

IN CONFIDENCE

**In Confidence**

Office of the Minister of Conservation

Cabinet Environment, Energy and Climate Committee

**Proposed legislative amendments to improve conservation management processes**

**Proposal**

- 1 I propose legislative amendments to improve conservation management processes.

**Relation to government priorities**

- 2 Targeted improvements to conservation management processes will ensure that public conservation land and waters are appropriately managed to protect and restore conservation values. The proposals will enable improved processes and transparent decision-making within the conservation management system, particularly for concessions. This supports the:
  - **Manifesto commitment** to protect, preserve and restore our natural heritage and biodiversity, and promote the recovery of threatened species;
  - **Co-operation agreement** to work with the Green Party to achieve the outcomes of *Te Mana o te Taiao - Aotearoa New Zealand Biodiversity Strategy*. In particular the strategic priority, “Tūāpapa – Getting the system right” and goal 1.3 “Current natural resource legislation has been reviewed to ensure it is effective and comprehensive...and ensures ongoing biodiversity protection...”.

**Executive Summary**

- 3 On 14 April 2022, the Cabinet Environment, Energy and Climate Committee (ENV) approved public consultation, and the release of a public discussion document, to support possible targeted amendments to improve conservation management processes.<sup>1</sup>
- 4 In May 2022, the Department of Conservation (DOC) released the ‘Conservation Management and Processes’ discussion document. This set out proposed legislative changes to improve efficiency and enable more proactive approaches to concessions management; changes to improve the process for developing and reviewing conservation management planning documents; and minor and technical changes for the purposes of regulatory stewardship. Consultation closed on 30 June 2022.
- 5 I have considered the analysis of options outlined in the discussion document and feedback from public submissions. I now seek Cabinet approval of specific

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<sup>1</sup> ENV-22-MIN-0017.

changes to the Conservation Act 1987 and other Acts relevant to conservation management (see recommendation 4 for full list).

- 6 The targeted amendments to conservation legislation that I intend to progress are in the following areas:
  - Changes to concessions legislation to enable more proactive, efficient, and transparent concessions management processes
  - Minor and technical changes for the purposes of regulatory stewardship
- 7 Changes to enable standardised concessions will enable efficiency through providing standardised authorisations (estimated to save between 4.5% to 11% of current resourcing). Providing clarity on DOC's ability to return an application will address elongated timeframes and better enable the use of existing competitive allocation tools. Competitive allocation is an effective mechanism for promoting improved financial and environmental outcomes and allows DOC to better give effect to the principles of the Treaty of Waitangi when allocating concessions.
- 8 Following public consultation and further analysis, I have decided not to progress four of the five proposals in the discussion document related to the processes for developing and reviewing conservation management planning documents. One is now included in the proposed minor and technical changes.

## Background

- 9 *Te Mana o te Taiao – Aotearoa New Zealand Biodiversity Strategy 2020* identifies that conservation legislation is complicated and often inconsistent. Complicated and dated conservation legislation is limiting the effective and efficient management of public conservation land and waters. DOC has identified targeted amendments to current conservation management processes for the purposes of regulatory stewardship in the near term.
- 10 The concessions system regulates non-recreational use of public conservation land and waters including activities such as research, tourism, grazing, and transport. The statutory processes in Part 3B of the Conservation Act 1987 for processing concession applications and allocating opportunities require attention. Applicants, existing businesses, researchers, tangata whenua (whānau, hapū, iwi, and post-settlement governance entities), communities, local councils, and DOC have struggled with long and unclear concessions processes.
- 11 This work has identified a range of statutory provisions across conservation legislation that are erroneous, inconsistent, or outdated that can be addressed through minor and technical amendments.
- 12 On 4 October 2021, Cabinet agreed to progress targeted amendments to conservation management planning and concessions legislation, while preparatory policy analysis is underway to identify options for possible reform pathways. It also agreed to initiate a review of the Wildlife Act 1953.<sup>2</sup>

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<sup>2</sup> CAB-21-MIN-0402 refers.

