

27 May 2024



Tēnā koe 

Thank you for your request to the Department of Conservation (DOC), received on 16 April 2024, in which you asked for information relating to the Lower Selwyn Huts settlement.

We have considered your request under the Official Information Act 1982. On 15 May we extended the time available to respond to your request to 31 May due to the request requiring a search through a large quantity of information.

Your questions and our responses are listed below:

1. *2004 Concession - A copy of the DOC decision report that approved the concessions in 2004*

Please refer to item 1, attached to this letter, which has been released in full.

The decision report that approved the concessions document in 2004 is made up of:

- the *Final Report*, which had the final decision; and
- the *First Determination Report*, which had a decision to approve in principle pending public notification.

This Final Report refers to the earlier First Determination Report and included an unsigned copy as part of that document. The Final Report states that no submissions were received, and no hearing was held, and contains a recommendation to approve the leases subject to the proposed conditions. The Report shows that the decision maker accepted the recommendation. The assessments in these reports were made against the statutory frameworks and associated Plans that existed at the time.

2. *Conservation General Policy (CGP) and General Policy for National Parks (GPNP) - background documents in relation to Policy 10 CGP (in particular policy 10(h)) and Policy 9 of the GPNP (in particular policy 9(h)). Copies of:*
 - i. *The initial draft policy 10 of the Conservation General Policy and the parallel draft policy 9 from the General Policy for National Parks*

- ii. *Any comments on those draft policies from the New Zealand Conservation Authority (prior to public notification)*
- iii. *Any submissions on those two draft policies, including submissions made at any public hearing.*
- iv. *The New Zealand Conservation Authority draft versions sent to the Minister of Conservation along with the summary of submissions on the two policies and any comments of the NZCA.*
- v. *Any comments of the Minister of Conservation if s/he did not approve the draft policies and sent those back to the Director-General for revision before approving it.*
- vi. *vi. Any advice from or reports by the Department in relation to the above two policies and reasons for the different wording in Policy 10(h) of the CGP and 9(h) of the GPNP.*

The response to this part of your request will follow by separate letter, no later than 31 May.

- 3. *Canterbury (Waitaha) CMS - any information, reports and advice related to note 80 in the CMS, referred to in Table 16, section 3.11, page 148, and the exceptions identified. What were the specific circumstances for each of the exceptions identified that led to the noting in the CMS these were covered by the Amendment legislation referred to in note 80?*

Please refer to item 2, attached to this letter, which has been released with the following redactions:

- personal information under section 9(2)(a) – to protect the privacy of natural persons, including deceased people,
- advice subject to legal privilege, under section 9(2)(h) – to maintain legal professional privilege.

In making my decision, I have considered the public interest considerations in section 9(1) of the Official Information Act and determined there are no public interests that outweigh the grounds for withholding.

The documentation provided includes investigation reports for private accommodation and hut settlements. However, these investigation reports, context papers and planning reports cannot be located for all exceptions identified in Table 16 of the Canterbury Waitaha CMS, including the Selwyn Huts. Therefore, this part of your request is refused in accordance with section 18(e) of the Official Information Act as the information cannot be found.

While the Conservation General Policy generally provides for the phasing out of private accommodation on public conservation lands and waters, this does not apply where the use was lawfully established before 1 April 1987. This exemption is provided for under Section 7(2) of the Conservation Amendment Act 1996 which states:

“7(2)Where any person lawfully occupied any conservation area at the commencement of this Act in accordance with any right lawfully granted on or before

1 April 1987 under any Act or any contract made on or before 1 April 1987 then, notwithstanding sections 17U or 17W of the principal Act, as inserted by subsection (1) of this section, the Minister may grant a concession to that occupant for the area lawfully occupied by the occupant, but the extent of the activities authorised by any such concession shall be no greater than was lawfully exercised by the occupant.”

Table 16 of the CMS addresses whether the exemption applied at the time the CMS was developed. An exemption did apply but only until 2024 when the current leases expire.

Following submissions on the Canterbury CMS, a National Common Issues Paper on Private Accommodation and related facilities was prepared to address submissions relating to policy requiring all existing private accommodation (not otherwise covered by section 50 of the National Parks Act 1980 (NPA80), or specifically allowed or provided for in legislation) to be phased out by either: phasing in public use; or removing the building at the end of the phase-out period (unless retained by the Department for public use). The National Common Issues Paper addresses existing authorised private accommodation and where an exception to section 17W of the Conservation Act 1987 applies in accordance with section 7(2) of the Conservation Amendment Act 1996. This common issues paper addresses the Canterbury CMS in Attachment 1, Table 1 ‘Overview of private accommodation, including submissions on phase-in public use or remove policy.’”

4. *Land status: Gazette notices for the areas of land the huts are situated on.*

There are no gazette notices for the areas of land on which the Lower Selwyn Huts are located. Therefore, your request is refused in accordance with section 18(e) of the OIA as the document alleged to contain the information does not exist.

By way of context, the Lower Selwyn Huts lie within two land parcels, being a small part of Part Reserve 959 and a large part of Part Reserve 4100. The land covered by the Lower Selwyn Huts was Crown land administered by the former Lands and Survey Department (now Land Information New Zealand (LINZ)) prior to becoming public conservation land in 1987-1988.

In 1987-1988, the Lower Selwyn Huts land was allocated by Lands and Survey to the Department as deemed stewardship area pursuant to section 62 of the Conservation Act 1987. This land is managed by DOC as stewardship area pursuant to section 25 Conservation Act 1987. The land covered by the Lower Selwyn Huts has not been formally gazetted for conservation purposes to date.

You are entitled to seek an investigation and review of my decision by writing to an Ombudsman as provided by section 28(3) of the Official Information Act.

Please note that this letter (with your personal details removed) and attached documents may be published on the Department’s website.

As you know, the Department is encouraging hut owners to lodge a concession application for a final ten-year transitional concession. The process for doing this is outlined in our letter to hut owners of March 2024.

Nāku noa, nā

A handwritten signature in black ink, appearing to read 'Arna Litchfield', written in a cursive style.

Arna Litchfield
Director Regulatory Systems Performance
Department of Conservation
Te Papa Atawhai