Department of Conservation
Te Papa Atawhai

Briefing: Conservation Amendment Bill – Policy decisions

To	Minister of Conservation	**Date submitted**	10 April 2025
Action sought	Agree to the recommendations on policy decisions in the attachments	**Priority**	High
Reference	25-B-0140	**DocCM**	DOC-10230559
Security Level	In Confidence		

Risk Assessment	Medium You need to make decisions as soon as possible to meet your timeframes and introduce a Bill this year. Effective codification of section 4 – to provide full certainty about how it applies across key policy areas like concessions processes – will require the legislation to clearly spell out how it applies in these instances.	**Timeframe**	15 April 2025 Officials are scheduled to meet with you to confirm these decisions on 15 April 2025. Decisions will be incorporated into a draft Cabinet paper provided at the end of April 2025.
Attachments	Attachment A – General policy decisions Attachment B – Management planning decisions Attachment C – Concessions decisions Attachment D – Land exchanges and disposals decisions Attachment E – Amenities areas decisions		

Contacts	
Name and position	**Phone**
Ruth Isaac, Deputy Director-General, Policy and Regulatory Services	s9(2)(a)
Sam Thomas, Director Policy	s9(2)(a)

Executive summary – Whakarāpopoto ā kaiwhakahaere

1. This briefing seeks your decisions on key changes for the Conservation Amendment Bill. It covers proposals that were public consulted on through the *Modernising conservation land management* discussion document.

2. Your decisions will be reflected in a draft Cabinet paper that we will provide to you in the week starting 21 April 2025 for lodging on 15 May.

3. Public submissions on modernising conservation land management closed on 28 February. We received 276 individual submissions, 451 website submissions and 4,837 pro forma submissions from Forest and Bird. Key themes included:

    - Management planning: Most submitters supported the proposals for a simplified system, including introducing the National Conservation Policy Statement (NCPS), area plans, and enabling the class approach to concessions. Some Treaty partners want to co-draft the NCPS and some are concerned that a time limit to develop the area plans may unduly limit their involvement. There was concern from some stakeholders about the reduced role of the New Zealand Conservation Authority.

    - Concessions processing: Feedback was generally positive. However, concessionaires with significant infrastructure said that competitive allocation should be limited to certain circumstances, and not apply to leases/licences involving significant private investment.

    - Exchanges and disposals: There was significant concern that the land exchange and disposal proposals may lead to the unnecessary sale of PCL. In general, submitters provided feedback about the importance of strong safeguards and exclusions to protect valuable conservation land. Treaty partners also said that if land was available for disposal or exchange that they should have the first opportunity to acquire the land.

4. **Attachments A, B, C, D and E** provide advice and seek policy decisions from you on aspects relating to management planning, concessions, land exchanges and disposals, amenities areas and general decisions relevant to all changes. Initial summaries of views of submitters are also included against the proposals.

5. Officials will be meeting with you to confirm all decisions in the attachments on Tuesday, 15 April in Hamilton.

We recommend that you … (Ngā tohutohu)

		Decision
a)	**Note** that comprehensive analysis of the submissions is ongoing and we will provide you with a final update alongside your draft Cabinet paper.	Noted
b)	**Decide** on the recommendations in the attachments.	See attached
c)	**Note** that the decisions you make in this briefing will be reflected in a draft Cabinet paper.	Noted
d)	**Note** that officials will provide regulatory impact analysis in time for lodging the Cabinet paper.	Noted
e)	**Note** that officials will advise you separately on potential options for enabling land to be more efficiently transferred within the Crown as part of the afforestation on Crown land work. Some of these options may be best progressed through the Conservation Amendment Bill.	Noted

s9(2)(a)

Date: 10 / 04 /2025

Ruth Isaac
Deputy Director-General, Policy and Regulatory Services

Date: / /

Hon Tama Potaka
Minister of Conservation

Purpose – Te aronga

2. This briefing seeks your decisions on key changes for the Conservation Amendment Bill. It covers management planning, concessions, and exchanges and disposals, amenities areas and general decisions relevant to all changes.

3. The decisions you make in this briefing will be reflected in a draft Cabinet paper that we will provide to you in the week starting 21 April 2025 for lodging on 15 May.

Background and context – Te horopaki

Key themes of submissions

4. Public consultation on *Modernising conservation land management* closed on 28 February 2025. DOC received 276 individual submissions, 451 website submissions and 4,837 pro forma submissions from Forest and Bird. While we have identified key themes from submissions, comprehensive analysis is ongoing. We will provide you with a final update on submissions feedback alongside your draft Cabinet Paper.

5. We have prioritised analysis of the more detailed submissions from Treaty partners, statutory bodies and key stakeholders from the recreation, research and tourism sectors. This information has been used to inform the attachments to this briefing.

6. We have completed analysis of submissions made through the DOC website. Roughly 80% of website submissions came from individual submitters with the remaining 20% coming from various Treaty partners, conservation groups and tourism businesses. Feedback from website submissions responds to high level questions from the discussion document and generally does not engage with specific parts of the proposals.

7. Feedback from individual submissions has been generally supportive of the intent of the proposals, although there was strong feedback over enabling more flexibility for exchanges and disposals. Submitters have also recommended changes to ensure flexibility in the system and to provide more certainty for users. Submitters also expressed a desire for stronger safeguards for conservation including checks and balances on ministerial power.

8. The balance between commercial and conservation outcomes has been the focus of much of the feedback. Treaty partners, statutory bodies and environmental non-governmental organisations (ENGOs) generally said that what is proposed is too focused on creating pathways to open public conservation land to greater commercial activity. On the other hand, farmers, tourism operators, infrastructure providers and other commercial stakeholders said that tourism and commercial outcomes need to be better reflected in statutory documents.

9. Feedback on the design of the management planning system has been generally positive, although feedback on the associated processes has been more mixed. Most submitters support introducing the National Conservation Policy Statement (NCPS), area plans, and enabling the class approach to concessions. On processes, some Treaty partners want to co-draft the NCPS; ensure that hapū, not just iwi, are involved in the process; and be confident that Treaty settlements will be upheld. Tourism operators and other commercial stakeholders also want a unique role in the process and to not be treated as the general public.

10. Most submitters raised concerns with a perceived lack of accountability that could arise from moving approval roles to the Minister of Conservation from the New Zealand Conservation Authority (NZCA) and conservation boards. However, the Environmental Defence Society and the Parliamentary Commissioner for the Environment supported final Ministerial approval so long as the NZCA could still provide a quality assurance and oversight role. We think many submitters did not understand that the Minister currently approves the Conservation General Policy.

11. The response to the concession processing proposals has been generally positive. However, the feedback on proposals relating to competitive allocation and contractual management of concessions has been split. Concessionaires, particularly those with significant infrastructure, said that competitive allocation should be limited to certain circumstances. They also expressed concerns relating to their ownership of private assets on PCL if they were to lose a competitive process or if concessions are allocated to Iwi as a matter of preference.

12. There was significant concern that the land exchange and disposal proposals may lead to the unnecessary sale of PCL. In general, submitters provided feedback about the importance of strong safeguards and exclusions to protect valuable conservation land. Treaty partners also said that if land was available for disposal of or exchange that they should have the first opportunity to acquire the land. They also raised that rights of first refusal in Treaty settlements must be upheld.

13. Some concessionaires, one Treaty partner and one ENGO supported the land exchange and disposal proposals so long as strong safeguards and exclusions to protect valuable conservation land.

14. Initial summaries of views on particular proposals are included in **Attachments A, B, C, D and E**.

Policy decisions

15. Based on policy analysis and initial submitter views, we recommend proceeding with the majority of proposals that were consulted on, with some refinements made as follows. Your Cabinet paper will outline the whole package of reforms in more detail:

    - Management planning: Proceed with proposed changes to consolidate the numbers and layers of planning documents and streamline the processes for creating and amending them.
    - Concessions: Proceed with process changes, with addition of statutory timeframes for DOC. Contractual management proposals have been strengthened to allow greater use of standard approaches to setting terms, conditions and ongoing fees.
    - Competitive allocation of concessions: Proceed with criteria consulted on for when and how competitive allocation should generally take place but restrict use of competitive allocation for long-term leases where a concessionaire is continuing well run operations.
    - Exchanges and disposals: Proceed with proposed changes to enable land exchanges that provide net conservation benefit. Proceed with disposals but create a discretionary power to make disposals, with checks and balances, rather than a test for 'surplus to conservation needs'.
    - Amenities areas: Proceed as consulted with more detail on how they will work in practice.

16. **Attachments A, B, C, D and E** provides advice on key policy issues related to management planning, concessions and land exchanges and disposals. We are seeking your decisions on these recommendations.

17. Decisions you make in this table will be reflected in a draft Cabinet paper we will provide you in the week starting 21 April. We need to get decisions with sufficient detail to support drafting instructions for PCO. Balancing the level of detail required and the appropriate focus on the key choices for Cabinet will be important.

s9(2)(f)(iv) [redacted]

[redacted]

Risk assessment – Aronga tūraru

20. There is concern from some Treaty partners and stakeholders that the exchanges and disposals policy proposals is intended to make conservation land available for commercial use. We consider the proposals strike an appropriate balance between protecting/enhancing conservation value with flexibility to dispose of surplus land with excessive costs and liabilities, or to make win-win exchanges.

21. Some Treaty partners are concerned with the engagement processes proposed to develop area plans and process concessions, seeking greater provision for co-drafting and co-approval roles. The proposals are designed to provide for effective Treaty partner engagement and informed decision making whilst retaining the government's roles as policy maker and regulator. This will support speedier concessions decisions by addressing the current ambiguity in the Act.

22. Some submitters are concerned about the reduced role of the NZCA. We consider the proposals provide much greater alignment between the landowner (the Government) and the decision-maker, while ensuring that the advice and input of the NZCA remains.

23. The Select Committee process provides an opportunity to further test and (if necessary) refine these proposals.

Treaty principles (section 4) – Ngā mātāpono Tiriti (section 4)

24. Some of the proposals are designed to codify how section 4 is applied. This includes the engagement processes for area plans and concessions processing, as well as the circumstances under which competitive allocation should occur. Effective codification – which provides full certainty about how section 4 ought to apply in these instances – will require the legislation to clearly spell out that section 4 is given effect through these policies. There may be several drafting options to achieve this: should you progress these policies, Cabinet will need to decide on a drafting option. This will be covered in the Cabinet paper.

25. s9(2)(g)(i) [redacted]

26. Your Cabinet paper and discussions around it are an opportunity to confirm with colleagues the focus and approach to this for conservation.

Consultation – Kōrero whakawhiti

27. This briefing summarises initial analysis of public submissions on the proposed changes to the conservation planning system. This includes Treaty partners, ENGOs, businesses and individuals.

28. No other agencies have been consulted on this briefing. However, they will be consulted on the draft Cabinet paper that results from the decisions you make here. Agency consultation is planned at the same time as Ministerial consultation.

Financial implications – Te hīraunga pūtea

29. There are no direct financial implications from the decisions in this briefing. However, the proposals aim to improve efficiency of the conservation land management system and concessions, including efficiency of resources and funding used by DOC in these processes.

30. Note that the transition to the new single layer of area plans will occur within the first 6 months after enactment of the Bill. This transition effort will require funding if it is to be completed on this timeframe; the Cabinet paper will make clear that this may necessitate further time limited funding through Budget 2026.

Legal implications – Te hīraunga a ture

31. The decisions you make in this briefing will form the basis of advice to Cabinet on an omnibus bill to change conservation management planning, concessions and land exchange and disposal processes primarily in the Conservation Act 1987 but also the Reserves Act 1977, National Parks Act 1980 and several other acts for minor and technical changes.

Next steps – Ngā tāwhaitanga

32. Timeframes are tight. You are aiming to introduce the Bill by the end of the year, and to pass it by the middle of next year. Under the scheduled timeframes, PCO will have a relatively short window to draft the Bill (about 4 months).

33. To meet your timeframes, we are seeking your decisions as soon as possible. We will be meeting with you to confirm all decisions in **Attachments A, B, C, D and E** on Tuesday, 15 April in Hamilton.

34. Your decisions will be reflected in a draft Cabinet paper that we will provide to you in the week starting 21 April. This allows for Ministerial and agency consultation from the week starting 28 April to the week starting 5 May. Exact dates will be confirmed in the coming weeks with your office.

35. Lodging of the Cabinet paper needs to take place by 15 May for the Cabinet Economic Committee (ECO) meeting on 21 May.

36. We will also be working to provide you a draft Cabinet paper on the process and content for the first National Conservation Policy Statement in the week starting 19 May.

ENDS

Attachment A: General policy decisions

Proposal	Options	Decision	Analysis and advice
Upholding Treaty settlements	1. **Agree** that amendments will uphold the intent of Treaty settlements. 2. **Note** that the decisions in this briefing relate to the design of standard or default provisions in conservation legislation, and other arrangements may be needed to uphold settlements. 3. **Note** that you will need to seek Cabinet decisions on specific arrangements needed to uphold settlements following engagement with PSGEs.	**Yes / No** **Noted** **Noted**	To avoid undermining Treaty settlements and the Māori-Crown relationship more broadly, it is important that any changes to the conservation planning and regulatory system uphold the intent of Treaty settlement redress. A number of Treaty settlements bake in roles for post settlement governance entities (PSGEs) in management planning and in concession processes. These will need to be carved out or provided for in a materially equivalent way in any new framework. You have agreed to engage with PSGEs on how to uphold settlements through these reforms [25-B-0059 refers]. This briefing does not seek your decision on any specific settlement redress as to not pre-determine the outcomes of the engagement process and to ensure it is done in good faith. Further decisions following this engagement may include changes to, or carve-outs from, the policy decisions outlined in this paper specifically for Treaty settlements.
Clarifying how to give effect to the Treaty of Waitangi	4. **Agree** to provide more specificity in the legislation about how Treaty principles will be given effect in concessions, management planning, and land exchange and disposal processes. 5. **Note** that depending on drafting, specific descriptive Treaty provisions alone cannot provide full certainty as interpretation of section 4 may apply additional requirements 6. **Note** that options for how section 4 is codified will need to be confirmed in the Cabinet paper.	**Yes / No** **Noted** **Noted**	One of the objectives of the reforms is to clarify and codify how the Government gives effect to Treaty principles in relation to concessions and management planning. This is critical to provide greater certainty for concessions decision-making, and to reduce delays and litigation in relation to such decisions. Clarity in the law about how Treaty principles are to be given effect can be beneficial for all parties – the Government, concessionaires, Treaty partners, and the public as users of the system. Specific measures outlining what giving effect to Treaty principles requires will provide certainty and support faster processes and more consistent application of Treaty principles. However, section 4 may require additional actions or considerations beyond any new specific measures to give effect to Treaty principles. Therefore, certainty around what is required to give effect to Treaty principles can only be provided by specifically stating that the descriptive provisions are all that is required. Further advice is required to determine if such a statement from Parliament would provide full certainty, or if the courts could continue to apply additional or different requirements through the Crown's general Treaty obligations. We will be able to provide more advice on these matters, including the extent to which section 4 may impose additional requirements to the specific provisions proposed, during the drafting of the legislation. Detailed advice will depend on the nature and proposed wording of the specific provisions.
Decisions	7. **Note** that this briefing seeks decisions on how conservation legislation should be changed, and that other existing provisions remain.	**Noted**	This advice focusses on the parts of conservation legislation than could be changed to meet the objectives of the reform. It does not seek decisions on provisions relevant to concessions, management planning, and land exchange and disposal where those provisions should be retained.
Modernising public notification	8. **Agree** that hearings are optional for publicly notified decisions	**Yes / No**	Section 49 of the Conservation Act outlines the requirements for public notice and rights of objection that apply across a range of decisions by the Minister or Director-General. The requirements are public notice of the matter in a newspaper, providing a minimum period of time for comment, and providing an opportunity for the submitter to appear before the Director-General in support of their submission (i.e. a hearing). Examples of decisions requiring public notification including land classification proposals, draft statements of general policy, draft conservation planning documents, and some concessions decisions. Note we recommend hearings be required for public notification of draft area plans. It is important that the public is provided the opportunity to express their views on the relevant decision or proposal, however our view is that this can be satisfied as effectively through written submissions. Hearings incur additional costs and extend the public consultation period, but their content generally reflects the content of the submitters written submission. The nature of a hearing is similar to a written submission in that the submitter expresses their views and there is no obligation on the Director-General to respond. This decision would not limit the ability of the Minster or Director-General to run a hearing or alternative public meeting if they thought it was appropriate.
Minor and technical amendments	9. **Agree** to include the minor and technical amendments previously agreed by Cabinet for the Conservation Management and Processes Bill in this Conservation Amendment Bill. 10. **Note** that officials are also examining whether any further minor and technical amendments	**Yes / No** **Noted**	Cabinet previously agreed to a number of minor and technical changes as part of the previous Conservation Management and Processes Bill. These amendments have been drafted by the Parliamentary Counsel Office (PCO) already. We recommend these are included in the Conservation Amendment Bill.

Proposal	Options	Decision	Analysis and advice
	should be included and will seek delegated authority for you to approve these during drafting.		Amendments to reduce administration costs: • limiting the auditing of reserve boards and reserve administering bodies to those with an annual total operating expenditure of $550,000 or more • reducing instances where delegations of powers by the Director-General of Conservation require written consent from the Public Service Commission • allowing the role of Commissioner to be delegated to a specific job title regardless of which individual holds that title • streamlining the process for establishing a conservation area as a nature reserve or scientific reserve • removing the requirement that New Zealand Police must have DOC authorisation to hold seized items • modernising publication requirements for planning documents by enabling their publication to be digital-by-default. Amendments to ensure clear and user-friendly legislation: • updating references to aircraft activities within the concession regime to clarify that a concession is required for all aircraft landings on all public conservation land • updating outdated references to dogs akin to a ‘disability assist dog’ in line with the updated Dog Control Act 1996 • updating references to Westland National Park/Tai Poutini National Park to ensure the full name is referenced. There is also an amendment to ensuring unfettered decisions/advice by removing personal liability of the New Zealand Conservation Authority and Conservation Board members acting in good faith when undertaking their statutory duties.