- 13 In December 2016, Cabinet agreed to policy directions for some conservation management planning and concessions amendments.<sup>3</sup> These were not progressed but informed the proposals for amendments outlined in this paper.
- 14 On 14 April 2022, the Cabinet Environment, Energy and Climate Committee (ENV) approved public consultation, and the release of a public discussion document, to support possible targeted amendments to improve conservation management processes.<sup>4</sup>
- 15 In May 2022, DOC released the 'Conservation Management and Processes' discussion document. This set out proposed legislative changes to improve efficiency and enable more proactive approaches to concessions management; changes to improve the process for developing and reviewing conservation management planning documents; and minor and technical changes for the purposes of regulatory stewardship.
- 16 DOC carried out eight weeks of public consultation on the discussion document. Submissions closed on 30 June 2022. DOC received 116 written submissions s9(2)(j) A total of 49 hui with tangata whenua and key stakeholders were held from May to July 2022.<sup>5</sup>
- 17 I have considered an analysis of options outlined in the discussion document and feedback from public submissions. I now seek Cabinet approval of specific changes to the Conservation Act 1987 and other Acts relevant to conservation management (see recommendation 4 for full list).

s9(2)(f)(iv)

### Objectives of the legislative change proposals

- 19 In considering options to improve conservation management processes, I am seeking to meet the following objectives:
- ensure processes enhance outcomes to protect conservation values;<sup>7</sup>
  - enable DOC to give effect to the principles of Te Tiriti o Waitangi, as required by section 4 of the Conservation Act 1987;
  - ensure processes are time and cost effective;

<sup>3</sup> EGI-16-MIN-0334 refers.

<sup>4</sup> ENV-22-MIN-0017.

<sup>5</sup> This included: 20 regional hui with whānau, hapū, iwi and post-settlement governance entities; 20 hui with a range of tourism, research, environmental, recreation, and primary industry stakeholders; a hui with the New Zealand Conservation Authority; and 8 hui with conservation boards.

<sup>6</sup> CAB-22-MIN-0413.01 refers

<sup>7</sup> The Conservation Act 1987 defines conservation as “the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations”.

- clarify existing policy intent to ensure consistency in decision-making and make rules clear for users; and
- enable appropriate public participation in conservation management processes.

20 The targeted amendments that I intend to progress are in the following areas:

- changes to concessions legislation to enable more proactive, efficient, and transparent concessions management processes
- minor and technical changes for the purposes of regulatory stewardship

21 I have decided not to progress the amendments related to conservation management processes, except for one amendment to enable digital publication as the default method. This is now incorporated into the minor and technical changes.

22 The discussion document sought feedback on options under each of the abovementioned areas. These are specified below. Options were assessed against the objectives of the legislative review and took into consideration feedback obtained during the public consultation process.

#### **Enabling more proactive, efficient, and transparent concessions management**

23 Concession processes affect a range of people, from tourism operators, to researchers, to farmers. Well managed concession opportunities benefit communities, conservation research and tangata whenua aspirations.

24 Processing applications under the current statutory framework can be onerous due to statutory ambiguities and the reactive nature of Part 3B discouraging standardisation. This impedes prompt decision-making and has contributed to a growing backlog of applications, as described in the Environment Committee's March 2022 briefing into DOC's permit protocols and procedures.<sup>8</sup>

25 There is an opportunity to make concessions processes more efficient and user-friendly without limiting DOC's statutory ability to protect conservation values. This can be achieved through enabling DOC to take a more proactive approach within existing statutory parameters.

26 There was strong support for the proposals and their intent during public consultation, although some submitters noted they will not solve the issues entirely.

#### **Improving efficiency through standardising some concession authorisations**

27 There is an opportunity to make the process for considering some commonly applied for low-impact activities more efficient and user-friendly by enabling new tools to authorise them.

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<sup>8</sup> [https://www.parliament.nz/en/pb/sc/reports/document/SCR\\_120000/briefing-into-the-department-of-conservations-permit-protocols](https://www.parliament.nz/en/pb/sc/reports/document/SCR_120000/briefing-into-the-department-of-conservations-permit-protocols)

28 The discussion document identified two legislative impediments to effective standardisation and options to address them. The two proposals are not mutually exclusive. Enabling both would be most effective due to the most appropriate tool varying between activities and places.

29 The first impediment is that an individual concession application is required for all concession activities, even where the effects are minimal and well managed. In addition to the status quo, the following option was identified for public consultation:

- **Option 1:** Providing DOC the ability to make regulations that generally authorise activities (i.e. no concession would be required).

30 The second impediment is that it is unclear if the Minister of Conservation can assess a specific activity in advance of an application being received and then approve the activity within the assessed parameters. In addition to the status quo, the following option was identified for public consultation:

- **Option 1:** Enable concessions to be pre-approved for appropriate activities (i.e. concession applications could be made, and instantly approved, online).

31 General authorisations and pre-approved concessions would reduce the number of applications requiring individual assessment by DOC. It is estimated that these mechanisms would have a net-benefit of between \$400,000 and \$1,000,000 per year. This is between 4.5% and 11% of the \$9 million spent resourcing these concessions processes each year. This would benefit applicants across the system by allowing DOC's resources to focus on processing more complex or high-risk applications.

