios can exist for amending a CMS, all involving Conservation Boards.

1. DOC, after consulting with the Board, may initiate an amendment that will run through a similar process to what is outlined above for preparing and reviewing a CMS.

2. DOC can amend a CMS to ensure the requirements of [s17D(7)](https://www.legislation.govt.nz/act/public/1987/0065/latest/DLM104299.html) of the Act (commonly referred to as the Land Inventory) remain accurate, without the need for public consultation. DOC must notify the Board of this type of amendment.

3. An amendment can be made without public notification if DOC and the Board consider the amendment will not materially affect the objectives and policies in the CMS or public interest in the area concerned. In this instance the Board must agree with this, not merely be consulted on it. CGP policy 13(g) sets out further guidance on non-notified amendments.

1. Tangata whenua means the iwi, hapū or whānau that has customary authority in a place. [↑](#footnote-ref-1)
2. This can involve developing a partnership agreement setting out how the relationship will work and evolve over the course of the statutory process. [↑](#footnote-ref-2)