Attachment B: Management planning decisions

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
NCPS and area plan powers and content				
Simplifying the management structure – one national policy	1. **Agree** to merge the current general policies (Conservation General Policy and General Policy for National Parks) into the National Conservation Policy Statement (NCPS) as proposed in the discussion document. 2. **Note** this is only recommended if the Minister continues to approve it (as with the current Conservation General Policy).	**Yes / No** **Noted**	**Merging the current general policies will simplify the system** This will provide more clarity and certainty for concession applicants and support faster concession decision making by reducing the number of documents that need to be referenced. Combining the policies will enable DOC to set a consolidated strategic direction nationally. It increases efficiency with only one document needing updating and having consolidated review processes. We do not recommend combining them if you decide not to have the Minister approve national parks policies. This will hamper the Government's ability to actively set and review the rules for national parks including for areas like Milford Sound, or to create consistent rules for concessions in national parks and other conservation land.	The majority of submitters who engaged with the proposal expressed support provided that simplifying the structure does not water down any conservation protections. Those who do not support expressed concerns that simplification will compromise conservation values and that the current tools are reflective of the values of different areas (i.e. national parks vs the rest of PCL).
Scope of NCPS and area plans	3. **Agree** that the NCPS and area plans can provide policy direction for the implementation of the following Acts (as per the status quo): a. Conservation Act 1987 b. Wildlife Act 1953 c. Marine Reserves Act 1971 d. Reserves Act 1977 e. Wild Animals Control Act 1977 f. Marine Mammals Protection Act 1978 g. National Parks Act 1980 4. **Agree** that the NCPS can: a. Specify what types of content area plans can and cannot include b. Define the template that area plans must follow 5. **Agree** that both the NCPS and area plans can define activities exempt from a resource consent under section 4 of the RMA.	**Yes / No** **Yes / No** **Yes / No**	**The NCPS should be enabled to set national-level direction with a broad scope** The existing general policies are the instruments that provide national statutory direction on a wide range of decisions in core conservation legislation.[1] We propose that the NCPS takes the same role because the existing policies playing this role has not been problematic, and we see no risks with maintaining it. This ensures that the NCPS is enabled (but not required) to set binding direction on a wide range of authorisations and decisions under conservation legislation (there are more than 20 different decisions and authorisations in core conservation legislation). Maintaining the broad scope enables flexibility and futureproofing; without this broad scope, legislative amendments would be required should it be found that a particular decision requires binding policy direction that was not foreseen at the time of this reform. **The NCPS can specify the policies that an area plan can include** This means the scope of area plans will be very tight and clear, and can be changed if the need arises. Allowing the NCPS to direct content that can be included in area plans will support certainty in the planning system by removing arguments over the function of plans. **Both area plans and the NCPS should be empowered to define activities that do not need a resource consent** Section 4 of the RMA currently states that a land use resource consent is not required for work of the Crown on conservation land where that work is consistent with a management plan and does not have significant effects beyond the land boundaries. We recommend that the ability to specify activities exempt from a consent is maintained for area plans and extended to the NCPS. This reflects that there are many of the same types of activities across the country that would be appropriate for exemption. We think this is consistent with the direction of the	The discussion document focussed on the role of the NCPS in relation to concessions. Submitters raised that: • a focus on concessions is too narrow and a general policy should cover the range of DOC's functions, and • national policy should continue to prioritise conservation and support the integrated management of ecological, cultural and recreational values.

[1] Conservation Act 1987, Wildlife Act 1953, Marine Reserves Act 1971, Reserves Act 1977, Wild Animals Control Act 1977, Marine Mammals Protection Act 1978, and National Parks Act 1980.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
			upcoming RMA reforms, which aim to streamline the approach to requiring consents. **Treaty settlements and other arrangements** There is a risk of the reforms being interpreted as undermining Treaty settlement redress through diminishing or constraining the role of area plans. Management planning-related redress was negotiated on the expectation that conservation planning documents: • enhance the visibility of Treaty partners' association with an area; • influence DOC operational priorities and resource allocation; • cover the management of PCL, the marine environment and species off PCL (mainly conservation management strategies); and • are the main instrument for regulating activities in an area. PSGEs are most likely to be concerned with the NCPS taking a more active role in regulating activities and area plans not driving resource prioritisation, even though planning documents are not driving business planning currently. However, some iwi support greater clarity of content, streamlining layers, and the NCPS doing the heavy lifting. These expectations will need to be worked through in the engagement with PSGEs. Specific content or policies may need to be retained to uphold settlements.	
Simplifying the management structure – introducing area plans	6. **Agree** to replace conservation management strategies (CMSs), conservation management plans (CMPs), and national park management plans (NPMPs) with a single layer of area plans 7. **Note** that there will be some specific plans maintained for Treaty settlement purposes	**Yes / No** **Noted**	**Creating a single layer of area plans remains a critical proposal to simplify the management structure** Some PCL can be subject to multiple regional or local planning documents, with overlaps and duplication that can cause confusion for parties engaging with them. This creates complexity and slows down concession decisions. To resolve this, you have proposed to replace conservation management strategies, conservation management plans, and national park management plans with a single layer of area plans. This remains a critical proposal for reducing the complexity and difficulty all parties have in interpreting the policies for PCL. **Treaty impact assessment** The proposal for a single layer of area plans is comprehensive in that all land is subject to a plan. This means iwi will be involved in plan development for all land in which they have an interest, though it may be across multiple planning processes. Creating a single layer of planning documents should also reduce the resourcing burden on iwi who currently have to engage on multiple layers of planning documents over the same land (e.g. national parks). **Treaty settlements and other arrangements** Where settlements provide iwi a role as co-authors/approvers of specific CMS, CMS chapters, NPMP, or CMP, these groups will want to maintain a specific status of these plans/chapters in the new system and potentially the bespoke preparation and approval processes attached to them. In general, these areas are limited in number so our working hypothesis is that these commitments can be upheld by providing a standalone area plan that: • "replaces" the current settlement plan/chapter but covers the same area, and • subject to engagement with settled iwi, maintains their co-authoring or co-approval roles but, ideally, otherwise aligns with the generic area plan process (e.g. MOC replacing NZCA as a co-decision maker).	Similarly to the NCPS proposal, the majority of submitters who engaged with the proposal expressed support. Submitters agree that a single layer of plans will make rules clearer for recreational users, applicants and decision makers. Those who oppose the proposal believe that legislation is not the cause of the current backlogs, rather operational and resourcing issues. Many submitters, both Treaty partners and other stakeholders raised complications around integrating Treaty settlement obligations.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
NCPS content and powers	8. **Agree** that the NCPS can also: a. Make class decisions on concessions b. Specify transitional arrangements for area plans beyond what is specified in the legislation. 9. **Agree** that the NCPS cannot: a. Derogate from the legislation b. Include actions or milestones for DOC c. Duplicate legislative provisions	**Yes / No** **Yes / No** **Yes / No** **Yes / No** **Yes / No**	**The NCPS should be able to set transition arrangements for area plans** The NCPS can provide useful direction on how the planning system will transition to area plans that would not be appropriate in legislation. This will help ensure certainty for participants in the system. **The NCPS should not be able to set actions or milestones, derogate from the legislation or duplicate legislative provisions** Issues with the existing content of the general policies relate mostly to duplication of the legislation – legislative provisions may be restated in slightly different ways causing confusion and unnecessarily lengthening documents, making them harder to navigate. A simple way to resolve this is to prevent it through legislation. The general policies do not currently include actions and milestones, and it is not appropriate for them to do so. Making it clear in legislation that the NCPS cannot do this (and is therefore not a business plan) will ensure these issues cannot be debated through the process of developing the document.	Submitters were only asked about the standardisation of terms and conditions and all submission analysed so far supported the intent of this proposal. But many encouraged more flexibility as appropriate terms and conditions for high impact activities are different to those for low impact activities. Feedback also suggested that terms and conditions need to be able to be adjusted in real time so that they are responsive to change.
Area plan content and powers	10. **Agree** that the purpose of area plans is to implement the NCPS and to set, where necessary, objectives and policies specific to the local context. 11. **Agree** that area plans can (within the bounds set by the NCPS): a. Set place-based objectives and policies b. Include concise descriptions of core conservation values of places 12. **Agree** to seek Cabinet agreement to explore the possibility of using other types of tools to set relevant limits on activities on conservation land (e.g. use of booking systems).	**Yes / No** **Yes / No** **Yes / No** **Yes / No**	**Area plans should focus on the local direction-setting needed to support regulatory decisions** Area plans would focus on setting objectives and policies to guide statutory decisions as delegated by the NCPS. The objectives and policies would recognise and reflect local context and implement general policy. Currently the bloated nature of planning documents severely limits their ability to influence decisions. They are long, hard to navigate, and contain a range of content that does not necessarily direct decision-making. For example, they: • attempt to direct DOC funding through actions and milestones but are divorced from any process to prioritise DOC's limited resources or to respond to ministerial direction; • include policies that are similar to the Conservation General Policy and similar across other planning documents but are not exactly the same for no clear localised reason; • repeat legislative provisions; • prescribe limits on activities without clear rationale; and • include long stocktakes of values (biodiversity, historic, recreation, cultural), that are hard to navigate and not structured well to inform regulatory decisions like whether to grant a concession. We recommend making area plans more concise and focussed on information that supports regulatory decisions. This means removing some types of information, preserving some and adding others, clearly describing critical values of areas, and things like defining backcountry and front country to support faster decision-making. We propose retaining the provision that nothing in area plans can affect any arrangement under legislation between the Minister or DG and other landowners. This applies to agreements that DOC might have across private land (e.g. easements, conservation covenants, leases) and protects private property rights. Like the current system, area plans must not derogate from the NCPS.	Relevant feedback includes that a focus on concessions is too narrow and that area plans should include: • objectives for the areas • safeguards for conservation values, • ability to set limits, and • ability to guide operational work and the integrated management of ecological, cultural and recreational values. Treaty partners and those from the recreational and tourism sectors expect that their interests will be expressed through area plans.
	13. **Agree** that area plans cannot: a. Be inconsistent with the legislation or NCPS b. Include actions or milestones c. Duplicate the legislation or NCPS d. Set limits based on the number of concessionaires that can operate within a limit	**Yes / No** **Yes / No** **Yes / No** **Yes / No**		

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
	e. Affect agreements or contracts between the Crown and landowners (status quo for CMSs) 14. **Agree** to recommend to Cabinet that the Minister of Conservation will be delegated detailed policy decisions on whether particular constraints on area plans are defined by legislation or the NCPS.	**Yes / No** **Yes / No**	**Treaty impact assessment** Treaty partners view management planning documents as a way to influence DOC's work and hold DOC to account. For this reason, they often seek for these documents to include direction on operational management and may see streamlining area plan content as limiting their influence over the conservation system. However, in reality, these documents do not (and should not) dictate operational work, because of the flexibility needed to respond to cost pressures and changes that occur on much shorter timeframes than the span of a management plan. To the extent Treaty partners seek a stronger influence over operational decision-making, we consider this is better addressed, as appropriate, through relationships with operational teams and in operational protocols and processes. **Treaty settlements and other arrangements** Some settlements contain commitments that are given the same weight as the general policies. Various settlements also require specific redress instruments to be attached to the relevant CMS. The Marine and Coastal Area (Takutai Moana) Act 2011 and Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019 also require the DG to consider or include (respectively) particular content in statutory planning documents. In addition to implementing the NCPS, area plans will have to uphold these.	
Class decisions on concessions	15. **Agree** that the following classes of concessions will be enabled: a. Exempt activities b. Pre-approved activities c. Prohibited activities 16. **Agree** that the decisions around the specific design of class concessions will be contained in the June 2025 Cabinet paper on the NCPS, including: a. Eligibility criteria for each concession class b. Ability to remove exempt and pre-approved activities outside the planning process if effects become problematic	**Yes / No** **Yes / No**	**Class authorisations will be made through the NCPS and area plans** At present, all concession decisions are made on the basis of individual applications. There is scope to improve system efficiency by reducing the number of instances where an application needs to be processed or enabling streamlined permitting processes for lower risk activities. The process of making class decisions on activities would be through the process of developing the NCPS and area plans. Class authorisations will not replace all concession decisions, particularly for activities with more than minimal environmental effects. All other concession decisions will continue to be made through the process for individual concessions, currently in Part 3B of the Conservation Act. The discussion document proposed three concession classes: • Exempt activities: Activities that can be carried out without needing a permit. • Pre-approved activities: Activities that can be carried out after obtaining a pro-forma permit (e.g. from the DOC website). • Prohibited activities: Activities for which concessions will not be granted as they are inconsistent with the purpose for which land is held, or the effects cannot be reasonably avoided, mitigated, or remedied. We recommend enabling class concessions in both the NCPS and potentially area plans. While standardised policy across the country supports a clearer and more consistent set of rules for users, broad application of the classes may not always be appropriate due to environmental effects and Treaty considerations and will not work for concessions with property rights. The NCPS will limit the ability of area plans to tighten the rules to specific justified exceptions if appropriate.	Submitters were supportive of enabling activity classes in statutory planning documents and agree that it will result in more efficient concession processing. However, many raised that DOC should be cautious and carefully consider which activities should be enabled with this tool. Some also raised that permitted activities will need to be able to be adjusted in real time to deal with cumulative effects. Multiple submitters suggested some activities that may be appropriate for this tool.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
			Treaty impact assessment Iwi comfort with the proposal to enable a class approach will depend on how meaningful they consider the statutory engagement process is for drafting and approving the NCPS and area plans. Some Māori raised that activity classes could take an overly standardised view to Māori rights and interests. However, others have raised that they provide an opportunity to lift the burden of engaging on multiple individual concessions. **Treaty settlements and other arrangements** Some settled groups may consider the class concessions to be diluting their redress either where decision-making frameworks do not apply to a class decision or the NCPS has made a class decision they expect to be at the local level through the plan. Those settled iwi will likely seek assurance that those requirements will be carved out (not overridden) by the proposal to enable class concessions through NCPS or area plans. The Marine and Coastal Area (Takutai Moana) Act 2011, the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019, and the initialled Deed of Settlement for Te Whānau a Apanui provide participation and/or permission rights to groups in relation to concessions in the marine and coastal area. These rights will need to be accounted for in the setting of class concessions.	
NCPS and area plans – instrument type	17. **Agree** that the NCPS, like the RMA National Policy Statements, is secondary legislation that requires**:** a. Public notice in whatever form the maker thinks is appropriate b. Publishing the Order in Council in the *Gazette* c. Presentation to the House of Representatives d. The ability to be disallowed by the House of Representatives 18. **Note** that further policy work will be completed on whether it is appropriate for area plans to be secondary legislation. 19. **Agree** that if area plans are secondary legislation, they are able to: a. Make class decisions on concessions b. Set limits on activities that apply to all users (concessionaries and recreational users) if there is a clear rationale linked to the effects on those activities	**Yes / No** **Noted** **Yes / No** **Yes / No**	**The NCPS is best suited to being secondary legislation** Because of what they regulate, it is appropriate to make the NCPS secondary legislation, in accordance with Legislative Design and Advisory Committee guidelines. This will also create certain administrative efficiencies. **More work is required to ascertain whether area plans should be secondary legislation** Secondary legislation has particular requirements, and we are still working through whether those requirements (including co-approval requirements for Treaty settlements) are appropriate for area plans. Whether they are secondary legislation will influence whether plans: • Should set limits on activities – if they are not secondary legislation, they will only be able to regulate concessionaires, not the public/recreational users. We consider it unreasonable to put limits on concessionaires without also limiting recreational users given that they both have environmental effects. • Can make class decision on concessions – making class decisions means the plans make decisions rather than just informing the decision-maker. • Can regulate the public – plans can only regulate the public if they are secondary legislation (which relates to the first bullet point).	No specific feedback on this issue as it was not covered in the discussion document.
Area plan boundaries – flexibility	20. **Agree** that the Director-General of Conservation has the power in legislation to determine the boundaries of the new area plans, subject to seeking the agreement of iwi	**Yes / No**	**Area plan boundaries should be able to adapt over time as context shifts** Moving to a single layer of plans requires deciding where the boundaries will fall. The exact boundaries of these plans for the whole country are yet to be determined; they are dependent on engagement with PSGEs on relevant Treaty settlement redress and the institutional arrangements for some reserves.	No specific feedback on this issue.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
	when altering the boundaries of settlement-related plans. 21. **Agree** that an area plan will apply to all PCL within its boundaries.	**Yes / No**	We recommend giving the Director-General the power in legislation to determine the boundaries of the new area plans. This enables the system to be flexible ensuring that the most efficient and sensible approach can be taken as context shifts. Changes in context that might provide for this are new Treaty settlement commitments, or the addition or removal of conservation land from Crown ownership. An area plan should automatically apply to new PCL created within its boundaries, which is not currently the case. **Treaty impact assessment** Some Treaty partners have previously suggested that boundaries align to the rohe or takiwā of iwi. We do not recommend this be determinative of boundaries. This would be a significant shift, contentious and complex with overlapping interests. It would also likely increase the overall number of plans required. Allowing flexibility to determine boundaries provides for changes needed to meet contemporary and ongoing Treaty obligations. **Treaty settlements and other arrangements** All settlement plans (CMS/CMS chapter/CMP/NPMP) have defined and agreed boundaries. These should be retained to uphold settlement, although it reduces the flexibility of the system.	
Area plan boundaries – first set of boundaries	22. **Note** that we still need to discuss with PSGEs what should happen for plans or plan chapters created under settlement. They will be addressed independently of the broad approach below. 23. **Agree** that the initial area plan boundaries will be based on the current CMS boundaries except: a. National parks will not be covered by more than one area plan (i.e. boundaries will not cut through national parks) b. Other conservation land can be included in an area plan that covers a national park (by exception and for good reason) c. Adjacent national parks can be covered by the same area plan (e.g. Mt Aspiring and Fiordland) d. Where there are obvious boundary changes that improve efficiency and are unlikely to create delays or be contentious	**Noted** **Yes / No** **Yes / No** **Yes / No** **Yes / No**	**The first set of boundaries should improve efficiency but not at the expense of honouring Treaty settlements or ensuring a smooth transition** We propose to use the existing CMS boundaries as the default boundaries for area plans. A comprehensive process to redraw all planning boundaries (as suggested at some regional hui) is not required; it would unduly complicate and delay completion of the Bill for marginal benefit. There are, however, instances where straightforward boundary changes can be made to improve efficiency and with little disruption. We recommend that: • National parks would generally have their own single area plan. This ensures a smooth transition between current national park management plans and new area plans. It eliminates existing CMS boundaries that cut through national parks. For example, Kahurangi National Park is currently covered by the Nelson/Marlborough CMS and West Coast Tai Poutini CMS. • Other PCL or adjacent national parks could be included in the same area plan as a national park where this is necessary for effective management. This addresses situations like Rakiura where the bulk of the island is national park but there are relatively small areas of other conservation land present. A single area plan for Rakiura that includes the national park and other conservation land makes sense. It also addresses situations like the Routeburn Track which crosses two national parks managed under different CMSs. You have previously asked about whether area plan boundaries should be set based on DOC operational regions. This was the previous approach in the conservancy era. However, DOC operational boundaries vary over time, so they're not a stable basis for area plan boundaries. Regional expertise can be called on as needed for decisions, irrespective of alignment with planning boundaries. You have also previously asked about using water catchments as boundaries for area plans. Catchments do not align well with the boundaries of PCL. For	A few submitters raised concerns that the discussion document did not clarify the approach to area plan boundaries.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
			example, deciding area plan boundaries based on catchments would result in boundaries cutting through national parks (in some cases multiple boundaries). The approach we recommend looks more at the issues with current CMS boundaries and changes them only where it makes sense to do so. **Treaty settlements and other arrangements** All settlement plans (CMS/CMS chapter/CMP/NPMP) have defined and agreed boundaries. Provided these are preserved, the boundaries should not create any issues for settlements.	
Area plan boundaries – reserves	24. **Agree** that management plans for reserves managed by DOC will become area plans or chapters in wider area plans. 25. **Agree** to recommend to Cabinet that the Minister of Conservation will be delegated the detailed policy decisions on whether management plans developed by administering bodies under the Reserves Act are transitioned to become area plans.	**Yes / No** **Yes / No**	**Reserves managed by DOC should transition to become area plans but the benefit of doing so for reserves managed by others is unclear.** Most reserves managed solely by DOC rely on the relevant CMS. Some reserves that are managed solely by DOC have their own management plan (which the Reserves Act requires to be treated as a CMP). We propose that these CMPs would transition to become area plans. This ensures concessions processing for those areas will get the efficiency gains and clearer direction. Whether a CMP for a reserve becomes its own area plan or a chapter in a larger area plan will be dependent on the context of the specific plan and what the most efficient option administratively in those circumstances is. The Director-General having the ability to determine area plan boundaries provides flexibility here. Where non-Crown entities are managing the reserve (e.g. councils, trusts, community groups, joint Crown-iwi boards in settlement) they have the responsibility of developing the management plan. If the reserve is administered by a council, they have delegated powers to manage the reserve including approving some activities. We recommend that you ask Cabinet to delegate the decision on whether to transition these reserve types to area plans or not to you. We are still working through the analysis on the range of reserve management types and the best approach to transitioning them (or not as the case may be). **Treaty settlements and other arrangements** A small number of settlements provide for reserve management plans to be developed by joint bodies over land that is wholly, or partly, Crown owned. We are still working through the analysis, and have yet to engage with settled iwi, on whether or not these RMPs should become area plans. The proposed delegation will provide time for that to occur.	No specific feedback on this issue.
Transitioning to the new system – area plans	26. **Agree** that within 6 months of the Bill passing, CMSs, CMPs, and NPMPs will have been translated into area plans (without consultation processes) 27. **Note** that the Cabinet paper will note that time-limited funding may be sought through Budget 2026 to support implementation. 28. **Agree** that the Bill provides for the revocation of some management plans that are no longer necessary as part of the transition to the new system	**Yes / No** **Noted** **Yes / No**	**Within 6 months of the Bill passing existing plans will have been translated into area plans** We recommend that the Bill requires a translation process to be completed to convert CMSs, CMPs and NPMPs within 6 months of the Bill passing. The process would involve making minimal changes to have a single layer of area plans as soon as possible. It would remove errors, make them consistent with the NCPS and legislation, and move things between plans to ensure there is a single layer. Time-limited funding may be requested through Budget 26 to support implementation, and this will be noted in the Cabinet paper. **The Bill is an opportunity to incorporate some unnecessary management plans into wider area plans** Many of these plans were developed to address specific issues in the past, which can now be incorporated into wider area plans. Many are listed in existing CMSs	No specific feedback on this issue. However, some submitters have been supportive of plans remaining until being replaced by an area plan.