32 Feedback from tangata whenua affirmed the importance of their involvement in the assessment and approval of activities. Feedback, s9(2)(i) also cautioned that efficiency should not be achieved by taking a pan-Māori approach to authorisations. I am proposing amendments that would enable authorisations to be place specific and encourage proactive engagement with tangata whenua.

33 Some stakeholders including conservation boards and environmental NGOs raised a risk of unmonitored cumulative impacts with general authorisations. This risk is mitigated through proposed criteria limiting the scope of their use.

34 I intend to progress the options to enable concessions to be pre-approved and to provide the ability to make regulations that generally authorise certain activities. These proposals will make the process for obtaining authorisations more efficient and user-friendly, allow resources to focus on more complex applications. The changes will also improve public knowledge by codifying where some activities can take place and under what conditions.

***Improving DOC's ability to competitively allocate concession opportunities***

35 There is an opportunity to address an ambiguity in the legislation, in which it is unclear whether applications can be returned in favour of an open allocation process if multiple parties may be interested. This impedes DOC's ability to

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consider a wider set of concessionaire proposals and often results in concession opportunities being allocated on a 'first come, first served' basis.

36 In addition to the status quo, the following options were identified for public consultation:

- **Option 1:** Amend the Conservation Act 1987 to provide the Minister of Conservation with the ability to return a concession application in favour of initiating a competitive allocation process
- **Option 2:** Same as option 1, but with a requirement that a competitive process must be initiated within a specified timeframe of the application being returned (the discussion document sought feedback on what an appropriate timeframe would be).

37 Providing clarity on DOC's ability to return an application will address elongated timeframes and better enable the use of existing competitive allocation tools. Compared to a 'first come, first served' approach, competitive allocation is a more effective mechanism for promoting improved financial and environmental outcomes. It also allows DOC to better give effect to the principles of the Treaty of Waitangi when allocating concessions.

38 Option 2 was preferred by submitters, especially among prospective concessionaires seeking clarity on the progress of their application. Suggestions for the timeframe ranged from 20 to 60 working days, with tangata whenua supporting timeframes that would allow for proper engagement.

39 A timeframe of 60 working days is preferred by DOC as it provides sufficient time to prepare before inviting applications while providing a degree of certainty to applicants. This certainty on timeframes is important for business planning and is especially desirable for existing operations. DOC would have the ability to invite applications earlier if it is able to do so.

40 Public consultation also highlighted the need for certainty around the timeframes regarding the initial decision to return the application. Submissions and further analysis by DOC suggest that 40 working days would allow sufficient time for engagement and analysis, while providing certainty to applicants.

41 I intend to progress the proposal to amend the Conservation Act 1987 to provide the Minister of Conservation with the ability to return a concession application in favour of initiating a competitive allocation process, subject to:

- a statutory timeframe of 40 working days for returning the application; and
- a statutory timeframe of 60 working days from when the application is returned for the Minister to initiate a competitive process by inviting applications.

42 I also intend to progress a proposal that would enable direct allocation of a concession following a tender process. Current provisions are in effect a double process as they only allow the Minister of Conservation to tender the

opportunity to apply for a concession, not directly grant the successful candidate(s) a concession.

- **Option 1:** Enable direct allocation of a concession following a competitive process, if the statutory requirements related to granting it have been met.

### ***Providing clarity on statutory requirements***

43 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.

44 In addition to the status quo, the following option was identified for public consultation:

- **Option 1:** Provide a statutory timeframe in which reconsideration requests may be sought on concession applications. The discussion document sought feedback on whether 15 working days would be appropriate.

45 39 of 42 submissions preferred a statutory timeframe to the status quo. Although there was overall support for the proposal, a number of submitters expressed that a longer timeframe would be more appropriate.

46 I intend to progress a proposal that would provide a statutory timeframe of 40 working days following a decision for applicants to submit a reconsideration request.

### **Minor and technical changes for the purposes of regulatory stewardship**

47 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.

48 The amendments related to the definition of management planning documents in the National Parks Act 1980 and aircraft landing permits codify existing practice within the concessions regime (recommendations 4K-M refer).

49 Twelve minor and technical amendments were proposed for public consultation. The proposed amendments are detailed in Appendix 1.

50 Most submissions did not directly address the minor and technical amendments. However, the submissions that did were supportive of the proposed changes. I intend to progress all the proposals listed in Appendix 1.