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			as requiring revocation. We recommend the transition requirements in the Bill provide for their revocation. **Treaty settlements and other arrangements** Carve-outs and transitional provisions will likely be required for upholding Treaty settlements given their linkages with the management planning system.	
Transitioning to the new system – authorisations	29. **Agree** that: a. Existing authorisations and applications that are already in progress at commencement of the Act are processed under the new NCPS. b. Any new applications for authorisations, made following commencement, will need to comply with the new NCPS.	**Yes / No** **Yes / No**	**Authorisations will need a short transition period** Concession applications that are already in the system (i.e. have not had a decision made on them) will be subject to the NCPS at the time of commencement. This ensures that fewer applications are ossified using the older system and means DOC does not have to run parallel systems.	No specific feedback on this issue.
Transitioning to the new system – plan reviews	30. **Agree** that plan reviews that are in progress at commencement of the Act, must comply with the NCPS.	**Yes / No**	**Plan reviews that are in progress at commencement should be required to comply with the new system** If planning processes in progress at the time the Act commences (e.g. West Coast Tai Poutini CMS, Te Hiku CMS) are not required to adapt their plans to the new system, it will embed the old system for a much longer period. We recommend that any plan review in progress at commencement must comply with the new NCPS and legislative requirements. This is likely to be undesirable from the perspective of Treaty partners and communities, but it prevents plans persisting longer than necessary in the older system with the more problematic settings.	No specific feedback on this issue.
NCPS process				
NCPS – process for first version	31. **Agree** the first version of the NCPS will be prepared alongside the Bill. 32. **Note** that the content of the first version of the NCPS will be the subject of further advice and a Cabinet paper in June**.**	**Yes / No** **Noted**	**The first NCPS would be drafted alongside the Bill** This would allow it to become operative on commencement of the Act at which point it would supersede the existing Conservation General Policy and General Policy for National Parks. This would remove the need for a subsequent process to draft the NCPS, delaying when the new system can come into effect. In addition, it gives people the benefit of being able to see the content of the first NCPS at the same time as its empowering provisions/overarching framework in the Bill. **Treaty impact assessment** Iwi/hapū are likely to feel like this approach bypasses a meaningful process/approach to engaging them in the development of the NCPS, and be concerned that this is likely to 'set' policy for some time. They are not likely to see the NCPS being developed alongside the Bill's parliamentary process as a substitute for meaningful engagement on the first version of this document. **Treaty settlements and other arrangements** Some relationship agreements and similar mechanisms require that the Director-General must engage PSGEs on changes to conservation policy, including some that require early engagement. Settled iwi are likely to want to be significantly engaged in the development of the first NCPS. This will likely inform their assessment of whether the first NCPS has	Some submitters have expressed general concern about progressing the NCPS at the same time as the Bill because it will require significant capacity to engage with both simultaneously. Comments in discussions with concessionaries suggest support for this as a sensible way to speed up the benefits of the reform. Treaty partners wanted a co-drafting role in the NCPS.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
			diluted their management planning redress or decision-making frameworks / similar provisions in relationship agreements.	
NCPS – process for review	*Initiation and drafting* 33. **Agree** that the Minister may initiate the development or review of the NCPS at any time, in part or in full. 34. **Agree** that the Director-General will prepare the draft policy or policies 35. **Agree** that the Director-General will provide iwi and the NZCA a minimum of 20 working days to review and provide comment on the draft policy, and that the Director-General may revise the draft in light of those comments prior to public notification	**Yes / No** **Yes / No** **Yes / No**	**The Director-General of Conservation would prepare the NCPS** The DG preparing the draft reflects the status quo for the general policies. **Iwi and the NZCA could be involved at the drafting stage, but that would require longer timeframes for drafting** Submissions from iwi, the NZCA and conservation boards, and ENGOs suggested that the NZCA or iwi or both should be involved in drafting the NCPS to enable better policy development and give effect to the principle of partnership. We recommend providing an opportunity for iwi and the NZCA to comment on a draft at the drafting stage. Some submitters (including the NZCA) thought the NCPS should be co-drafted with all iwi. Some form of Māori-led representative group through which iwi participate would be required to do this effectively and in a timely manner. Establishing a representative group would require getting into institutional design questions which would require further time to work through – it requires setting up appropriate nomination processes and circuit breaker mechanisms amongst other arrangements. **Conservation boards would have an equivalent role to what they do now** The recommended role for conservation boards at the public notification stage is equivalent to their role in developing or reviewing the general policies. While some submitters would like conservation boards to also be included at the drafting stage, that would be an extension of their role from the status quo. **The Minister of Conservation would approve the new National Conservation Policy Statement** The Minister of Conservation currently approves the Conservation General Policy. The NZCA approves the General Policy for National Parks. We consider it appropriate for the Minister of Conservation to approve the NCPS, with a specified role for the NZCA in recognition of their existing statutory functions. This aligns with the principle that the Government – as the regulator – must be able to set the rules. **Treaty impact assessment** Our view is that providing for iwi and NZCA comment while the policy is developed is a practical way to reflect Treaty partnership and reduces the risk of substantive issues arising during public consultation. **Treaty settlements and other arrangements** Some relationship agreements and similar mechanisms require that the Director-General must engage the PSGE on changes to conservation policy, including some that require early engagement. The process of sharing an exposure draft may not meet expectations. Additional requirements may be necessary to uphold settlements.	Feedback on this proposal was mixed with roughly half expressing support. Some opposed the changes to the role of the NZCA. Some submissions expressed the view that the NZCA should be involved in the drafting and revision of the NCPS, if the Minister is approving it. Treaty partners wanted hapū to be included in processes as well as iwi. They also outlined an expectation of co-drafting for the NCPS which is beyond what is provided for in the current general policies. The NZCA also suggested this. Some suggested the creation of representative groups for iwi and hapū engagement. Those opposed expressed concern that: • proper engagement with the public and key stakeholders may not be undertaken. • Treaty partners, conservation boards and the NZCA should have a role in co-designing and approving the NCPS. • It could be subject to unpredictable Ministerial changes. The majority of submitters who engaged with the Ministerial approval proposal did not support it. This was due to a belief that it could make the NCPS subject to unpredictable Ministerial changes. Some submissions raised concern with the removal of the requirement for hearings.
	Consultation 36. **Agree** that the Director-General must publicly notify the draft, inviting comments, and directly notify iwi, the NZCA, conservation boards and Fish and Game. 37. **Agree** that the public has a minimum of 40 working days to comment (status quo). 38. **Note** that these requirements would not preclude additional engagement with iwi and stakeholders alongside public notification. 39. **Agree** that role of conservation boards in NCPS development is to input at the public notification stage.	**Yes / No** **Yes / No** **Yes / No** **Yes / No**		
	Revision 40. **Agree** that the Director-General must prepare a summary of submissions. 41. **Agree** that the Director-General revises draft. 42. **Agree** that the Director-General must prepare an impact analysis report, including impacts on Māori rights and interests	**Yes / No** **Yes / No** **Yes / No**		
	Approval 43. **Agree** that the Minister of Conservation is the decision-maker for approving the NCPS 44. **Agree** that the Minister must have regard to the summary of submissions and impact analysis report when deciding whether to approve the NCPS	**Yes / No** **Yes / No**		

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
	45. **Agree** that the Minister may request the Director-General to make revisions and must state their reasons for doing so	**Yes / No**		
NCPS – role of NZCA in review	46. **Agree** that either: a. **Option 1 (recommended):** NZCA reviews revised NCPS and provides comments that Minister must have regard to**,** and Minister must respond to NZCA; **OR** b. **Option 2:** NZCA approves a separate General Policy for National Parks (we do not recommend combining the general policies if you wish to give NZCA an approval role)	**Yes / No** **Yes / No**	**You have options for how the NZCA could be involved in the final revisions of the NCPS** You indicated you were interested in looking at how the NZCA could have a stronger role in the final stages of development of the NCPS. You have two broad options: • Option 1: Providing the revised draft to the NZCA and requiring the Minister to have regard to their comments and respond to them when deciding to approve. • Option 2: Giving the NZCA an approval role for policies related to national parks. We recommend option 1. Option 1 reflects the existing arrangements for the Conservation General Policy – the NZCA gets the revised version and can provide comments to the Minister who must respond. This option ensures the Minister must give genuine attention and thought to the matters set out by the NZCA but does not require giving effect to them. Option 2 provides the NZCA with an approval role for a separate general policy for national parks. Giving the NZCA a role in endorsement or approval of policies related to national parks in a combined general policy effectively gives them a stronger role than the status quo. This is because the NCPS would include a range of policies that apply to all conservation land, including national parks so they would effectively have an approval role for policies that apply to other conservation land too (i.e. all of the NCPS). For that reason, if you choose option 2, we do not recommend combining the Conservation General Policy and General Policy for National Parks into a single NCPS. **Treaty impact assessment** Many iwi/hapū are unlikely to see an approval role for the NZCA as desirable from a Treaty perspective as they do not feel the membership, capabilities, or resources of the NZCA allows them to fully understand or provide for the Māori perspective in their approach and recommendations. **Treaty settlements and other arrangements** The Ngāi Tahu Treaty settlement provides them with a role on the NZCA. Providing the NZCA with an endorsement role for national parks policies is less likely to be viewed by Ngāi Tahu as devaluing their settlement redress.	As mentioned above, the majority of submitters opposed changes to the role of the NZCA. Some submitters, particularly statutory bodies, Treaty partners, ENGO's and recreational stakeholders, believe that conservation boards and the NZCA provide oversight and checks and balances to make sure that decisions regarding conservation land are carefully considered. And by removing this role, it makes unsustainable decisions more possible. Some submitters have also suggested that the NZCA should have an opportunity to review the revised draft before it is approved.
NCPS – process for amendments	47. **Agree** that minor and technical changes to the NCPS would not require public consultation, or drafts being shared with iwi and NZCA ahead of public consultation. 48. **Agree** that amendments to update specific policies follow a truncated process with a minimum public notification period of 20 working days (as opposed to 40 for a full review). 49. **Note** that changes broader than updating a specific policy or minor and technical	**Yes / No** **Yes / No** **Noted**	**Truncated processes should be used for certain types of NCPS amendments** The full review process for the NCPS is inefficient to use for minor and technical or targeted amendments. We propose alternative, shorter processes for the following: • Minor or technical changes: these would not require public or iwi engagement. • Amendments that are discrete and confined: examples are changes to update specific policies, definitions of activities, or which activities are specified in classes as exempt, permitted, or prohibited**Error! Reference source not found.**. Because these changes will impact how decisions are made for those seeking conservation authorisations, iwi and public engagement should still be	A truncated process for policy changes was not consulted on. However, feedback from Treaty partners expressed concern at a lack of requirement for engagement on 'minor and technical' changes to both area plans and NCPS.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
	amendments will be made through the standard NCPS process		required but on truncated timeframes given the whole area document is not being reviewed.	
Area plan process				
Area plan process – upholding Treaty settlements	50. **Note** that a number of Treaty settlements provide roles for PSGEs in preparing and/or approving CMS, CMPs and NPMPs, and that how this redress will be upheld will be key point during engagement with PSGEs.	**Yes / No**	How these are upheld will be a key point during engagement with PSGEs and will depend on the nature of the role. Some settlements amend the process in the Conservation Act, while others set out a completely bespoke process (where carve-outs appear to be the most practical solution). There is redress relating to each stage of the planning process including drafting, public consultation, revision and approval.	
Area plan – when plans should be reviewed	**EITHER** 51. **Option 1: Agree** that the Director-General must initiate a review of an area plan no later than 10 years after the last review of the plan (but can also initiate a review at any other time). **OR** 52. **Option 2 (recommended): Agree** that the Minister may initiate a review of an area plan at any time and is not required to update on any particular timeframe.	**Yes / No** **Yes / No**	**We recommend <u>not</u> requiring plans be reviewed every 10 years** Currently, conservation planning documents are required to be reviewed in full every 10 years. The discussion document suggested this would not change for area plans. This requirement could be removed, with plans being reviewed on an as needed basis. This would provide significant efficiencies (if there are over 50 area plans, reviewing all of them every 10 years will be very burdensome), and we do not consider there is a clear case to conduct a review every 10 years. There is a risk that some area plans could go for a long period without review, potentially leaving outdated policies in place. However, reviews at the discretion of the Director-General is a more efficient way of addressing problematic outdated policies.	The discussion document stated that the requirement for 10-yearly reviews would be retained. It did not seek specific feedback on whether it should be or not. Submitters have expressed that it is important to ensure that rules set out by area plans remain relevant and up to date.
Area plan process – timeframes	53. **Agree** that area plans must be completed within a 12-month timeframe, including: a. 4 months for drafting b. 2.5 months for public consultation and hearings c. 3 months for the Director-General to revise d. 2 months for iwi, NZCA and conservation board comment e. 1 month to approve, or seek further revisions 54. **Agree** that the Minister of Conservation, at the request of the Director-General, could extend timeframes on area plan development at their discretion but must give a reason for the extension and set a new reasonable timeframe	**Yes / No** **Yes / No**	**Area plans should be drafted within 12 months** Including statutory timeframes for each step of the process will help progress area plan reviews by setting clear expectations around how long each step will take. Currently, there are statutory timeframes for some steps but not those that are taking longest – namely drafting. There is a risk that timeframes could limit the Crown's ability to give effect to Treaty principles. Reasonable timeframes should provide for quality input to support informed decision-making. Reasonableness is context-dependent and requires the Crown to consider the circumstances and capacity of iwi. The timeframes proposed may be reasonable in most cases especially if remuneration is provided to support iwi capacity. Where circumstances dictate that a timeframe is unreasonable, this risk can be mitigated by providing the Minister the ability to extend timeframes. **The Minister would be able to extend statutory timeframes if required** An ability for statutory timeframes to be extended can ensure the Crown can give effect to its Treaty obligations, and covers any significant events that prevent those steps from being completed in a meaningful way. For example, a pandemic, natural disasters, or other significant events at a local, regional or national level. Having the Minister determine when circumstances warrant a timeframe being extended sets a reasonably high bar and is unlikely to result in overuse.	Treaty partners also wanted flexible timelines for engagement. The discussion document did not ask a specific question about extensions to timeframes for the development of area plans, but there has been general concern about timeframes and the need for flexibility to deal with complicated scenarios.
Area plan process – drafting	55. **Agree** that the area plan must be publicly notified within 4 months of initiating the plan process.	**Yes / No**	**Removing delays in the drafting of plans** The drafting stage is where most of the current timeframes for planning document reviews are being drawn out. The proposals seek to speed up drafting by:	The discussion document proposed involvement for iwi at each stage in the