### **Management planning process amendments will not be progressed**

51 The discussion document sought feedback on options aimed at making the processes of developing and reviewing conservation management planning documents more efficient. Tangata whenua, recreational users, businesses, and conservationists have all expressed frustrations with the current backlog of documents requiring review and the time taken to conduct reviews.

- 52 I have decided not to progress four of the five proposals based on feedback and further analysis. It is unlikely the mechanisms would effectively help reduce the backlog in the near-term without being accompanied by a more detailed review of governance and public involvement in the management planning system.
- 53 The contents and form of planning documents, inconsistent and opaque statutory guidance for concession applicants, and the resourcing of management planning processes were key issues raised in public feedback. The current legislation is prescriptive on the process for developing or reviewing plans, but not on the content and use of planning documents. Therefore, it is unlikely that the proposed changes aimed at streamlining the process would address these issues as effectively as targeted non-legislative interventions.
- 54 There are opportunities to improve management planning processes through legislative change, but such changes go beyond the scope and scale of the CMAP Bill. The proposed changes should instead be considered as part of any future process of wider conservation law reform.
- 55 DOC continues to progress a separate workstream aimed at non-legislative improvements to the planning system. Following internal work by DOC in 2021, EDS have been commissioned to undertake an independent review of the management planning system. The report is due in December 2022. DOC is also currently developing a regulatory strategy that will include guidance and direction for management planning.
- 56 I propose to progress the proposal to enable digital by default in the publication of planning documents along with the other minor and technical amendments proposed for the Bill.

### Financial implications

- 57 If the proposal to have specific activities exempt from requiring individual concessions to operate on public conservation land and waters is approved, DOC would no longer recover application processing costs, or associated activity fees for those specific activities that are exempt from requiring a concession. A Cost Recovery Impact Statement is included in the Regulatory Impact Statement for the amendments to concessions processes (Appendix 2).

### Legislative implications

- 58 Legislation is required to implement the proposals in this paper. s9(2)(f)(iv)

- 59 The proposed Bill would bind the Crown. Amendments to the Conservation Act 1987, National Parks Act 1980, Public Finance Act 1989, Reserves Act 1977, Wild Animal Control Act 1977, and Te Urewera Act 2014; and to the Northland Reserves Bylaws 2007, Te Urewera National Park Bylaws 2006, and Te Waikoropupū Springs Scenic Reserve Bylaws 2011 would be required



- 60 Pending approval from Cabinet, I will issue drafting instructions to the Parliamentary Council Office giving effect to the policy decisions in this paper. This legislation will bind the Crown. To ensure the drafting process is managed efficiently, I seek approval to make decisions, consistent with the policy framework in this paper, on any issues that arise during the drafting process

***Intersection with the Stewardship Land legislative proposals***

- 61 Cabinet has agreed to proposals to support streamlining the legislative process for reclassifying and disposing of stewardship land and that the proposals in the Stewardship Land Bill be combined into the Conservation (Management and Processes) Amendment Bill at the drafting stage. This will ensure a more efficient use of both House and Select Committee time and reduce the resource burden on the Parliamentary Counsel Office

**Impact Analysis**

***Regulatory Impact Statement***

- 62 Regulatory Impact Statements are attached in Appendix 2 (targeted amendments to concessions processes), Appendix 3 (auditing requirements for reserve boards and administering bodies), and Appendix 4 (reducing waste in the publication of conservation management planning documents).

- 63 The Department of Conservation's Regulatory Impact Assessment Panel has reviewed the Regulatory Impact Statement on targeted amendments to concessions processes. The Panel considers that the Regulatory Impact Statement partially meets the Quality Assurance criteria. The requirements were not fully met because of the limited scope of the proposal. However, the constraints and limitations have been well described, and the Regulatory Impact Statement provides a robust analysis of the options that are within the limited scope.

- 64 The Department of Conservation's Regulatory Impact Assessment Panel has reviewed the Regulatory Impact Statement prepared by the Department of Conservation on Introducing a threshold for the auditing of reserve boards and reserve administrative bodies. The Panel considers that the Regulatory Impact Statement partially meets the Quality Assurance criteria. The requirement for monitoring, evaluation and review was not fully met. However, the document has a good level of detail and provides good impact analysis of the proposal.