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
	56. **Agree** that the Director-General will draft the area plan, in consultation with the relevant iwi and conservation board(s) 57. **Agree** that iwi and conservation board consultation require seeking their views on: a. their aspirations for the objectives and policies in the plan before drafting; and b. the draft objectives and policies once drafted	**Yes / No** **Yes / No**	• Clarifying the purpose and content of area plans through a template • Setting a timeframe of 4 months for drafting within the 12-month timeframe • Clarifying the role of Treaty partners at the drafting stage **Providing for iwi consultation through the drafting process** Current legislation is silent on how iwi are involved in drafting planning documents. Many of the submissions from iwi, statutory bodies and ENGOs believe area plans should be co-drafted with iwi. Although co-drafting would be a more partnership-like approach, it would slow down the drafting of planning documents rather than speed it up. Co-drafting generally requires more rounds of engagement as the parties seek to reach a consensus. This will be particularly complicated where there are many iwi and hapū in an area. If you wish to provide for co-drafting, this option is provided for below. The purpose of consultation is generally to ensure that an informed decision is made. The consultation process should facilitate active participation of Māori, protection of their interests, and an understanding of their perspectives to give effect to Treaty principles. We recommend that the requirements to engage with iwi are made robust by requiring consultation on the matters to be covered by the objectives and policies before drafting them, as well as consultation on the draft objectives and policies themselves. Iwi have stated in the past that the Crown is required to engage with iwi, rather than consult them. Unlike consultation, engagement is not defined in legislation or through case law. We recommend using the term consultation. Though the term consultation is likely to receive a negative reaction from iwi, we note that the requirement to consult on the intent for area plan content as well as the draft content more closely aligns to iwi expectations around engagement. This approach would not prescribe how the Director-General engages with iwi and seeks their views. For example, DOC staff may run workshops with iwi and others, host hui, or establish a reference group comprising of iwi and conservation board members (as is currently being done for the West Coast/Tai Poutini plan). The Director-General would determine when consultation with iwi and conservation boards has been sufficient and proceed to public notification. The Director-General may have to request an extension to timeframes if sufficient consultation has not taken place. Having similar requirements for engaging iwi and conservation boards will help complete the drafting within the proposed 4 months.	process and sought feedback on what that involvement should be. Generally, submissions from iwi and Māori organisations are of the view that plans should be co-drafted with iwi and hapū, with some also suggesting they be co-approved by iwi and hapū. Co-drafting was also supported by others including ENGOs, conservation boards and the NZCA. Similarly to the feedback on the NCPS process, feedback on this proposal was mixed with roughly half expressing support. Those who supported the proposals believed that they struck the right balance in regard to giving effect to the Crown's Treaty obligations while creating a process that could be completed in a timely manner. Some ENGOs and stakeholders from the recreation and tourism sectors felt there should be a greater role for them in the process. Stakeholders generally supported clear and structured processes for engaging Treaty partners, including early in the process. However, some members of the public felt Treaty partners should not have a unique role in the development of area plans.
Area plan process – public consultation	58. **Agree** that the Director-General must publicly notify the draft and invite comments from the public and iwi. 59. **Agree** that the public has a minimum of 40 working days to comment and may request to be heard. 60. **Agree** that hearings will be completed within 10 working days of the public notification period.	**Yes / No** **Yes / No** **Yes / No**		
Area plan process – revision	61. **Agree** that the Director-General must prepare a summary of submissions.	**Yes / No**	**Streamlining the revision stage** The proposal would streamline multiple revision stages into one. The Director-General revises the area plan then provides to iwi, conservation board, and NZCA	

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
	62. **Agree** that within three months of the end of public consultation, the Director-General revises the draft area plan, and provides the draft and the summary of submissions to relevant iwi and conservation boards who have two months to provide comment. 63. **Agree** that the Director-General must prepare an impact analysis report for the area plan, including impacts on Māori rights and interests. 64. **Agree** that the Director-General sends the area plan to the approver accompanied by: a. Summary of submissions**; and** b. Impact analysis report; **and** c. Comments from the relevant iwi and conservation board(s)	**Yes / No** **Yes / No** **Yes / No**	for comment (as proposed in discussion document). They would have one month to provide comments. The DG will provide to the Minister the comments from the relevant iwi and conservation board(s) for them to consider when deciding whether to approve the plan or request revisions. As with the drafting stage, iwi are likely to view this consultation-based approach as insufficient. Others are also likely to expect conservation boards and the NZCA to have more of an ability to influence the plan before it is sent to the Minister for approval.	
Area plan process – approval	65. **Agree** that the Minister approves the area plan, following review and comments from the NZCA 66. **Agree** that approver must take into account the summary of submissions, impact analysis report, and comments from the relevant iwi and conservation board(s) 67. **Agree** that the Minister may request the Director-General to make revisions and must state their reasons for doing so	**Yes / No** **Yes / No** **Yes / No**	**Ministerial approval is appropriate given the proposed purpose and content of area plans, but is likely to be seen as removing safeguards** The function of area plans will be more orientated towards guiding regulatory decision-making and concessions. Ensuring iwi and community input into those decisions is provided for through the process for preparing the plan prior to approval. The rationale for NZCA approval of current documents is that the NZCA can influence ministerial decision-making, including on concessions decisions, and 'depoliticise' conservation regulation. This is, in view of the normal principles of Government regulation, inappropriate to limit the Government's regulatory power. This potentially includes limiting economic opportunities that could otherwise be allowed within the effects management framework (i.e. purpose of the Act, scope of area plans, effects assessment). For example, the Canterbury CMS states that the effects of some activities must be avoided, rather than remedied or mitigated. Ministerial approval may also support faster decision-making. If a significant 'safeguard' is desirable, NZCA approval of area plans could be retained – allowing them to set policy that influences ministerial discretion. The Minister would have the ability to limit this fettering through the NCPS requirements for area plans, but a heavily prescriptive template in the NCPS also carries risks of being too inflexible. **Co-approval with iwi and/or the NZCA, or endorsement by them, would likely extend timeframes** Requiring NZCA co-approval or endorsement alongside the Minister would likely extend the process rather than streamline it. The NZCA should be retained as the approver of plans if the Government wishes to retain the ability of the NZCA to fetter the Minister. Similarly, co-approval or endorsement by iwi would likely slow down approval of area plans by requiring two stages of agreement as consensus is sought. We see this now even in planning processes without large numbers of iwi involved, where Treaty partners have said section 4 requires DOC to get their endorsement or approval before proceeding. There is no circuit breaker for these situations at	Similarly to the feedback received on the NCPS approval, the majority of submitters have not been in favour of ministerial approval due to the removal of an important system check. EDS suggested that if the Minister was to have the approval role, that a right of appeal to the High Court should be provided.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
			present, resulting in multiple planning processes languishing without forward movement for years. Unlike plans that settlements provide co-approval for, the representatives of iwi interests in the plan area are not set out in statute and mediation-type mechanisms would be required. The option of representative bodies for iwi outlined below could be used to support co-approval or endorsement of area plans (with mediation mechanisms), but even with representative bodies, timeframes would likely be prolonged by co-approval or endorsement.	
Area plan – iwi representation	**If you want to provide for co-drafting (not recommended):** 68. **Agree** that co-drafting would be with an iwi representative body rather than individual iwi. 69. **Agree** that if iwi are unable to form a representative body within a specific timeframe then the process requirements would revert to the consultation process outlined above**.**	**Yes / No** **Yes / No**	**Representative iwi bodies would provide the most practical approach** A representative body would allow for a more collaborative and deliberative approach to plan development at the drafting and revision stage. The Director-General would invite iwi/hapu in the area plan region to constitute a representative body within a specified timeframe prior to initiating a planning process. If a representative body was not formed within the timeframe the process would default back to the consultation process outlined above. We would recommend that the Director-General is the decision-maker on when to move to the next stage of the process. They should be empowered to do so having taken reasonable steps to seek consensus with the iwi body. This circuit breaker will be necessary in a collaborative process if desired timeframes are to be met. **There are some significant challenges with this approach** There will be expectations that the framework is co-designed based on the creation of similar structures in other systems (e.g. RM, health), which would need to be done under tight timeframes in parallel with Bill drafting. Any definition of iwi the Crown provides will attract criticism for determining collective identity and could result in legal challenge if a group is excluded who believe they should be included. This risk could be mitigated somewhat by requiring the iwi entity to represent the views of all Māori in the relevant area rather than requiring a representative from each iwi and/or hapū on the entity. That would be done through their engagement with iwi and hapū and their input into the planning process. This approach will incur additional costs and present challenges for drafting within 12 months. There would be additional cost implications of representative bodies above remuneration for consultation-based processes (if that is provided for). The iwi bodies would need resources to for administrative support and engagement with iwi and hapū during public consultation.	
Area plan – funding	70. **Agree** to establish a levy on concessionaires to pay for regulatory system costs. 71. **Agree** in principle that iwi will be remunerated for contributions to developing area plans through a levy on concessionaires to pay for regulatory system costs. 72. **Agree** that remuneration will be a reasonable contribution rather than full cost recovery for time spent working on plans.	**Yes / No** **Yes / No** **Yes / No**	**Remuneration for iwi should be funded through a levy on concessionaires** A consistent approach to remunerating Treaty partners will help ensure timely and quality input. It will also be fairer than the current ad-hoc approach and help avoid the protracted negotiations over remuneration that have been holding up planning reviews in the current system. To make this approach cost-neutral for the Crown, we are proposing a levy on users of the regulatory system that can be used to cover the costs of running the system. This approach is modelled on the fast-track system. More analysis is required to ascertain the level of charge for concessionaries and how this might be distributed to iwi and other system costs. We recommend that	Some submitters, particularly Treaty partners, believe that Treaty partners should be remunerated for contributing to conservation processes.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
	73. **Agree** that the Minister may initiate an amendment of an area plan if requested by a concession applicant, and may require the applicant to pay all or part of the reasonable costs of the review 74. **Note** that officials will complete further work on the levy proposal and report back on its feasibility. 75. **Note** that costs, and therefore the levy, will likely be higher if you wish to establish representative bodies to enable co-drafting with iwi	**Yes / No** **Noted** **Noted**	the amount would be a contribution to some of their costs as it is in fast-track rather than full cost recovery for their time. Experience from fast-track shows that providing full cost recovery for parties external to government is challenging and not necessarily workable. A commitment to full cost recovery is also likely to be prohibitively expensive to concessionaires. **The ability for concessionaires to request and resource a review should be retained** Section 17W of the Conservation Act currently provides the Minister with the ability to initiate a cost-recoverable review of management strategy or plan at the request of a concession applicant, if the concession is declined based on the plan. Although this power has not been used, retaining it will provide concessionaires the ability to initiate reviews that may not otherwise be prioritised while ensuring those reviews are resourced. Work on the levy above will need to consider the relationship between this provision and the levy. **Treaty impact assessment** Iwi view resourcing as necessary to enable them to meaningfully engage in planning processes. Providing remuneration would support quality input into plan development, supporting informed decision-making and active protection.	
Area plan amendments – truncated processes	76. **Agree** that minor and technical changes to plans would not require public consultation or Treaty partner engagement. 77. **Agree** to a power similar to s 55 of the RMA where amendments to area plans to ensure consistency with the NCPS**:** a. Do not require public consultation or Treaty partner engagement b. Do require public notice following the amendment. c. Must be completed as soon as practical 78. **Agree** that amendments to update specific limits or policies follow a truncated process with shorter timeframes as follows: a. The area plan must be publicly notified within 2 months of initiating the plan process (rather than 4 months). b. The public has a minimum of 20 working days to comment (rather than 40 working days) c. No requirement for hearings d. Iwi, conservation boards and the NZCA have one month to comment on the revised draft (rather than two months)	**Yes / No** **Yes / No** **Yes / No**	**Truncated processes should be used for certain types of area plan amendments** The full review process for an area plan is inefficient to use for minor and technical or targeted amendments. We propose shorter processes for the following: • Minor or technical changes - these would not require public or iwi engagement. • Amending an area plan where it has become inconsistent with the NCPS - the process would not require consultation as consultation would have occurred for the NCPS amendment. Public notice would be issued following the change. • Amendments that are discrete and confined - examples are changes to update specific policies, visitor limits, definitions of activities, or which activities are specified in classes as exempt, permitted, or prohibited**Error! Reference source not found.**. Iwi and public engagement should still be required but on truncated timeframes given the whole area plan is not being reviewed. **Treaty impact assessment** Whether truncated timeframes provide a reasonable amount of time to provide for iwi input will depend on how discrete and confined the scope of the review is. If the policy content is discrete, two months should provide sufficient time for iwi consultation during drafting and one month should allow iwi reasonable time to comment on a revised draft. **Treaty settlements and other arrangements** The potential implications of truncated timeframes on settlement requirements, and responses to those, are likely to be similar to the implications of full timeframes for the general process.	A truncated process for policy changes was not consulted on. However, feedback from Treaty Partners expressed concern at a lack of requirement for engagement on 'minor and technical' changes to both area plans and NCPS.

Attachment C: Concessions decisions

Proposal	Options	Decision	Analysis and advice	Initial assessment of submissions
Process for individual concession applications				
Setting timeframes to make decisions on applications	1. **Agree** the Minister must make a decision on a concession application within the following timeframes: a. One-off applications: 10 working days. b. Permits (other than one-off applications): 80 working days. c. Non-notified licenses and easements (other than one-off applications): 140 working days. d. Notified licences and leases: 180 working days.	**Yes / No**	**End-to-end timeframes can drive more efficient processing and better regulatory practice** There are two broad approaches to setting statutory timeframes for regulatory processes and decisions. The first is an end-to-end timeframe; the second is prescribed timeframes for each step of the process. We recommend using the end-to-end approach to timeframes for concession decision-making. This avoids needing to spell out the specific order in which steps must take place in the application process, which preserves operational flexibility. Examples from other systems include: • The Exclusive Economic Zone and Continental Shelf (Environmental Effects) Act 2012 includes an end-to-end time for non-notified marine consents (50 working days after a complete application is received). • The Building Act 2004 requires councils to grant or decline a complete application for a building consent within 10 or 20 working days depending on the type of application. • The Hazardous Substances and New Organisms Act includes end-to-end timeframes for rapid assessments (albeit uses step-specific timeframes for other types of assessments). The timeframes in recommendation 1 are based on your operational targets for permissions. **We have included a timeframe for one-off concessions** Many applications are processed in a much shorter time. We have also included a timeframe for a one-off concession to reflect current operational practice. As an indication of what could be a one-off concession, DOC operational policy defines a one-off concession as: • Being for a period of no longer than three months, • Having only minor environmental effects, • Having clearly defined limits, • Does not involve permanent structures, and • Will not take place in the same location more than once in three years. During drafting, we would confirm whether the above definition is appropriate to use in legislation. **Stop clocks and extensions can be included** We propose allowing the Minister to extend the application timeframe at their discretion, and at any point in the process. More substantial engagement and processing are sometimes necessary to support decision-making for some complex applications. It is not possible to anticipate in advance the types or categories of applications where this may be needed, which is why we consider a general discretion for the Minister to extend timeframes is more appropriate. This aligns with the ability for the Minister to specify longer timeframes for Treaty partner engagement on applications, or for the applicant to provide further information.	There was mixed feedback in response to proposals relating to statutory timeframes. Those who supported the proposals believed they could encourage efficiency. However, some also said additional resourcing would be needed to support DOC's processing of applications on time. Many submitters generally supported the intent of these proposals but suggested some changes to the proposals. For example, a number of concessionaires suggested that applications that are consistent with area plans should be processed within 90 days. Those who opposed the proposals suggested they may not favour small operators without administration support. For example, 10 working days may not be enough time for some applicants to provide additional information.
	2. **Agree** that the statutory timeframe starts when a complete application is accepted and lodgement fee is paid, and concludes when the Minister makes the decision to grant or decline the application.	**Yes / No**		
	3. **Agree** that the Minister can extend the timeframe at any point during the application process.	**Yes / No**		
	4. **Agree** that if the Minister is extending a timeframe, they must provide reasons for the extension to the applicant.	**Yes / No**		
	5. **Agree** that the processing clock is paused in any of the following circumstances: a. The applicant requests their application be put on hold. b. Further information is requested from the applicant and a timeframe longer than ten days is provided to the applicant. c. A report is commissioned or advice sought on matters raised in relation to the application (excluding Treaty partner engagement). d. Interim payments have not been settled by the specified deadline.	**Yes / No**		