- 65 The Department of Conservation's Regulatory Impact Assessment Panel has reviewed the Regulatory Impact Statement on reducing waste in the publication of conservation management planning documents (Appendix 4). The Panel considers that the Regulatory Impact Statement partially meets the Quality Assurance criteria. The Regulatory Impact Statement clearly identifies the scope of the problem and describes the key features of the existing legislation. The requirement for monitoring, evaluation and review was not fully met, as it does not clearly describe how the necessary data will be collected. The impact analysis is constrained by the fact that there is little evidence to demonstrate the scale of the problem and therefore it is unclear whether the proposed changes are optimal. The panel recommends that

future work seeks to improve the information base to provide better evidence for policy decisions.

- 66 The Treasury's Regulatory Impact Analysis team has determined that ten proposals are exempt from the requirement to provide a Regulatory Impact Statement on the grounds that they have no or only minor impacts on businesses, individuals, and not-for-profit entities. The impacts are minor either because they are localised or limited to a small group of affected people, relate to changes to the internal administration of government, codify rather than change existing practice, or seek to clarify an area of the law within the objectives of the regulatory system. Table 2 in Appendix 1 outlines the grounds for exemption for each of these proposals.

### **Climate Implications of Policy Assessment**

- 67 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

### **Population Implications**

- 68 There are no immediate population implications from this paper. The proposed options to create more efficient processes for conservation management planning and concessions are unlikely to have notable impacts on any group.

### **Human Rights**

- 69 The proposals in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

### **Consultation**

- 70 The Department of Internal Affairs, Ministry for Primary Industries, Land Information New Zealand, Ministry of Business, Innovation and Employment, Ministry for the Environment, Te Arawhiti, Te Puni Kōkiri, and The Treasury have been consulted on this paper. The Department of the Prime Minister and Cabinet has been informed.

### **Communications**

- 71 DOC will advise tangata whenua and key stakeholders of the outcome of the consultation process and decisions taken by Cabinet. DOC will release a summary of submissions on the discussion document on its website.

### **Proactive Release**

- 72 I intend to proactively release this Cabinet paper within 30 days of Cabinet making a final decision.

## Recommendations

The Minister of Conservation recommends that the Committee:

### *Proposed legislative amendments*

- 1 note that on 14 April 2022, the Cabinet Environment, Energy and Climate Committee (ENV) approved public consultation, and the release of a public discussion document, to support possible targeted amendments to improve conservation management processes [EGI-16-MIN-0334]
- 2 note that the Department of Conservation (DOC) released the 'Conservation Management and Processes' discussion document in May 2022 which set out proposed legislative changes to improve the process for developing and reviewing conservation management planning documents; changes to improve efficiency and enable more proactive approaches to concessions management; and minor and technical changes for the purposes of regulatory stewardship
- 3 note that DOC carried out eight weeks of public consultation on the proposals and consultation closed on 30 June 2022
- 4 agree that amendments are made to the Conservation Act 1987, National Parks Act 1980, Public Finance Act 1989, Reserves Act 1977, Wild Animal Control Act 1977, and Te Urewera Act 2014; and to the Northland Reserves Bylaws 2007, Te Urewera National Park Bylaws 2006, and Te Waikoropupū Springs Scenic Reserve Bylaws 2011, to:

#### Concessions processes amendments

- A. provide the Minister of Conservation with the power to make regulations authorising activities (removing the need for an individual concession)
- B. enable the Minister of Conservation to offer pre-approved concessions (for example through an online portal)
- C. provide the Minister of Conservation with the ability to return a concession application in favour of initiating a competitive allocation process, subject to:
  - a statutory timeframe of 40 working days for returning the application; and
  - a statutory timeframe of 60 working days from when the application is returned for the Minister to initiate a competitive process by inviting applications.
- D. enable applicants that are successful in a tender process to be directly allocated a concession if the necessary statutory requirements are met
- E. require reconsideration requests to be submitted within 40 working days

Minor and technical amendments

- F. remove personal liability of NZCA and Conservation Board members acting in good faith when undertaking their statutory duties
- G. require reserve boards and reserve administering bodies only be audited when their total annual operating expenditure is \$550,000 or more
- H. require the Public Service Commission only give written consent for the Director-General to delegate powers to a DOC officer or employee where the specific delegated powers are authorised under Schedule 3 Clause 6 of the Public Service Act 2020
- I. allow for role of 'Commissioner' to be delegated to a specific job title (regardless of which individual holds that title)
- J. allow a 'conservation area' to be established as a nature reserve or scientific reserve without first needing to be established as a 'reserve'
- K. explicitly state that aircraft concessions are required for landing or taking off on all public conservation land, not just 'conservation areas'
- L. explicitly state that all aircraft activities (whether recreational or not) require a concession for landing or taking off on public conservation land
- M. explicitly state any management plan approved under the National Parks Act 1980 is a 'conservation management plan'
- N. remove the requirement that New Zealand Police must have DOC authorisation to hold seized item(s)
- O. update the definition of 'disability assist dog' in legislation
- P. update the National Parks Act where references are made to Westland National Park/Tai Poutini National Park
- Q. amend the Conservation Act 1987 and National Parks Act 1980 to modernise the publication requirements for conservation management strategies and plans, and national park management plans