Proposal	Options	Decision	Analysis and advice	Initial assessment of submissions
			We propose allowing the processing clock to be paused in some situations, largely to reflect steps in the process that can contribute to delays and that are beyond DOC's control. This is the approach taken in the resource management system for consenting timeframes. One key situation that we do not recommend the clock be paused in is Treaty partner engagement. Time for Treaty partner engagement has been factored into the recommended end-to-end timeframes. Existing performance monitoring and reporting can be used to monitor how often extensions are used and any trends in their use over time. These timeframes would also apply to applications for variations or extensions to concessions under section 17ZC(2). We recommend setting these timeframes and the circumstances where the clock can be paused in primary legislation, rather than using the existing regulation-making powers under section 48. Setting timeframes in primary legislation is more stable than setting them in regulation and will support a more transparent process with public scrutiny.	
Clarifying information that can be required for applications	6. **Agree** that concession applications can be required to be made in a specified form, or include certain information in addition to what is already required by the Conservation Act.	**Yes / No**	At present, applications can vary in terms of quality and completeness, even though the law requires certain information to be included in them. We recommend clarifying that applications can be required to be made in a specified form, or include information in addition to what is already required by law. For example, applications involving fixed assets and significant structures require financial due diligence. This change would support requiring applicants to provide the necessary information to allow for financial due diligence.	This was not covered in the discussion document.
Requiring a lodgement fee for applications	7. **Agree** that the Director-General may charge applicants a lodgement fee for a concession application.	**Yes / No**	**Introduce a lodgement fee for concession applications** At present, there is no up-front fee associated with making a concession application. Applicants are billed during or at the end of application processing to recover costs. The costs to government of carrying out the functions associated with a concession application should be fully funded by users of the concession system. This means the Crown should not subsidise the services provided when a concession application is lodged. We recommend introducing an up-front fee for concession applications. It is possible to identify the individuals and businesses who benefit from the concessions system, and charge these individuals or entities for the service they receive when they lodge their application. This is similar to the cost recovery approach under the Fast-track Approvals Act. The fee would go towards recovering actual and reasonable costs incurred by DOC in performing its functions in relation to the lodging of a concession application. The lodgement fee would be deducted from the total cost recovery charges invoiced to the applicant at the end of the application process. Lodgement fees are common in other regulatory regimes and sit alongside other cost recovery mechanisms. The receipt of an application fee is also a useful part of formally recognising that an application has been made. It also discourages applications from those without the means or intent to carry out the concession. It is anticipated that this would be a fixed upfront fee with the amount charged graduated by concession type.	This was not covered in the discussion document.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submissions
Clarifying when interim payments can first be required	8. **Agree** that the Director-General can issue a request for payment to recover costs associated with processing a concession when a complete application is received.	**Yes / No**	The Act already provides a statutory basis for the Director-General to recover costs after the Minister 'has considered' the concession, whether or not the consideration has been concluded. This creates uncertainty about whether payments can be required before decisions are made, and what counts as an application having been "considered". This proposal would remove ambiguity about this matter.	This was not covered in the discussion document.
Aligning timeframes for returning an application	9. **Agree** to align the timeframe for the Minister to return an incomplete application and the timeframe to decline an application that is obviously inconsistent to ten working days total.	**Yes / No**	**Merge two triage steps into a single step** At present, the Minister can only return an incomplete application within the first ten working days of receiving it. The Minister can also only decline an obviously inconsistent application within the following 20 working days. Combining these time periods would require initial review of applications to be completed within two weeks of receipt, supporting more efficient concession processing and better regulatory practice. Searching any relevant CMS, NPMP and CMP for consistency with an application today requires more processing time, particularly with a backlog of applications on hand. We are digitising these now to speed this up. In the future, if conservation management planning documents are reformed in line with the rest of this document, the NCPS and area plans are likely to be more streamlined and easier to search for obvious inconsistencies.	There was no direct feedback relating to this proposal.
	10. **Agree** that the Minister can still return an incomplete application if the above timeframe has lapsed.	**Yes / No**		
Broadening grounds for returning an application upfront	11. **Agree** that the Minister can decline applications upfront in the following circumstances: a. If it is clear that the application will not meet statutory requirements, i.e. the application obviously does not comply with, or is inconsistent with, the Conservation Act or any statutory planning document (currently the general policies, CMS, CMP and NPMPs; in future the NCPS and area plans). This is the status quo. b. If the applicant has a history of serious or repeated non-compliance with concession conditions, including if the applicant owes money to the Crown in relation to current or previous concessions. c. Where the Crown may have plans for specific areas of public conservation land and the Minister needs the ability to decline any applications to allow for those plans to be implemented. d. If the application is incomplete.	**Yes / No**	**Broaden the grounds for returning an application within 10 working days** Currently, the Minister can return an application within ten working days if it is incomplete. The Minister may then decline an application that obviously does not comply with, or is inconsistent with, the Conservation Act, any CMS, NPMP or any CMP. Such decisions may only be made within the 11th and 30th working days after receiving an application. Clearer tests for declining an application upfront will make it faster for the applicant to know when their application has been declined and take pressure off the system to focus on processing other applications. This proposal will save significant time for concessionaires, DOC, and the public. The discussion document included a proposed ground to allow the Minister to decline an application upfront where the applicant clearly lacks financial viability, for example the ability to pay fees associated with getting or using the concession. We do not recommend progressing this ground as it would not be possible to assess an applicant's financial viability from the information provided in the application. We instead recommend specifying that non-compliance includes if the applicant owes money to the Crown in relation to current or previous concessions. We have included an additional ground to allow for instances where the Crown may have plans for specific areas of public conservation land and the Minister needs the ability to decline upfront any applications to undertake activities on that land. An example may include where the Minister wishes to undertake afforestation on an area of public conservation land. During the drafting process, we will need to add specificity about the "plans" on which the Minister can place reliance to return applications. This will ensure the use of discretion is defensible and does not appear to be a blanket discretion to return concession applications with high risk of misuse.	All of the submitters who provided feedback on this proposal supported it. Some submitters expressed other criteria for the Minister to consider when declining applications, including if applicants have a criminal record, a record of financial malpractice or if the applicant is unable to appropriately remediate the site from any damages following the concession term.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submissions
Returning an application to initiate a competitive process	12. **Agree** that the Minister of Conservation can return a concession application within 20 working days to initiate a competitive allocation process.	**Yes / No**	**Allow 20 working days to return an application to initiate competitive allocation** Competitive allocation processes can be an effective mechanism for awarding a concession opportunity to the most appropriate party (or combination of parties) when there are numerous interested parties, and demand outstrips supply for certain opportunities. The Conservation Act currently allows the Minister to tender the right to make an application, invite applications, or carry out other actions that may encourage specific applications. However, DOC's use of competitive allocation for concession opportunities has been limited to date. DOC cannot return applications to run a contestable process at present. Most concessions are therefore allocated on a 'first in, first served' basis where the first application is considered and tested against the statutory requirements of Part 3B. To counter the 'first in, first served' presumption, we recommend making clear that a concession application can be returned to initiate any competitive allocation process, as opposed to only when the Minister considers a tender may be appropriate. This does not mean a competitive allocation process needs to be started within 20 working days—it only means returning the application needs to be completed within this timeframe.	This proposal was consulted on in 2022 and it received majority support. However, commercial operators highlighted that more clarity and certainty was needed to support operators if concession opportunities they previously held concessions for are being competitively allocated. Public consultation in 2022 also highlighted the need for certainty around the timeframes regarding the initial decision to return the application. Submitters felt that 40 working days would allow sufficient time for engagement and analysis, while providing certainty to applicants. Feedback received from consultation in 2024/25 reflects what was heard in 2022. However, concessionaires expressed further concerns about the proposals relating to when and how competitive allocation will take place. The core concerns relate to: • DOC's interpretation of the *Ngāi Tai ki Tāmaki* court decision. • A belief that incumbent concessionaires should receive preference in competitive allocation scenarios. Both the Parliamentary Commissioner for the Environment (PCE) and the Environmental Defence Society (EDS) have noted the historic reliance on allocating concessions on a first in, first served basis has led to challenges and fairness concerns in deciding which operators should be awarded concessions where only limited opportunities are available.
Setting a timeframe for applicants to provide further information	13. **Agree** applicants will have 10 working days to provide further information if requested, or any longer timeframe specified by the Minister.	**Yes / No**	**Applicants would have to provide additional information within 10 working days** At present, when DOC needs further information from an applicant to process their application, they are given a reasonable period to provide the information. If this information is not provided, the application is not processed any further. Setting a statutory timeframe for this information will support more efficient concession processing and better regulatory practice.	One submitter suggested that this proposal will likely put pressure on some small operators who do not have administrative support. Some other submitters also said that time limits relating to requests for further information must consider providing appropriate time for Treaty partners to respond.
	14. **Agree** that if the requested information is not provided within 10 working days or the specified timeframe, the application can be returned.	**Yes / No**		

Proposal	Options	Decision	Analysis and advice	Initial assessment of submissions
Pausing processing until interim payments are received	15. **Agree** that the Minister can pause consideration of a concession application in the situation that: a. The Director-General has made a written demand under section 60B of the Conservation Act for payment to recover costs incurred to date in considering the application, and b. The requested payment has not been received within 28 days of receiving the written notice.	**Yes / No**	**Allow processing to be paused if interim payments are not received** At present, DOC can require interim payments during concession processing. Even if interim payments are not received, DOC needs to continue processing concession applications until a decision is made. This proposal would reduce time and resources spent processing applications where the applicant likely does not have the means or intent to get or carry out the concession. This is common in other regulatory regimes.	This was not covered in the discussion document.
	16. **Agree** that if payment is not settled within a further 28 days (following the 28-day period in the written notice), the application can be returned.	**Yes / No**		
Engaging with Treaty partners on individual concession applications	17. **Agree** to standardise engagement with Treaty partners for individual concession applications as follows (choose one option): a. Option 1: Maintain the status quo – whether engagement takes place is a matter of operational discretion (recommended). b. Option 2: Engagement is only required for notified applications, and must take place before public notification. c. Option 3: Engagement is not required where Treaty partners have said they do not need to be engaged on particular applications or types of applications; or where applications are similar to or only make minor changes to previous or existing concessions (consulted on).	**Yes / No**	Consultation with Treaty partners on individual concession applications is not explicitly required by the Conservation Act (other than in some settlement legislation) but is done in most cases to give effect to section 4. In the discussion document, we noted that Treaty partners are consulted on all applications, but DOC has taken different approaches for simple concessions over time, like drones. For some Treaty partners, this means a large volume of concession applications on which they are consulted. Some Treaty partners are more willing to triage engagement on concession applications than others. Some settlements also provide a blueprint for shifting day-to-day engagement on concessions to being about *types* of activities, with activity schedules able to specify what types of activities to prioritise for engagement. **More efficient processes for engaging with Treaty partners on concession applications** The changes to the management planning framework to allow class decisions on concessions will remove some straightforward applications from the concessions system. Treaty partners will be engaged on those as classes of activities through the NCPS and area plan processes, rather than individual activities. This should reduce some engagement requests from DOC, which some Treaty partners describe as “overwhelming”. **Options for when engagement should or shouldn’t be required** *Option 1: Engagement with Treaty partners is determined through operational discretion (status quo; recommended)* DOC would continue to assess when engagement with Treaty partners should occur, based on current relationships held at place and in relationship agreements. Given class decisions are likely to remove straightforward concession applications from the system, this option is likely to mean Treaty partners continue to be engaged on most concession applications, unless they have agreed with DOC the types of concessions they wish to be consulted on. *Option 2: Engagement is only required for notified applications and must take place before notification* Engagement would only be required for concessions that will be publicly notified, given that such applications typically involve activities that may incur more	While many supported the intent of this proposal, feedback was mixed. While concessionaires expressed their support, Treaty partners including Pou Taiao disagreed because the Crown deciding when engagement should take place does not reflect partnership. Some stated that iwi or hapū should be the ones to decide when they are engaged with. Those who provided feedback on the 20-working day timeframe expressed that it risked undermining engagement. Some recommended that more flexibility and clearer provision is needed for iwi and hapū to apply for an extension, or to request further information or support from DOC.
	18. **Agree** Treaty partners will have 20 working days to provide their views on concession applications, or any longer timeframe specified by the Minister.	**Yes / No**		

Proposal	Options	Decision	Analysis and advice	Initial assessment of submissions
			significant impacts on a range of values and/or confer valuable property rights. This would not prevent DOC from consulting with Treaty partners beyond what is required in law, e.g. to ensure informed decision-making. *Option 3: Engagement is not required where Treaty partners have said they do not need to be engaged on particular applications or types of applications; or where applications are similar to or only make minor changes to previous or existing concessions* This option is closest to the proposal in the discussion document. However, based on feedback, we recommend no change to the status quo. This option would require decision-makers to assess what is "minor" or "similar" based on the circumstances, creating another decision that is subject to challenge. For example, it may be that some applications are similar to currently allowed activities but would still have significantly different potential impacts on Treaty rights and interests, suggesting engagement may still be needed to ensure informed decision-making. **Identifying the Crown's Treaty partner for engagement purposes** We do not recommend specifying in legislation which entities or groups the decision-maker should engage with to meet the above engagement requirements (i.e. who the "Treaty partner" is for any given application). These will vary depending on the nature and scope of the application. Operational guidance and policy are sufficient to ensure good practice in terms of identifying the appropriate Treaty partner(s) for any given application. **A timeframe for Treaty partners to provide their views** We recommend a timeframe for Treaty partner engagement on concession applications: 20 working days, or longer if specified by the Minister (or their delegate). We consider this strikes an appropriate balance between sufficient flexibility (i.e. to provide a longer timeframe for more complicated or complex applications, or where there is more significant potential impact on Treaty rights and interests), with setting a standard to drive operational efficiency. This would align the Conservation Act with the timeframe provided under the Fast-track Approvals Act 2024 for Māori groups to provide comments on an application – i.e. 20 working days. **Treaty impact assessment** Iwi and hapū are opposed to the imposition of statutory timeframes. Timeframes risk decision-makers not being fully informed if Treaty partners are unable to respond in time, or their response is limited. There are two key mitigations to this risk. First, is the option to provide a longer timeframe if the Minister (or delegate) believes it is necessary (which could also be exercised following a request from the Treaty partner concerned). Second, there is an opportunity through the improved planning process and ongoing engagement to build a stronger enduring understanding of iwi and hapū interests in an area outside of engagement on individual concession applications. This is what many Treaty partners tell DOC they are looking for. There are participation steps/requirements prescribed in the MACA Act and NP Act in relation to "publicly notified applications for concessions". **Treaty settlements and other arrangements**	

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			Most settlement DMFs, or similar provisions in relationship agreements, require the parties to agree a reasonable timeframe for iwi feedback, or allow the Crown to specify a timeframe that must be reasonable.	
Remuneration of Treaty partners for engagement on individual concession applications	19. **Agree** to provide a financial contribution to Treaty partners for input into concession decisions, except where they are the applicant.	**Yes / No**	**We recommend resourcing Treaty partners for engagement on concession applications** The current approach of not resourcing Treaty partners for input into concession decisions limits the quality and timeliness of Treaty partner input. Some comparable decisions in other systems, such as resource management consent and fast-track approvals, involve a level of resourcing for Treaty partners to provide input for regulatory decisions. We recommend remunerating Treaty partners for their input into concession decisions. This should be on the basis of a contribution towards their costs, because it is not workable to assess actual and reasonable costs incurred by parties outside government. The fast-track system funds Treaty partners on the basis of a contribution. There is a risk that remunerating Treaty partners for their input on concession applications disincentivises shifting to a more strategic engagement with DOC on concessions, for example to agree schedules of activities with different notification/engagement approaches, including applications which do not require engagement with Treaty partners. Treaty partners may be engaged on fewer applications, and therefore receive less funding, on the basis of such agreements with DOC. **Contributions will be funded through a system levy** The costs to government of maintaining a regulatory system to grant concessions to carry out activities on public conservation land should be paid for by users of the system. This includes system costs associated with developing rules for concessions in management plans and the cost to provide a financial contribution to Treaty partners for their input into concession decisions. We propose that contributions to Treaty partners will be funded through a system levy. This would be a revenue-based levy on large scale users, with a fixed contribution levy for smaller concessions where system users don't currently report on revenue (sometimes because the concessions relate to a non-commercial benefit). This levy would also fund Treaty partner contributions for participation in management planning processes. We propose that contribution levels are set in secondary legislation, similar to the fast-track scheme. This strikes an appropriate balance between flexibility to review contribution levels in the future while providing certainty to applicants. **Treaty impact assessment** A contribution towards the costs for Treaty partners to provide feedback on concession applications will assist the Crown meet the Treaty principle of informed decision-making. Resourcing can also support Treaty partners in building capacity and capability, reducing instances where timeframes may need to be extended to provide a reasonable amount of time.	Remuneration for Treaty partner engaged was a core theme raised during the regional hui with Treaty partners. Treaty partners, some statutory bodies and others have also mentioned in their submissions that iwi and hapū should be remunerated for providing their specialist advice while engaging on conservation processes.
	20. **Agree** to fund contributions to Treaty partners through a system levy charged to applicants, separate to concession lodgement and processing fees.	**Yes / No**		
	21. **Agree** that contribution levels will be specified in secondary legislation, similar to the fast-track scheme.	**Yes / No**		
Streamlining public notification	22. **Agree** that for applications that must be notified, notification will only take place if the Minister intends to grant a concession.	**Yes / No**		Just over half of the submissions that have been analysed and have engaged with this proposal were opposed to it. While

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	23. **Agree** that public notification is not required for grazing licences.	**Yes / No**	**Only require notification where there is intent to grant applications** At present, public notice is required for all applications for leases, licences of more than ten years, and where otherwise considered appropriate. This change would make it such that when public notice is required, DOC only notifies where the Minister intends to grant applications, rather than on all eligible applications. This will save decision-makers and applicants time and cost participating in public notification processes for applications that would likely be declined anyway. Currently, the public can invest significant time in opposing applications that may be declined anyway. This would not preclude the Minister making a different decision to the one notified (i.e. a decline), but knowing DOC's preliminary views may assist some submitters. This was how the Conservation Act operated prior to 2017. The change was made to align conservation and resource management processes and streamline concessions processing, but the change has not improved the efficiency of the notification process. **Remove the requirement to notify applications for grazing licences** We recommend removing grazing licences from the set of activities requiring public notification. Grazing is typically undertaken on conservation land that is assessed by DOC as suitable for that purpose (i.e. that has little to no conservation values and where the impact of the grazing will have little to no impact on the surrounding environment). Anecdotally, applicants for grazing licences request terms shorter than ten years to avoid triggering public notification, causing system inefficiencies. An alternative could be allowing certain types of activities (including grazing) to be specified in a list, which would not require public notification. **Allow the Minister to decide when hearings are needed as part of public notification** In addition, we recommend allowing the Minister to decide when hearings must take place as part of the public notification process. At present, any person or organisation may request to be heard by the Director-General in relation to their submission. Hearings can come at significant additional cost. We consider the participation benefits of notification can be obtained through a written submission process alone, with the discretion to hold hearings for applications with greater public interest.	concessionaires expressed their support, Treaty partners, ENGOs and some conservation boards disagreed because they do not support limiting public engagement on concession applications. The proposals to exclude grazing licenses from public notification requirements and to allow the Minister to determine when a hearing is appropriate were not covered in the discussion document.
	24. **Agree** that the Minister can determine when a hearing would be appropriate for concession applications that are notified.	**Yes / No**		
Improving the reconsideration process	25. **Agree** that applicants must submit a reconsideration request within 20 working days of being notified of the concession decision.	**Yes / No**	**Setting clear rules for reconsideration** A reconsideration is a discretionary power afforded to the Minister, or their delegate. The Conservation Act does not define what the Minister should consider when deciding to undertake a reconsideration. There are also no statutory timeframes, and no limits on the number of times an applicant can ask for the same decision to be reconsidered. This leads to significant churn, wastes time and resources, and can create incentives to unreasonably challenge a decision until the desired outcome is gained. Other legislation, such as the Resource Management Act 1991, provides statutory timeframes in which decisions can be appealed. In 2022 we sought feedback on an option to require applicants to submit an application for a reconsideration within 15 working days of a decision on a concession. This was based on the appeal periods on resource consent applications under the Resource Management Act 1991.	*Feedback on 2022 reconsideration process* In 2022 we sought feedback on an option to require applicants to submit an application for a reconsideration within 15 working days of a decision on a concession. 39 of 42 submissions preferred a statutory timeframe to the status quo (no timeframe). However, a number of submitters expressed that a longer timeframe would be more appropriate. *Feedback on updated reconsideration proposals*
	26. **Agree** that the reconsideration must be done within 30 working days or any longer timeframe specified by the Minister.	**Yes / No**		
	27. **Agree** that a reconsideration request can only be submitted once.	**Yes / No**		
	28. **Agree** that, as part of the reconsideration, the Minister may not consider any information that	**Yes / No**		