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*Next steps for the conservation management and processes provisions*

s9(2)(f)(iv)

- 6 invite the Minister of Conservation to issue drafting instructions to Parliamentary Council Office giving effect to the policy decisions in this paper
- 7 authorise the Minister of Conservation to make decisions, consistent with the policy framework in this paper, on any issues that arise during the drafting process
- 8 note that the legislation drafted to give effect to the policy decisions in this paper will bind the Crown

Authorised for lodgement

Hon Poto Williams

Minister of Conservation

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Appendix 1 – Summary of preferred policy options and feedback from public consultation

Table 1: Concessions processes proposals

Proposal A: Provide the Minister of Conservation with the power to make regulations authorising activities	<i>Rationale</i>	<i>Feedback</i>	<i>Regulatory impact statement reference</i>
<p>Amend the Conservation Act 1987 provide the Minister of Conservation with the ability to make regulations that generally authorise certain activities, subject to the following criteria:</p> <ul style="list-style-type: none"> <li>• authorisation does not provide any corresponding rights over the land;</li> <li>• the nature of the activity is not contrary to the purposes for which the land is held;</li> <li>• there are low or no effects on conservation values from the activity;</li> <li>• the nature of the activity and management of any potential effects is consistent with the principles of the Treaty of Waitangi; and</li> <li>• it is reasonable to forgo the collection of any royalties, fees, or rents from the activity.</li> </ul>	<p>This would provide the Minister of Conservation with a new power to create regulations that authorise an activity without the need for a concession.</p> <p>The scope of activities requiring an individual concession is broad, which is administratively intensive relative to the effects management considerations of some activities.</p> <p>There is an opportunity to manage some activities more efficiently by taking a proactive approach to assessing impacts of some activities and authorising what is acceptable without requiring an application. This opportunity exists in the management of activities that are commonly applied for and present a low risk of cumulative impacts.</p>	<p>Support proposal: 41; Retain status quo: 8</p> <p>Generally, those in support of option 1 are happy for the Minister of Conservation to have the ability to make regulations that generally authorise specific activities, so long as the activities are known to have no or minimal environmental impacts.</p> <p>Many agree that the current concession framework can be unnecessarily cumbersome, restrictive, and expensive for both DOC and users, and there are some that believe there should be a process installed for public input into which activities become generally authorised.</p> <p>Tangata whenua cautioned that any proposed regulations should not take a pan-Māori approach and should allow for placed-based authorisations.</p>	<p>Reference: Targeted amendments to concessions processes – Problem A</p>
Proposal B: Enable the Minister of Conservation to offer pre-approved concessions (for example through an online portal).	<i>Rationale</i>	<i>Feedback</i>	<i>Regulatory impact statement reference</i>
<p>Amend the Conservation Act 1987 to clarify that activities can be pre-approved in advance of, or without, an application being received</p>	<p>Section 17U of the Act states ‘the Minister shall have regard to’ a number of matters in considering a concession application. This requires the decision-maker to actively consider each application, regardless of its similarity to previous applications.</p> <p>There is an opportunity to manage some activities more efficiently by taking a proactive approach to assessing impacts of some activities and authorising what is acceptable without requiring an application. This opportunity exists in the management of activities that are commonly applied for and present a low risk of cumulative impacts.</p>	<p>Support proposal: 45; Retain status quo: 6</p> <p>Those who support pre-approved concessions have mentioned that it seems like an efficient solution to the problem identified but have also noted that mitigations should be put in place on a case-by-case basis.</p> <p>Many highlighted that this option should only be applicable to activities where there are no adverse impacts on the environment, and that they should be applicable to activities that provide benefits for the environment.</p> <p>Those who prefer the status quo believe that this approach is premature and creates a risk of cumulative effects that will be difficult to reverse.</p>	<p>Reference: Targeted amendments to concessions processes – Problem A</p>