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	was not considered by the decision-maker, unless: a. The information existed at the time the decision was made and would have been relevant to the making of that decision, and b. In all the circumstances it is fair to consider the information.		Following submissions and further analysis, we recommend amending this timeframe to 20 working days. This better aligns with the timeframe for an applicant to sign a concession (one month). We recommend including a ground that prohibits provision of any new information as part of reconsideration. This is common in other appeal or reconsideration processes (for example the visa application process under the Immigration Act). Inclusion of this ground would streamline the reconsideration process by removing any need for further assessments or Treaty partner engagement. It would not prevent the application from pointing out information DOC had failed to consider (e.g. a relevant policy in an area plan), allowing for the reconsideration process to be used to correct errors or oversights. If the applicant wishes to provide new information, this should be considered as a new application.	There is majority support for the reconsideration proposals because repeated reconsiderations are costly for DOC. Submitters also made some suggested changes including: • Additional time being available for complex reconsiderations, with one suggesting up to six months. • Providing iwi and hapū with access to all relevant and additional information.
Competitive allocation				
Enabling greater use of competitive allocation	29. **Agree** to retain the general discretion for the Minister to decide when to competitively allocate concession opportunities, subject to recommendation 32 below for long-term leases, based on whether: a. Supply is limited, b. A market is likely to exist (i.e. demand would exceed supply), and c. The benefits of running a competitive allocation process outweigh the costs.	**Yes / No**	**Contestable processes can drive better outcomes for conservation in some circumstances** In theory, contestable processes provide an opportunity to leverage competitive tension in the market to drive better outcomes for conservation (for example improved biodiversity and increased revenue). Contestability is the government's default approach when procuring services at scale or for significant capital projects. Putting major opportunities to market maximises value-for-money outcomes, and provides fair opportunities to private companies to do business with government. Likewise, some form of periodic auctioning of limited rights is also common (e.g. radio spectrum). However, there are several key differences when applying contestability to the allocation of rights to do business on conservation land. DOC is a land manager, and must manage land for conservation purposes. The conservation system is therefore oriented at ensuring acceptable use of conservation land, rather than best use or provision of highest value services. The conservation system also does not proactively identify business opportunities on conservation land – this tends to be a reactive process, driven by proposals from the market. Where the conservation system can practically derive benefit from contestable processes is to ration limited supply (i.e. where there is a total volume of allowable activity to be divided among multiple operators). In these cases, competitive allocation can drive better environmental outcomes and returns to conservation. For example, contestable processes can help identify operators able to provide services or amenities with the lowest net environmental effects. **Competitive allocation is possible now, but there is ambiguity about when and how this is used** At present, concessions can technically be competitively allocated, but the law constrains when or how this should happen because of a default 'first in, first served' approach to concession applications. Once DOC receives a concession application, it must be processed and cannot be paused or returned to initiate a contestable process instead. DOC has been using operational workarounds to enable contestable processes. when rationing limited supply opportunities like beehives, landing permits for the Subantarctic Islands or water-based transportation in and around Abel Tasman National Park. In these situations, DOC has been able to run contestable processes	Competitive allocation of concessions was the most controversial topic that was consulted on. In general, feedback from concessionaires suggests that competitive allocation may be appropriate in some scenarios, but not in others.
	30. **Note** in addition to the current statutory tests, criteria for choosing one or more appropriate concessionaire(s) in a competitive process may include: a. Recognition of Māori rights and interests, b. Performance, c. Returns to conservation, d. Offerings to visitors, and e. Benefits to the local area.	**Noted**		
	31. **Note** other proposed changes will help enable greater use of competitive allocation in situations described in 28 above: a. Allowing concession applications to be returned to initiate competitive allocation (see recommendation 12), b. Allowing concession applications to be returned if the Crown has other plans	**Noted**		

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	for the land (see recommendation 11.c).		within existing legislative settings after aligning expiry dates for concessions, for example. **We recommend retaining the general discretion to decide when to competitively allocate opportunities** Competitive allocation is desirable in the conservation system where: • There is limited supply, • A market is likely to exist (i.e. demand outstrips supply), and • The benefits of running a competitive allocation process outweigh the costs. The criteria above are three of the four which were consulted on. The criterion that has been removed relates to exclusive use – there are options to take a different approach to some of those types of concession opportunities, such as long-term leases (see recommendation 32 below). The criteria above will guide the Minister's discretion in terms of when to competitively allocate opportunities. Given this discretion exists now and we have successfully run contestable processes, we think the criteria can form the basis for operational policy and guidance, and do not need to be specified in the Conservation Act. **Criteria for choosing one or more concessionaires through a competitive process** We also consulted on criteria for choosing appropriate concessionaires through competitive processes: • Recognition of Treaty rights and interests (note: this has been updated to refer to 'Māori rights and interests'), • Performance, • Returns to conservation, • Offerings to visitors, • Benefits to the local area. These would apply in addition to the existing statutory tests for a concession. Based on interim analysis of submissions, we do not recommend any changes to the criteria at this stage. Similar to the criteria for when to allocate, we do not consider these need to be set in primary legislation. There may also be situations where applications for new significant new opportunities should be dealt with on an exclusive basis, rather than being put to market. DOC's operational approach can draw on Treasury guidance for exclusivity in responding to market-led proposals. **Treaty impact assessment** Treaty principles like active protection do not necessarily require particular concessions to be operated by Māori. Giving effect to Treaty principles does not require that concession opportunities are first offered to iwi, or that iwi have a right of veto over allocation decisions. Conditions on new concessions can be used to address concerns around active protection of taonga (see 39 38), or concessions can be declined. The *Ngāi Tai ki Tāmaki* Supreme Court decision highlighted the need for DOC to consider the economic aspirations of iwi when allocating concessions. The 'first in, first served' allocation of concessions where there is limited supply has attracted criticism for limiting opportunities for Māori to pursue their economic aspirations.	

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			Running a competitive allocation process provides Māori an opportunity to apply, without being a veto or right of first refusal. The proposed criteria for choosing a concessionaire are intended to allow for active consideration – and therefore protection – of Māori rights and interests in allocation decisions. Section 4 requires considering Māori rights and interests, including connections to taonga and economic aspirations, alongside those other criteria. Generally, contestability should not be limited to local iwi to support best use and optimal conservation, recreation and economic outcomes. However, there may be cases where applications are limited to iwi, such as a particularly strong affiliation to the place or taonga. **Treaty settlement implications** Some settlements provide for rights of first refusal in relation to leases over 50 years, including extensions and renewals. This could technically be triggered by an allocation decision. s9(2)(g)(i) [redacted]	
Situations where concessions should not be competitively allocated	32. **Agree** that existing long-term leases will not be competitively allocated at the end of their term in the following circumstances: a. The incumbent's performance is satisfactory, including compliance with terms of their current concessions, and b. The incumbent would be granted a concession based on an assessment against the existing statutory tests, and c. The incumbent accepts terms and conditions proposed by the Minister, which may be different to the terms and conditions for any previous concession for the opportunity.	**Yes / No**	**There are some situations that present challenges for competitive allocation** Contestability raises different considerations for some types of concessions, namely existing long-term leases (i.e. not new opportunities). These generally involve significant private investment in structures and fixed assets on conservation land needed to operate the concession. In these situations, there is a tension between seeking the benefits of competitive allocation, and being able to provide the longer-term certainty needed for a concessionaire to invest in the asset base and their business. Competitive allocation of a long-term lease could result in one party being granted a concession, but needing property belonging to another party (the previous concessionaire) to successfully operate. It is not clear what should or would happen to fixed assets in these situations. Some contracts contain terms about valuation to support asset transfer, but these are variable and hard to enforce. It is also unclear how much marginal benefit can be obtained by requiring a competitive process every 30 years. Competition for the business is best enabled by making it easier for businesses to transfer concessions. On the other hand, an expectation of contestability for these leases would effectively mean the Crown creating a periodic opportunity for private entities to not just contest the lease opportunity, but also have a right to operate and take over the incumbent's business (even if compensation is provided as part of the transfer/contract provisions). We have not been able to identify situations in any other sector where this happens. This is not a theoretical issue: there are live examples of DOC being expected to make existing opportunities available for competitive allocation, raising challenging questions about what is required by section 4 and how to deal with fixed assets and business value in any allocation process. **There are two broad approaches to contestability of existing long-term leases** *Contestable by default* • May drive some performance improvements and innovation, especially if expectations are made clear from outset and monitoring takes place during term of contract. However, may also encourage asset sweating and run-down if a concessionaire considers they will lose their business. • Reduces expectations of incumbency.	Many feel that it is unfair for those who have invested heavily in infrastructure to have their concession competitively allocated, whereas others, including Treaty partners, feel that it is important for Treaty partners to have an opportunity to compete for a concession. Concessionaires are nervous that their establishment of a successful business, and another's aspiration to run that business, is a reason for DOC to consider running a competitive allocation process. Concessionaires with significant investment in infrastructure say that they should have preference in a competitive scenario, whereas say believe that Treaty partners should be given preference depending on the circumstances of the application. A few submitters also raised that if a concession was to be competitively allocated that the incumbent concessionaires should be notified well in advance.
	33. **Note** that recommendation 32 would not: a. Limit the Minister's ability to decline the new concession application, b. Limit the Minister's ability to set new terms and conditions in the new concession contract, or c. Amount to a right of renewal by limiting the potential for a contestable process to take place (i.e. the incumbent would be signing a new contract, not continuing to operate on their previous one).	**Noted**		

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			Only contestable if incumbent's performance is not satisfactory • Drives performance through the possibility of a competitive process should performance be unsatisfactory. • Provides concessionaires with longer investment horizon, and more certainty in terms of business environment. • Can support working towards longer-term conservation outcomes through concession. • Could reduce need to run allocation processes which are expensive (to regulator) and disruptive (to operator and public) where there is weak market interest or real competition. • Ministerial leverage to obtain desired terms and conditions in a new concession is retained (i.e. with the threat of competitive allocation if new terms/conditions are not agreed to). At present, it is not clear what position DOC should take as regulator. Section 4 also introduces additional ambiguity in relation to the role of the Crown in enabling allocation of existing opportunities to iwi. **For existing long-term leases, we recommend restricting the use of competitive allocation** We therefore recommend that for long-term leases, competitive allocation not take place at the end of the term if the following criteria are met: • The incumbent's performance is satisfactory: this includes assessing compliance with the terms of their current concession. • The incumbent would be granted a new concession based on statutory tests. • The incumbent accepts terms and conditions proposed by the Minister, which may be different to the terms and conditions for any previous concession for the opportunity. This provides flexibility for the Crown to update terms to reflect changes to performance and reporting expectations, for example. If these criteria are not met (e.g. an incumbent's performance has not been satisfactory), the lease could be subject to competitive allocation at the end of the term. There may be issues with asset valuation and compensation to work through on a case-by-case basis if/when this happens depending on what current contracts and the circumstances of the lease/ownership provide for, but these risks can only be mitigated to a certain extent for existing concessions. **Section 4 requires consideration of Māori economic aspirations** Giving effect to Treaty principles does not necessarily require a particular concession to be operated by Māori. Incumbent concessionaires will still need to obtain a new concession for long-term leases at the end of a term, an application for which could be declined on the basis of statutory tests. Whether to allow contestability for existing long-term leases depends in part on the Crown's views about the extent of its obligations to give effect to Treaty principles by supporting Māori economic development. For existing long-term leases (which have privately owned assets), the question is whether the Government can or should force the sale of private property and/or businesses to support Māori economic development. There is a strong case for supporting Māori economic aspirations through economic opportunities on public conservation land. The case for supporting Māori economic development through concessions is stronger where there are minimal opportunities for investment and employment other than activities on PCL (e.g. tourism). However, there are multiple ways the Crown can support Māori economic development, on and off conservation land, other than through requiring existing	

Proposal	Options	Decision	Analysis and advice	Initial assessment of submissions
			long-term leases to be contestable at term expiry. On public conservation land, economic aspirations can be supported through new concession opportunities or other arrangements such as partnering with DOC in delivering a service. Greenfield opportunities are particularly appealing as they don't impinge on property rights and are often less capital intensive. The Crown could also provide information to Māori and support Māori in exploring potential greenfield opportunities on conservation land. Additionally, we do not consider it reasonable for assets to be transferred without fair compensation to the owner if concessions are reallocated. This would require the Māori business in question to have the necessary capital to purchase the assets of that business. Therefore, those opportunities are potentially available by Māori already through an alternative avenue via private sales or arrangements rather than the government imposing a transfer of a private business. Provisions to support smoother transition between concessionaires when a business is sold will support this (see recommendation 44). Section 4 does not provide Māori a veto or right of first refusal over concessions. This is supported by the *Ngāi Tai ki Tamaki* decision. Given there are other avenues to support Māori economic development, we recommend existing long-term leases are not competitivity allocated, subject to the above conditions (recommendation 32). Codifying this in legislation will not provide absolute certainty in how section 4 is applied. As long as section 4 remains in place and applies to these decisions as it currently does, the recommended approach is still likely to be tested in the courts given the interpretation of some iwi. **Treaty settlement implications** Some settlements provide for rights of first refusal in relation to leases over 50 years, including extensions and renewals. This could technically be triggered by an allocation decision.s9(2)(g)(i) [redacted]	
Contractual management of concessions				
Regulating concession activity fees	34. **Note** the Conservation Act separately requires activity fees for active concessions to be reviewed every three years and allows for regulations to be made fixing fees and levies in respect of any matter under the Conservation Act.	**Yes / No**	Section 17Y of the Conservation Act requires concessionaires to pay specified rents, fees and royalties to the Minister, which must be reviewed at intervals not exceeding three years. Section 48 of the Conservation Act also allows for regulations to be made fixing fees and levies in respect of any matter under the Act. In practice, rents, fees and royalties are currently set on a case-by-case basis in concession contracts, with reference to a standard DOC price book. Fees may be set at the market value, having regard to any factors that mean the concession is more valuable or less valuable than comparable opportunities. There is an ability to specify fees in regulations, but this has not been used to date. DOC can often engage in prolonged discussions with concessionaires about activity fees, sometimes driven by a desire on the part of concessionaires to minimise their costs. DOC's contract negotiation practices also contribute to this issue, including an inability in practice to walk away from negotiations where market value has been ascertained, but the applicant does not wish to pay that amount. These issues mean a negotiations approach does not work in practice, and that government does not always get the full value from an opportunity. There is also a	Many submitters who responded on this proposal expressed their support, but said that regulated pricing would likely only work for some activities, and not all of them. Those who supported this proposal said that it would be appropriate for commonly applied for concessions rather than unique activities. Those who disagreed with this proposal said that a one-size-fits-all approach may not adequately reflect the varied and complex values associated with different conservation lands and the variation in different types of activities. Some said that regulated pricing should not apply to complex activities with
	35. **Agree** to set pricing for concessions in secondary legislation as follows: a. The Minister may set rents, fees and royalties for concessions in secondary legislation, including discounts and waivers. b. Any such rents, fees and royalties for specific activities must be reviewed periodically.	**Yes / No**		

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	c. Any changes made following a review will apply to all relevant active concessions.		risk that concessionaires are treated unequally if some are successful in arguing for a lower rate while others are not. For active concessions, fees must be reviewed every three years. Fee reviews can be of limited benefit as there is no ability to change the charging method set out in the concession contract when a fee review is undertaken. Some concession fees are based on a percentage of revenue and adjust to inflation and changes in demand, but many concessions include fixed fees that no longer reflect market rates as the concession term progresses. **We recommend regulating concession activity fees in secondary legislation** We recommend combining and strengthening existing legislative provisions about setting activity fees for concessions (i.e. fees during the term of a concession; not application processing fees). Doing this through secondary legislation provides greater clarity in advance of what fees will be for those activities. It provides certainty to operators that they are not being charged more than another operator to undertake the same activity. It also provides a greater degree of certainty in fees than regular rent reviews. The fees set in secondary legislation could be differentiated by activity type, as is currently the case with the DOC price book. They could also contain a mixture of charging methods, e.g. percentage of revenue or flat fees. While the intention is to regulate all concession activity fees this way, there is scope to retain discretion to set fees other ways (e.g. through negotiation based on DOC operational policy and guidance) for any activities that are not included in secondary legislation. **Require periodic review of regulated fees** Periodic review of regulated fees provides the opportunity to ensure that they reflect current market rates. Any changes made to fees following the review will apply to all active concessions. As any changes will apply to all active concessions, we recommend the inclusion of a requirement to consult the public on any proposed changes to fees set in secondary legislation. This provides an opportunity for regulated parties and other stakeholders to engage on proposed fees at the activity level.	significant infrastructure. Others also said that regulated pricing should not limit DOC from charging more for an opportunity.
	36. **Agree** that for any concessions other than those covered by recommendation 35 above: a. The Minister must continue to review fees other than those covered by regulated pricing every three years (status quo), and the outcome of a review could be that no change is needed. b. Any changes made following a rent review will apply to all relevant active concessions. c. The Minister can change the charging method set out in the concession contract when a rent review is undertaken.	**Yes / No**	**For all other concessions, retain the requirement to review fees every three years** While fees for some activities may be suitable for standardisation in secondary legislation, there will remain some activities that require bespoke pricing, for example novel activities. We recommend retaining the ability to undertake rent reviews every three years for activities that do not have regulated fees. We also recommend improving the effectiveness of the rent review process by enabling the Minister to change the charging method set out in the concession contract during a rent review.	Many submitters were supportive of the proposal to remove the requirement to review fee reviews every three years that was presented in the discussion document, though not many submitters engaged with it. General feedback suggested that DOC's approach to concession pricing should be responsive to unforeseen circumstances. Concessionaires believed fees should only be reviewed when it matches industrial timetables, and that reducing the frequency of reviews would provide greater stability for long term projects.

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	37. **Agree** regulated pricing will apply to all active concessions.	**Yes / No**	**Transitional approach for regulated pricing** We recommend that regulated pricing apply to all concessions after the first secondary legislation containing set fees is made, including active concessions. This means the empowering provision will technically have retrospective effect through the ability to affect existing concessions, the same way the requirement to review fees at the moment has retrospective effect. Applying fees to all active concessions will bring concessionaires' fee payments for the same activities in line. It ensures that concessionaires are paying the same fees for the same activity at the same point in time.	This was not covered in detail in the discussion document.
	38. **Note** we do not recommend changing the basis for fees from 'market value' to 'fair return to the Crown'.	**Noted**	**Retain 'market value' as the basis for setting concession fees** Further analysis has identified that market value should be retained as the basis for setting concession fees. Market value is a common methodology for setting fees across many regulatory systems. Addressing the ambiguity associated with what constitutes a market rate for concession fees is best addressed through clearer operational guidance about what market value means for specific activities. DOC is currently sourcing an independent assessment of its approach to pricing concessions fees and the current prices of its fees. This includes assessing how fees reflect market value and ensure a fair value for the department and the public for the use of public conservation land.	There was general support for this proposal, though not many submitters engaged with it. Those in support of the proposal suggest that a more detailed explanation of what is meant by a fair return' is needed so the approach to charging will be transparent and predictable. Those who disagreed did not explain why.
Setting standard terms and conditions for concessions	39. **Agree** the Minister may set binding, standard terms and conditions for concessions.	**Yes / No**	**Enable standard terms and conditions to be set** Section 17X of the Act enables the Minister to set a range of conditions when granting concessions. In addition to conditions about the activity and where it can take place, the Minister can require a bond to be set and place conditions on transfer or sublease of a concession. For concessions that involve fixed infrastructure, 'make good' terms are often included. Concessions may also include the ability for DOC to step in and pause or terminate a concession for non-compliance with conditions. DOC has published 'standard' terms and conditions for its concession activities, but these are not used consistently and in effect function more as default terms. Some conditions are also set on a case-by-case basis to manage unique aspects of certain activities. Negotiating terms and conditions can often prolong concession processing timeframes, increase costs to the applicant and DOC, lead to inconsistent outcomes for conservation and the Crown's management operators who undertake the same activity. Common/standard contracts, along with wider transparency around standard conditions, are critical to improving the effectiveness and efficiency of the conservation regulatory system. This change would clarify the Minister's ability to set standard terms and conditions which are binding on all relevant concessions.	Most submitters agree that standard terms and conditions should be regulated. However, they say that these standard terms and conditions should not limit other terms and conditions from being imposed depending on the circumstances of the application. Some submitters also warned that standard terms and conditions will not be suitable in every situation. They say this is because terms and conditions for large scale operations are too different to those relevant to small scale operations. Others say that there are universal conditions that are required to protect conservation values from the impacts of any concession activity. Some stakeholders oppose a class approach to concessions a case-by-case approach being preferred – concern around blanket bans for activities such as mining. *DOC note: Mining is not authorised by concessions under the Conservation Act, but by access arrangements under the Crown Minerals Act. It would therefore not*
	40. **Note** the vehicle for standard terms and conditions could be secondary legislation, and we will provide further advice on this.	**Noted**		
	41. **Note** while standard terms and conditions will apply to all concessions granted after standard terms and conditions commence, there are choices about whether they should be able to be imposed on existing concessions.	**Noted**		

Proposal	Options	Decision	Analysis and advice	Initial assessment of submissions
			DOC is also working on standardising terms and conditions for other elements of DOC approvals (e.g. wildlife management) to streamline and speed up permitting. **Standard terms and conditions could be set in secondary legislation** We are considering whether standard terms and conditions should be set in secondary legislation, or whether empowering their creation in primary legislation is sufficient. We will provide additional advice on the exact mechanism during drafting. s9(2)(f)(iv) [redacted]	*be possible to use the prohibited category for class decisions to ban mining.*
Increasing term lengths	42. **Agree** to change the maximum possible term by (choose one option): a. Option 1: Allowing a term corresponding to the useful life of fixed assets and structures associated with the concession, if longer than 30 years. b. Option 2: i. Allowing a term corresponding to the useful like of fixed assets and structures associated with the concession, if longer than 30 years, and ii. Allowing a term of up to 60 years where the concession provides critical infrastructure. c. Option 3: Replacing the current maximum terms of 30 years and 60 years in exceptional circumstances with 50 years (not recommended).	**Option 1 / Option 2 / Option 3 / Not agreed**	Section 17Z of the Conservation Act provides for the following maximum terms of concessions. • Permits: 10 years. • Easements: 30 years, or 60 years in exceptional circumstances. • Leases and licences: 30 years, or 60 years in exceptional circumstances. While leases and licences can currently be granted for 60 years under 'exceptional circumstances', this is assessed on a case-by-case basis. The Ombudsman has determined 'exceptional circumstances' to be extremely limited in practice. **There are trade-offs between shorter and longer concession terms** Longer concession terms can provide transparency to operators by setting clearer expectations, offer more certainty to operators, and encourage maintenance and further investment. Frequent renewals of short-term contracts are less efficient. However, shorter terms offer benefits like the ability to foster competition among concessionaires, and preserve flexibility for the regulator over a longer time horizon (e.g. to change the mix of activities in protected areas over time). Shorter terms also mean less reliance on in-term monitoring, and potentially also regulation of contracts, as longer contracts are inherently more complex to account for more variables over the life of a contract. **Options to change the maximum possible term for leases and licences** *Option 1: Allow a term corresponding to the useful life of fixed assets and structures associated with the concession, if longer than 30 years* This option would replace the current 'exceptional circumstances' test. This would allow operators to gain a fair return on their investment in an asset, as well as incentivising future investment in infrastructure. It would only apply where	Many submitters who responded on the proposal to clarify when concessions can be granted for more than 30 years opposed it. They were concerned that it would allow for concessions to be more easily granted for more than 30 years. Some were also concerned that it would make it more difficult to reallocate concessions. Most concessionaires supported clarifying when longer term lengths are possible in exceptional circumstances and expressed that longer concession terms should be awarded to infrastructure heavy operations. Some submitters also said that concessions should not be awarded for more than 10 years.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submissions
			concessionaires own fixed assets and structures associated with the concession. Further operational guidance would likely be needed on how this is assessed. We have used the useful life of fixed assets as a yardstick for this option due to its common use in accounting practices. We will continue to assess during drafting if this is appropriate to ensure term lengths allow for return on investment. *Option 2: Option 1 + a term of up to 60 years for critical infrastructure* In addition to option 1, this would allow longer terms (up to the current maximum term in exceptional circumstances) for concessions that provide critical infrastructure. Concessions that meet the 'critical infrastructure' threshold are likely to include three waters (drinking water, stormwater, wastewater, reservoirs) power (electricity or gas pipelines, hydro dams, windmills), transport infrastructure (roads, bridges, wharves, jetties, rail, airports and land spaces), and telecommunications (cell towers or internet cables). These generally provide long-term public benefits. *Replacing the current maximum terms of 30 years and 60 years in exceptional circumstances with 50 years* This option would amend sections 17Z(1) and (3) to clarify concessions that have significant assets or provide critical infrastructure can be granted a maximum term of 50 years. We do not recommend this option. Our maximum term lengths are already at the higher end when comparing to similar jurisdictions. For example, the United States National Park Service can grant concessions for up to 10 years, or 20 years in limited circumstances. In Victoria, leases can only be granted for up to 21 years. **Treaty impact assessment** Longer terms may specifically shut out Treaty partners from certain concession opportunities, though the potential impact of this on Māori rights and interests would need to be assessed based on the facts of a particular situation. For example, some Treaty partners may view longer terms for themselves as concessionaires as giving better effect to their rights and interests. **Treaty settlements and other arrangements** Some settlements provide for rights of first refusal in relation to leases over 50 years, including extensions and renewals. s9(2)(g)(i) [redacted]	
Requiring financial statements	43. **Agree** to require concessionaires to provide relevant financial statements, instead of the current requirement to provide a complete statement of audited financial accounts at the end of each financial year.	**Yes / No**	**Modernising requirements to provide financial statements** The Conservation Act currently requires anyone who has been granted a concession to provide a complete statement of audited financial accounts for the activity at the end of each financial year. This requirement was established when international accounting standards required most companies to have their financial statements audited. Accounting standards have changed and the requirement to audit statements now applies to a smaller group of company types. Many concessionaires do not have their accounts audited as it is no longer required. Additionally, since the legislation only references 'audited' accounts, DOC needs to rely on terms in contracts to request other financial information from concessionaires, such as management	This was not covered in the discussion document.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submissions
			accounts, balance sheets, or financial modelling. These terms are not consistently included. This change would strengthen DOC's ability to request appropriate financial statements from concessionaires. What is considered 'relevant financial statements' would be a matter for operational policy. This may include audited accounts, management accounts, balance sheets, or financial modelling.	
Smoothing end-of-term transitions	44. **Agree** to enable the Minister to transfer or reassign an entire concession and contract (i.e. liabilities in addition to benefits, conditional transfers), subject to the new owner meeting due diligence requirements, and with an ability for the Crown to update terms and conditions.	**Yes / No**	Uncertainty around concession transfer arrangements and asset valuation can create a chilling effect on investment and innovation. s9(2)(f)(iv) [redacted] In addition, despite remediation clauses, DOC faces risks of stranded assets following the end of a concession, and uncertainty about the potential for a future concession may affect operators' willingness to invest. It is not possible to completely mitigate these risks through law change, but we recommend changes to some settings to smooth transitions between concessionaires. **Making it easier to assign entire concessions, subject to due diligence by DOC** Under section 17ZE of the Conservation Act 1987, a concessionaire can transfer its interest in a concession to another party, if approved by the Minister of Conservation and if it is permitted within the concessionaire's concession document. In addition, section 17X states that the Minister can impose a covenant whereby if a concession is transferred to a new owner, both the outgoing and incoming concessionaires are bound by the same conditions as the original concession. A concession cannot be sold (including as part of business sale, for example), but concessionaires can apply to DOC to transfer their concession to the new owner. In most instances, the sale of a business that includes a concession to operate happens solely between the incoming and outgoing concessionaire, without DOC's involvement until an application is made to transfer the concession. This change would make it easier to assign entire concessions, including liabilities, subject to due diligence by DOC. Due diligence could take the form of a 'fit and proper person' test; demonstrating ability to meet contractual terms and conditions, including in relation to effects management; or maintaining or improving service levels and costs. DOC could also add update terms and conditions for the concession contract as part of this process. This is based on the current ability for the Minister to set conditions on a concession at the point of granting. **Improving the existing approach to asset transitions at the end of a term** Operators are generally expected to remove their infrastructure at the end of the term and to remediate the land unless the Minister permits them to leave the assets behind. Where assets are left behind, these are considered to be surrendered to the Crown. The Crown is not obliged to pay the operator for those assets and is free to re-let or re-licence them to new operators. In some situations, the Crown can be under an obligation to remove infrastructure (e.g. if required to remove redundant infrastructure from protected areas by a statutory planning document). DOC cannot compel the sale of an asset, and it does not own some of the major concession assets on conservation land. In effect, the operator needs to make a	Concessionaires said more security and clarity is required at the end of a concessions term. Concessionaires, particularly those with significant infrastructure, also said that situations where they may be forced to sell assets following a competitive process is undesirable and may be unlawful.
	45. **Note** standard terms and conditions relating to asset valuation and compensation can be set to support smooth transitions between concessionaires following an allocation process, as described in recommendation 39 above.	**Noted**		
	46. **Agree** that if the Minister intends to return concession applications to run an alternate process (for an existing concession opportunity), the current concessionaire can continue operating on an expired concession until their right to reconsideration in relation to the allocation decision expires or is resolved.	**Yes / No**		
	47. **Note** we are exploring whether recommendation 46 above should also apply where the Minister has granted a new concession in situations other than competitive allocation.	**Noted**		

Proposal	Options	Decision	Analysis and advice	Initial assessment of submissions
			return on its investment during the life of the concession. If the concession is cut short, perhaps because of poor performance or a change in the law, the risk lies with the operator. Competitive allocation of concessions may also create the potential for a concession involving fixed assets and structures to change hands. Recommendation 39 above creates the potential to take a more standardised approach to terminal asset valuation (and associated compensation) provisions going forward. For example, standard terms could be set enabling DOC to undertake or require asset valuations, with the ability for parties to dispute this or obtain alternative valuations. These valuations could then form the basis for requiring an incoming concessionaire to compensate an outgoing one for those assets. **Clarifying when concessions can continue in competitive allocation situations** The Conservation Act currently provides for a concession to roll over where the Minister has exercised a power under section 17ZG(2)(a) to initiate a tender process that relates to an application for a concession. We recommend broadening the scope to encompass other allocation processes (i.e. not just tenders) and also provide for the concessionaire to continue operating on an expired concession in the instance that the Minister decides to initiate a competitive process at the application stage. **Clarifying when concessions can continue more generally** There may be benefit in changing when concessions can roll over even beyond the use of competitive allocation. At present, the ability for concessionaires to continue operating on expired terms can incentivise hold out behaviour when discussing new terms with DOC.	

Attachment D: Land exchanges and disposals decisions

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
Land exchanges				
When land can be exchanged	1. **Agree** that the Minister of Conservation will be able to exchange conservation land where they are satisfied it results in a net conservation benefit. 2. **Agree** that the Minister may authorise the payment or receipt by the Crown of money by way of equality of exchange 3. **Agree** that an exchange can include money to be used on improvements to the land acquired by the Crown that are necessary to satisfy the Minister the exchange results in net conservation benefit but that the land offered must already have a reasonable level of conservation value. 4. **Agree** that a net conservation benefit test will incorporate the following elements: a. Assessment of the conservation values of land to be exchanged and land to be acquired, as these values are likely to exist in the foreseeable future; and b. Benefits, (including those expected from the improvements the applicant provides money for) must be assessed to be achievable within a reasonable period of time after the transaction c. Consideration of the ratio of cash to land d. Consideration of the likelihood that conservation value improvements will be achieved. 5. **Agree** that the Minister retains the discretion not to exchange land even if it is assessed to have net conservation benefit (but cannot exchange if it does not meet the net conservation benefit test).	**Yes / No** **Yes / No** **Yes / No** **Yes / No** **Yes / No** **Yes / No** **Yes / No**	**You proposed to make land exchange and disposal settings more flexible** Under the Reserves Act 1977, a reserve can be exchanged for land with the same type of values. The Conservation Act only allows for stewardship areas and marginal strips to be exchanged. The Conservation General Policy only allows these exchanges to take place where there is low or no conservation value, which significantly constrains the circumstances in which exchanges can take place. The discussion document proposed to: • allow eligible areas to be exchanged or disposed of directly without having to revoke their status and reclassify them as stewardship land first, where a net conservation benefit exists. • restrict disposals to situations where land is surplus to conservation needs. • remove the threshold that only land of no or low conservation value can be exchanged, noting the most precious land is off limits. • enable the potential for continued protection for land that is given up, where appropriate, through instruments such as covenants. • enable exchanges in a wider range of circumstances by allowing them to take place where there is an overall net conservation benefit. **We recommend providing greater flexibility for land exchanges** Under the status quo, the Conservation General Policy defines *criteria* under which land may be exchanged (CGP 6(a)), and when land disposals should not be undertaken (CGP 6(d) e.g., land should not be disposed of if it 'is important for the survival of any threatened indigenous species'). Additionally, a *threshold* of 'no or very low conservation value' is used to determine when land disposals (and therefore exchanges) may be considered (CGP 6(c)). These provide a safeguard that is in addition to defined eligible land categories and create a 'bottom line' for the status of land that can be disposed of or exchanged. Under the status quo, exchanges under the Conservation Act must enhance the conservation values of land managed by the Department; there is a 'like for like' requirement for land exchanges under the Reserves Act. However, these provisions have been found to be too constraining. For example, the current threshold of 'no or very low conservation value' has been found to be too restrictive and difficult to apply in practice. While this threshold could be raised to 'moderate, low or no', we think that problems with its application could continue. Many submitters were opposed to enabling land exchanges beyond the status quo. Concerns were around selling off PCL and losing important conservation values in response to political, budget, and commercial pressures. However, we think the case for enabling	The Parliamentary Commissioner for the Environment (PCE) submitted that the net benefit test should be binding, not subject to Ministerial discretion, but approval of the swap would still sit with the Minister. Some support for the proposal enabling DOC to focus resources on most high-value work. Submitters suggested exchanges should be restricted to 'like for like' to avoid trade-offs where comparison of respective values could be problematic. Many submitters consider benefits to species as the core consideration. However, cultural heritage was raised by iwi groups as an important component of the net conservation benefit test. Concessionaires also suggested that tourism value should be a relevant consideration. One submitter also suggested DOC should accept environmental compensation or commitments to other types of conservation work as contributions for an exchange. PCE also submitted that land exchanges should be able to be facilitated by the inclusion of money, but the ratio of cash to land should be limited to a small fraction of the overall value of the transaction. NZCA has changed its previous view that land exchanges should be available for net conservation benefit – they do not support the proposals because of concerns about: • Demonstrating "net conservation benefit" requiring judgments of what is more or less valued such that different decision-makers will reach different views on whether there is a net conservation benefit. • Land being exchanged for a development purpose • Categories of land proposed to be ineligible for disposal are too narrow and will enable high value conservation areas to be disposed of.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
			greater flexibility remains, albeit with appropriate safeguards for conservation. The expansion of land eligible for exchange may reduce the area of land eligible for settlement rights of first refusal (RFR). But iwi may also benefit from more flexible land exchange criteria if they are in a position to exchange land. **Requiring a net conservation benefit from land exchanges will ensure that exchanges do not result in net loss of conservation value** Applying a net conservation benefit test would remove the need for reserves to be exchanges with reserves of the same type. In some situations, an exchange with other land with different conservation values will result in a superior conservation outcome. However, comparing different values is inherently difficult and the assessment is particularly vulnerable to differences of expert opinion. In such situations the 'net conservation benefit' would need to be demonstrated before you authorise an exchange. The extent of net benefit is likely to be context-specific, e.g., a small gain may be important in one region; less so in another. We therefore don't recommend a threshold for the extent of net benefit; this would be a consideration for the decision-maker. **We recommend the Minister retains discretion not to exchange land even if the net conservation benefit test is met** While a decision to allow or decline an exchange should be evidence-based with expert advice, it will necessarily have some subjectivity associated with it. There are also a range of other factors the Minister should be able to consider when deciding whether to exchange such as: • the financial implications for the Crown of the land exchange • whether the consequences of the land exchange would be practical to manage on an ongoing basis, including consideration of whether the land exchange would result in an enclave of private land within a conservation area or a Crown-owned reserve • the legal and financial liabilities, and health and safety risks, for the Crown associated with the land exchange **The net conservation benefit assessment should include a few key aspects** Land that may have minimal conservation value now may still have the potential for significant value in the future (and may have restoration work planned). A practical way to address this potential is to consider the conservation values as they are 'likely to exist in the foreseeable future'. Fast-track allows for an exchange to include money to be used on improvements to the land acquired by the Crown that are necessary to satisfy the Minister the exchange results in net conservation benefit. We consider this approach should also be used here but that the ratio of cash to land must be considered. This allows consideration of a situation whereby low value land is given to the Crown with significant amounts of cash and therefore greater risks involved in getting that land to a conservation-benefit standard. The greater the ratio of cash to land the greater the risk that the benefits	

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
			will not be realised due to potential unforeseen circumstances such as storms, cost overruns, or neighbour issues. To complement this, we recommend that the timeframe within which a net conservation benefit should be able to be demonstrated (at the time of net conservation benefit assessment) should be reasonable. The longer it takes to get the acquired piece of land to meet net conservation benefit standards the greater the risk that it may not ever meet due to wider circumstances. What is 'reasonable' will depend on matters such as the ecosystem type and level of investment needed.	
Broader conservation context	6. **Agree** that areas that already have sound protection mechanisms in place, such as a conservation covenant, may be assessed as not meeting a net conservation benefit test	**Yes / No**	**Assessment of net conservation benefit could consider the broader conservation context** Currently under the Conservation Act and Fast-track Approvals Act, an exchange must enhance the conservation values of land *managed by the Department*. However, this can create undesirable outcomes for the Department and conservation. For example, where land that has a covenant over it is offered for exchange for PCL, the covenanted land already has protection. Exchanging it simply transfers it to be the responsibility of the Crown to manage; there is no additional conservation benefit (and all of the land liabilities then move to the Crown). The net benefit may be low if the broader context is considered, but high if the net benefit to PCL is considered. In a similar vein, if the values of the land to be acquired are protected more widely off PCL within a region, then the net benefit to conservation may be low. However, considering the wider context could be a more complex, resource-intensive test and relies on ready availability of information off PCL. A simple approach would be to provide that areas that already have a strong protection mechanism in place (for example, a conservation covenant), would not meet a net conservation benefit test if part of an exchange.	PCE submitted that the net conservation benefit test for land exchanges should relate to all land protected for conservation purposes in New Zealand – not just public conservation land. PCE submitted that DOC is well placed to undertake assessments of net conservation benefit, but that this should be subject to an independent review by the NZCA, both parties should agree that a clear and obvious net benefit exists for the proposed land exchange to go ahead.
Disposals				
Discretion to dispose of land	7. **Agree** that the Minister of Conservation has the discretion to dispose of conservation land where they determine that the costs or liabilities outweigh the conservation value of holding the land.	**Yes / No**	**You consulted on enabling disposals where land is surplus to conservation needs** A range of submitters have been very concerned with how 'surplus to conservation needs' would be defined and further policy work has shown that we cannot define 'surplus to conservation needs' in a meaningful way. If we use the phrase in the legislation but do not define it, the Courts will end up defining it when it is inevitably legally challenged. This results in significant uncertainty about what could legally be disposed of (and could be very limited). **Instead, we recommend a limited level of discretion for the Minister of Conservation** The alternative is to give the Minister discretion but limit that discretion and ensure a robust process with safeguards as we have proposed below.	The majority of submitters were opposed to the disposal of conservation land that is surplus to conservation needs. There was general concern about selling off PCL and losing important conservation values in perceived response to budget, lobbying and commercial. There was also concern about how the phrase 'surplus to conservation needs' could be interpreted and many felt that it could allow the Minister of the day to determine what they think is surplus to conservation needs. PCE submitted that the disposal of public conservation land should only be considered where it has no or very low conservation value (status quo).