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<b>Proposal C: Provide the Minister of Conservation with the ability to return a concession application in favour of initiating a competitive allocation process</b>	<b>Rationale</b>	<b>Feedback</b>	<b>Regulatory impact statement reference</b>
<p>Amend the Conservation Act 1987 to provide the Minister of Conservation with the ability to return a concession application in favour of initiating a competitive allocation process, subject to:</p> <ul style="list-style-type: none"> <li>• a statutory timeframe of 40 working days for returning the application, and</li> <li>• a statutory timeframe of 60 working days for the Minister to initiate a competitive process</li> </ul>	<p>The ambiguity surrounding DOC's ability to return an application if a competitive allocation process has not already been initiated has encouraged concessions being allocated on a 'first-come, first-served' basis.</p> <p>Providing DOC with the clear ability to return applications in order to initiate a competitive process is an opportunity to enable more transparent allocation of concession opportunities and allow DOC to consider a broader pool of potential proposals and concessionaires.</p>	<p>Support proposal: 27; Support alternative option (no timeframes): 9, Retain status quo: 6</p> <p>Submissions from concessionaires, and one tangata whenua submission, supported Option 2 on the basis that it is fairer, more transparent and gives certainty to applicants.</p> <p>Tangata whenua feedback raised the importance of DOC taking direction from the Supreme Court decision in <i>Ngāi Tai ki Tāmaki Trust vs Minister of Conservation</i> by consider a degree of preference for tangata whenua when allocating concessions.</p> <p>The feedback demonstrates that further operational guidance is required regarding the use of competitive allocation tools for concessions.</p>	<p>Reference: Targeted amendments to concessions processes – Problem B</p>
<p><i>Alternative option for public consultation (not recommended): Amend the Conservation Act 1987 to provide the Minister of Conservation with the ability to return a concession application in favour of initiating a competitive allocation process (no statutory timeframes)</i></p>			
<b>Proposal D: Enable applicants that are successful in a tender process to be directly allocated a concession</b>	<b>Rationale</b>	<b>Feedback</b>	<b>Regulatory impact statement reference</b>
<p>Amend the Conservation Act 1987 to allow the Minister of Conservation to offer a successful tender candidate a concession directly, if the statutory provisions of Part 3B have been met.</p>	<p>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.</p>	<p>Support proposal: 39; Retain status quo: 2</p> <p>Submitters acknowledged that this proposal seems logical, removes an unnecessary step for a successful candidate, and reduces the administrative burden on DOC and applicants.</p> <p>There was some concern around the scope, with submitters expressing that this proposal must ensure that statutory provisions of Part 3B have been met.</p>	<p>Reference: Targeted amendments to concessions processes – Problem C</p>
<b>Proposal E: Require reconsideration requests to be submitted within 40 working days</b>	<b>Rationale</b>	<b>Feedback</b>	<b>Regulatory impact statement reference</b>
<p>Amend section 17ZJ of the Conservation Act 1987 to provide a statutory timeframe of 40 working days for an applicant to seek a reconsideration of their concession application</p>	<p>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.</p> <p>Other legislation, such as the Resource Management Act 1991, provides statutory timeframes in which decisions can be appealed.</p>	<p>Support proposal: 39; Retain status quo: 2</p> <p>The discussion document suggested a timeframe of 15 working days. Although there was overall support for the proposal, a number of submitters expressed that a longer timeframe would be more appropriate.</p>	<p>Reference: Targeted amendments to concessions processes – Problem D</p>

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Table 2: Minor and technical proposals

<p><b>Proposal F: 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</b></p>	<p><b>Rationale</b></p>	<p><b>Feedback</b></p>	<p><b>Regulatory impact statement: reference or exemption rationale</b></p>
	<p>NZCA members and conservation board members could be personally liable for their decisions when exercising their statutory powers in role</p>	<p>Support proposal: 36; Retain status quo: 1</p>	<p>Exemption from RIS: Localised impacts, or the implications are limited to a small group of affected people or parties.</p>
<p><b>Proposal G: Amend the Reserves Act 1977 and the Public Finance Act 1989 to require reserve boards and reserve administering bodies only be audited when their total annual operating expenditure is \$550,000 or more</b></p>	<p><b>Rationale</b></p>	<p><b>Feedback</b></p>	<p><b>Regulatory impact statement – reference or exemption rationale</b></p>
	<p>The financial statements of reserve boards and reserve administering bodies must be audited, regardless of their annual revenue and expenditure</p>	<p>Support proposal: 30; Retain status quo: 3</p>	<p>Reference: Introducing a threshold for the auditing of reserve boards and reserve administrative bodies</p>
<p><b>Proposal H: 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</b></p>	<p><b>Rationale</b></p>	<p><b>Feedback</b></p>	<p><b>Regulatory impact statement – reference or exemption rationale</b></p>
	<p>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</p>	<p>Support proposal: 29; Retain status quo: 2</p>	<p>Exemption from RIS: Minor impacts - changes to the internal administration of government.</p>
<p><b>Proposal I: 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)</b></p>	<p><b>Rationale</b></p>	<p><b>Feedback</b></p>	<p><b>Regulatory impact statement – reference or exemption rationale</b></p>
	<p>Under the Reserves Act 1977, the role of Commissioner may only be delegated to a specified individual and their specific role</p>	<p>Support proposal: 28; Retain status quo: 2</p>	<p>Exemption from RIS: Minor impacts - changes to the internal administration of government.</p>
<p><b>Proposal J: 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</b></p>	<p><b>Rationale</b></p>	<p><b>Feedback</b></p>	<p><b>Regulatory impact statement – reference or exemption rationale</b></p>
	<p>Part of the statutory process to establish a nature reserve or scientific reserve does not contribute to the effective regulation of establishing such reserves</p>	<p>Support proposal: 31; Retain status quo: 5</p>	<p>Exemption from RIS: Minor impacts - changes to the internal administration of government.</p>
<p><b>Proposal K: 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</b></p>	<p><b>Rationale</b></p>	<p><b>Feedback</b></p>	<p><b>Regulatory impact statement – reference or exemption rationale</b></p>
	<p>The Conservation Act 1987 does not explicitly state when an aircraft concession is required</p>	<p>Support proposal: 33; Retain status quo: 2</p>	<p>Exemption from RIS: Marginal - Proposals seeking to clarify an area of the law within the objectives of the regulatory system.</p>
<p><b>Proposal L: 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</b></p>	<p><b>Rationale</b></p>	<p><b>Feedback</b></p>	<p><b>Regulatory impact statement – reference or exemption rationale</b></p>
	<p>The Conservation Act 1987 does not explicitly state that recreational aircraft users require a concession to operate on public conservation land</p>	<p>Support proposal: 31; Retain status quo: 2</p>	<p>Exemption from RIS: Marginal - Proposals seeking to clarify an area of the law within the objectives of the regulatory system.</p>

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<b>Proposal M: 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</b>	<b>Rationale</b>	<b>Feedback</b>	<b>Regulatory impact statement – reference or exemption rationale</b>
	The definition of a 'conservation management plan' in the Conservation Act 1987 does not include management plans approved under the National Parks Act 1980	Support proposal: 29; Retain status quo: 0	Exemption from RIS: Marginal - Proposals seeking to clarify an area of the law within the objectives of the regulatory system.
<b>Proposal N: 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</b>	<b>Rationale</b>	<b>Feedback</b>	<b>Regulatory impact statement – reference or exemption rationale</b>
	The New Zealand Police requires approval from DOC to hold items seized under the Wild Animal Control Act 1977	Support proposal: 31; Retain status quo: 3	Exemption from RIS: Minor impacts - changes to the internal administration of government.
<b>Proposal O: Amend the following Acts and bylaws to replace 'guide dog' and 'companion dog' with 'disability assist dog' as defined under the Dog Control Act 1996: Conservation Act 1987; National Parks Act 1980, Reserves Act 1977, Wild Animal Control Act 1977, and Te Urewera Act 2014; and to the Northland Reserves Bylaws 2007, Te Urewera National Park Bylaws 2006, and Te Waikoropupū Springs Scenic Reserve Bylaws 2011</b>	<b>Rationale</b>	<b>Feedback</b>	<b>Regulatory impact statement – reference or exemption rationale</b>
	The Conservation Act 1987, other conservation legislation, and bylaws do not appropriately define a 'disability assist dog'	Support proposal: 32; Retain status quo: 0	Exemption from RIS: Marginal - Proposals seeking to clarify an area of the law within the objectives of the regulatory system.
<b>Proposal P: 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'</b>	<b>Rationale</b>	<b>Feedback</b>	<b>Regulatory impact statement – reference or exemption rationale</b>
	The National Parks Act 1980 does not correctly refer to the Westland National Park/Tai Poutini National Park	Support proposal: 30; Retain status quo: 0	Exemption from RIS: Marginal - Proposals seeking to clarify an area of the law within the objectives of the regulatory system.
<b>Proposal Q: Amend the Conservation Act 1987 and National Parks Act 1980 to modernise the publication requirements for planning documents</b>	<b>Rationale</b>	<b>Feedback</b>	<b>Regulatory impact statement – reference or exemption rationale</b>
	The public notification requirements for publishing draft or approved planning documents are outdated	Support proposal: 45; Retain status quo: 2	Reference: Making the publication of conservation planning documents digital by default

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