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
Safeguarding conservation values in disposal	8. **Agree** that the Minister of Conservation cannot dispose of land where there are rare or distinctive species or ecosystems 9. **Agree** that the Minister of Conservation must have regard to the following types of factors when considering a disposal: a. How it contributes to maintaining indigenous biodiversity b. Cultural significance c. How representative the ecosystem is in PCL d. How it contributes to natural linkages and functioning of places e. Provision of public access f. Recreational value g. Financial implications for the Crown of the disposal 10. **Agree** to seek Cabinet approval to delegate the more detailed policy decisions on the things the Minister of Conservation must consider.	**Yes / No** **Yes / No** **Yes / No**	**Disposal should not be enabled where there are rare or distinctive species or ecosystems** The presence of rare or distinctive indigenous biodiversity is a minimum threshold for disposal and can be a binary assessment. Conserving rare or distinctive species and ecosystems is core to the role of protected areas in the conservation system. **Eligible land categories will still require assessment for their conservation value** Eligible land categories are likely to still have significant conservation value in many cases, so it is important there is a fulsome assessment of the value of the land proposed for disposal. We propose that the Minister must consider factors related to the value the land plays in conserving indigenous biodiversity, cultural significance, public access and recreational value. In the absence of a clear threshold (beyond rarity and distinctiveness above) this requires the Minister to understand and put thought into whether to dispose given the value it provides for conservation. The requirement would not be to "preserve as far as possible" or to maximise these factors, rather they are relevant considerations.	EDS recommended retaining policy 6(d) of the CGPs as criteria. Policy 6(d) states that land disposal should not be undertaken where the land in question either: • has international, national or regional significance; or • is important for the survival of any threatened indigenous species; or • represents a habitat or ecosystem that is under-represented in public conservation lands or has the potential to be restored to improve the representation of habitats or ecosystems that are under-represented in public conservation lands; or improves the natural functioning or integrity of places; or • improves the amenity or utility of places; or • improves the natural linkages between places; or secures practical walking access to public conservation lands and waters, rivers, lakes or the coast Other feedback was similar to that received for land exchanges.
Process of disposal	11. **Note** that the disposal of reserves under the Reserves Act is a LINZ process 12. **Agree**, in principle, that the process and decision-making on disposal of reserves should align with the disposal of other conservation lands	**Noted** **Yes / No**	**Disposal of former reserves under the Reserves Act is currently a LINZ process** The Minister of Conservation is the decision-maker on disposals under the Conservation Act. However, under the status quo, reserves under the Reserves Act must first have their status revoked by the Minister of Conservation before then being Crown land available for disposal under the Land Act 1948. The disposal process is a LINZ process, and the disposal decision is not DOC's. Further discussion is required with LINZ on whether the revocation and disposals of reserves processes under the Reserves Act should be amended, for example to align with the process for other conservation land. We recommend in-principle agreement to align these processes, subject to further discussion with LINZ.	The discussion document did not ask specific questions about the process for disposing of land.
Proceeds of disposal	**EITHER** 13. **Option 1 (recommended): Agree** that the proceeds from disposal of Conservation Act land go to DOC for conservation land purchase and/or management **OR**	**Yes / No**	**Proceeds of disposal of Conservation Act land go to the Crown account** Currently the proceeds of disposal of reserves go to the Crown account, but if the Minister directs, the money goes to DOC where it is required to be spent on reserve purchase and/or management. However, the proceeds from disposal of Conservation Act land go to the Crown Bank Account (as it is Crown Land) with no diversion mechanism in the Act.	PCE submitted that any money should be ringfenced for two specific purposes: future land acquisitions, and any permanent improvements required to immediately raise the conservation value of the land received in a swap.

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	14. **Option 2: Agree** that the DOC can recover the costs of disposing of Conservation Act land from the proceeds of disposal	**Yes / No**	Preparing land for disposal can be costly (e.g. surveying costs) and in some cases will cost more than what is received in return. We recommend that all proceeds from Conservation Act land are required to be used to purchase and/or manage conservation land. Treasury has previously said this creates an inappropriate incentive to dispose of land, however, this approach may mitigate some submitters' concerns about loss of conservation values due to wider budget pressures. At a minimum we recommend that DOC can recover the costs of selling the land from the proceeds of disposal. Cabinet agreed to this in 2022 for the proceeds of sale of stewardship land.	
Land exchanges and disposals				
Land category exclusions	15. **Agree** that land categories that are not eligible for exchange and disposal are: a. The same categories that are not eligible for exchange under the Fast-track Approvals Act, including national reserves; and b. Ecological areas (under the Conservation Act 1987) c. Any conservation land within a designated World Heritage Area; and d. Any land that has been assessed as having national or international significance. e. Reserves that are not Crown-owned 16. **Agree** that minor and technical boundary adjustments (that require exchange or disposal) may be made to the excluded areas (with the exception of national parks) where the specific areas being disposed of have low or no conservation value	**Yes / No** **Yes / No** **Yes / No** **Yes / No** **Yes / No** **Yes / No**	**We recommend excluding certain categories of land from the exchange and disposal settings** This proposal aims to protect areas of high conservation value when considering land exchanges by disqualifying specific areas from being eligible for consideration. This is the same approach that has been taken under the Fast-track Approvals Act 2024. Excluding these particular categories of land from exchange will safeguard key areas of known high conservation value and provide certainty to the public, while expanding the types of land under the Conservation Act that are able to be exchanged or disposed of beyond the status quo. The categories of land to be excluded could align with those excluded from the Fast-track Approvals Act. However, the purpose of the Fast Track regime is to facilitate the delivery of infrastructure and development projects with significant regional or national benefits, whereas the conservation regime has a primary protective purpose. We therefore recommend adding further categories to ensure the categories of land with the highest conservation values are not eligible for exchange. Agreeing to this list of excluded categories from fast-track would mean the following lands are not eligible for exchange: • National parks • Nature reserves • Scientific reserves • Wilderness areas under the Reserves Act • Wilderness areas or sanctuary areas under the Conservation Act • Wildlife sanctuaries • Ramsar wetlands • Several named individual sites in schedule 4 of the Crown Minerals Act • National reserves We also recommend adding ecological areas to the exclusions. They were recommended for exclusion from the Fast Track regime, but they were ultimately included due to mining interest in those areas which is not relevant to the policy objective of these settings. Ecological areas are of very similar value to scientific reserves which are excluded through Fast Track. Excluding conservation lands within a designated World Heritage Area assists with delivering on the policy intent to exclude areas of	PCE recommended excluding a much broader range of conservation land (e.g. non-stewardship land held under the Conservation Act) from being eligible for exchange. Submitters were generally supportive of the exclusions included in the discussion document although some felt the exclusions did not go far enough.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
			international significance from exchange. Excluding these areas from exchange and disposal will ensure that the international process to designate these areas is not undermined. Adding these areas to the list of exclusions may provide efficiencies, as they are of high enough value that they would not meet the tests to be exchanged and assessing them would be pointless. This would better meet the policy intent than only excluding certain land categories. An example of the type of site that this would safeguard is *Tāne Mahuta* in the Waipoua Forest, which is a conservation park under s 19 of the Conservation Act. 'National or international significance' is an existing criterion under the Conservation General Policy to inform when land disposals should not be undertaken. The assessment here could align with this well-established process. **Minor and technical boundary adjustments for excluded lands** Currently there are situations where minor boundary adjustments are required for even high value categories of land. For example, where surveys show corrections are required or where topography limits the ability to fence the boundary. These situations require exchanges and sometimes require disposals. We recommend that these minor and technical changes are enabled for all excluded areas where the parcels have low or no conservation value. We recommend national parks are an exception to this, as they require an act of Parliament to change boundaries under the status quo, which we do not recommend changing.	
Other exclusions and considerations	17. **Note** that relevant rights of first refusal in Treaty settlements will be upheld 18. **Note** that existing gift-back requirements must be honoured 19. **Agree** that where an exchange or disposal would trigger a gift-back or rights of first refusal obligation, confirmation that the holder of that right or obligation has agreed to the transaction is required. 20. **Agree** that the Minister must consider the impacts on existing concessionaires when making a decision on an exchange or disposal. 21. **Agree** that where land is subject to an existing Treaty settlement negotiation it cannot be disposed or exchanged. 22. **Agree** that when making a decision on an exchange or disposal the Minister must consider whether the land is likely to be subject to a future Treaty settlement negotiation	**Noted** **Noted** **Yes / No** **Yes / No** **Yes / No** **Yes / No**	**Relevant Treaty settlement and gift-back obligations will be upheld** Treaty settlements often apply to public conservation land (PCL) and may include provisions (such as rights of first refusal) relevant to land exchanges. These rights will be upheld in the land exchange processes. There are cases where land has been donated to DOC by members of the public on the condition that it be returned if no longer needed for conservation. If DOC seeks to exchange or dispose of land subject to a gift-back requirement like this, we recommend that the gift-back requirement is honoured or the permission of the holder of that right is required to provide the land to someone else. Otherwise, the decision could be subject to judicial review. Careful consideration should be given where the land proposed for exchange of disposal is subject to concessions or a future Treaty settlement process.	A range of submitters, including Treaty partners, have said that Treaty settlements must be upheld.
Safeguarding areas of high conservation value	23. **Note** that all eligible areas to be considered for exchange and disposal will be assessed for their conservation value to inform whether the land should be exchanged or	**Noted**	**Eligible land categories will still require assessment for their conservation value**	The majority of submitters expressed that it is important to exclude high value conservation areas from being available for exchange or disposal.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
	disposed of and that economic benefits could be considered when deciding who the land should go to 24. **Agree** that the land being given up by the Crown may be subject to continued protection, where appropriate, through instruments such as covenants**.** 25. **Agree** that an assessment of ecosystem services may be considered in assessments of the land to be given up by the Crown, where that information is reasonably available	**Yes / No** **Yes / No**	A conservation values assessment would be required for informing the net conservation benefit from an exchange and the assessment to inform whether land should be disposed of. Assessments of conservation value typically include consideration of the full range of conservation values: • Biodiversity values. • Historical and cultural values (including natural, scenic, archaeological, biological, geological, scientific, educational, or community values that contribute to these, or where settlement redress such as overlay classification recognises very high cultural values to iwi). • Recreational values. • Heritage values. • Freshwater values (including ecosystem values). • Landscape / environmental amenity or interest. • Natural, scenic, archaeological, biological, geological, scientific, educational, or community values. Such assessments are routinely undertaken for exchange, disposal or vesting of public conservation land under the status quo, and there is some guidance on assessment processes. For land exchanges, requiring an assessment of the conservation values of both pieces of land is consistent with the approach taken under the Fast-track Approvals Act, for informing an assessment of net conservation benefit. The best use of the land and economic considerations could be part of the decision on who to provide the land to, noting that once the land is disposed of there is no control over how or whether it is unsold unless covenanted. **Land being given up for exchange or disposal should be able to have continued protection where appropriate** Being able to exchange or dispose of land that has some conservation value means it may be appropriate in some circumstances to exchange land with some continued conservation protection such as a covenant. **Ecosystem services could be a consideration** Conservation land can provide important ecosystem services such as carbon sequestration, land stabilisation, storm protection and water filtration, which could be considered alongside core conservation values in making decisions on whether land should be exchanged or disposed of. Some ecosystem services are explicitly captured by the definition of 'conservation' under the Conservation Act (e.g. recreational enjoyment) or are referred to in relation to conservation lands such as some reserves (e.g. soil conservation) – but may not be captured in an assessment of conservation value if that is based solely on the underpinning values such as biological diversity. We consider that an economic valuation of ecosystem services could be undertaken outside the net conservation benefit test for land exchanges and for disposals.	PCE submitted that the comparison of conservation values of the land should be supplemented with an economic valuation of ecosystem services. They suggest this 'hybrid' approach would work well where there is money involved in an exchange and where comparisons are being made between completely different ecosystems.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
Public notification	26. **Agree** that disposals will be subject to public consultation EITHER 27. **Agree** that land exchanges will be subject to public consultation **OR** 28. **Agree** that land exchanges will NOT be subject to public consultation (status quo) 29. **Agree** that the DG will set a timeframe within which the public must respond, and that timeframe is a period of a minimum of 20 working days	**Yes / No** **Yes / No** **Yes / No** **Yes / No**	**Public notification should be required for disposals** Under the status quo disposals require public notification and we recommend this is retained and will be particularly important given the wider discretion for disposal. **Public notification could be required for exchanges** The current exchange process under the Conservation Act does not require public notification. Proposed changes will increase the flexibility to exchange conservation land so providing stronger legislative engagement requirements would increase transparency and may mitigate concerns from submitters. It also ensures that all relevant information from the local context (including access for recreational or cultural use) is available to inform decision-making. **Timeframes for public notification should be long enough to allow people/communities who might be impacted to submit on a proposal** We consider that exchanges should not be subject to the same time pressures as concessions applications since the effect of the decision is more significant and will be permanent. If timing is crucial and a project is of national or regional significance, the fast-track approvals system provides an avenue. We recommend that the timeframe for public feedback is commensurate with the size and significance of the proposal but that the minimum time provided is 20 working days.	Some submitters, particularly Treaty partners, have shared that public notice and robust consultation is required. There are concerns from the public and Treaty partners about PCL being sold and removed from the conservation estate without the right checks and balances.
Role of Treaty partners	30. **Agree** that feedback on a proposal is sought from relevant Treaty partners for exchanges and disposals (prior to public notification) 31. **Agree** that the legislation should not specify timeframes for Treaty partners to provide feedback and that timeframes should be set by the DG on a case-by-case basis reflective of the individual circumstances 32. **Agree** that feedback from Treaty partners is captured in a report with analysis on Māori rights and interests and that this must be considered by the Minister when making an exchange or disposal decision. 33. **Note** that Treaty partners want first option on land exchanges, but we do not recommend it as this comes with challenges and significant implications for the Treaty settlement process.	**Yes / No** **Yes / No** **Yes / No** **Noted**	**Treaty partner feedback on a proposal should be sought prior to public notification** Although there are some requirements to consult with Treaty partners in the current process in operational policy and internal guidance, we recommend clarifying and strengthening these requirements in the legislation too. Adding in the requirement to seek relevant Treaty partner feedback ahead of others, recognises the inherent relationship Treaty partners have as tangata whenua and may help uncover issues or information that DOC (or the applicant) was not aware of e.g. pre-settlement interest, broader Treaty partner aspirations of land ownership, to help make informed decisions. This would also be consistent with most settlement relationship agreements which include an obligation to engage with iwi on any proposed reserve revocations or disposals. **Timeframes on feedback from relevant Treaty partners should be flexible** We consider that setting a maximum timeframe or hard limit for Treaty partners to engage would not be reasonable and would risk not capturing appropriate feedback to ensure the Minister can make an informed decision. Timeframes proposed for management planning and concessions processes are necessary to make the system more efficient and cost effective. This does not apply to exchanges and disposals, and the effect of an exchange or disposal decision is permanent and therefore warrants longer consultation periods.	Several iwi groups raised concern about the potential for wahi tapu or sites of cultural significance being exchanged or disposed of (and potentially sold to non-iwi). Some felt increased flexibility should only be to return lands to iwi and hapū or that iwi and hapū should have veto power. Treaty partners, some statutory bodies and some ENGO's have highlighted the importance of consultation with mana whenua when exchanging and disposing of land. They say that this is an important step to ensure that Treaty rights and interests are recognised and considered before land is either exchanged or disposed. Several iwi groups raised that areas of cultural significance should be excluded from land exchanges or disposals. There is also concern around what it could mean for iwi/Māori landowner aspirations, especially potential future land ownership opportunities given that current PCL will be swapped out or removed. Pou Taiao National Iwi Chairs Forum did however submit that land should only be exchanged and disposed to hapū and iwi because of the profound implications it would have on tangata whenua if is open to others. Some iwi also raised this.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
	34. **Agree** that Māori do not have a first right of refusal for exchange and disposal except where provided for in Treaty settlement)	**Yes / No**	**The Minister should consider an impact analysis on Māori rights and interests when making a decision on exchange** As tangata whenua, Treaty partners have an inherent connection to the land and a particular interest in PCL. It is important to consider the Treaty of Waitangi partnership/relationship, the application of s 4, settlement touchpoints and to be aware of iwi land ownership and conservation management aspirations in any exchange and disposal process and decision. Feedback from Treaty partners would be captured in a report to the Minister of Conservation on analysis of rights and interests related to a land exchange or disposal decision. The Fast-track Approvals Act invites comments from Treaty partners which is captured in a report to the Minister of Conservation which informs the decision on a land exchange decision. This goes a step further by requiring an analysis of the impacts rather than just the feedback. **We do not recommend giving iwi/hapū first right of refusal except where provided for in Treaty settlement** There will be a range of scenarios where iwi/hapū will not have first right of refusal for exchanges. This means that if conservation land is sold to a private landowner, access and use that is provided for in the Crown conservation land system is lost for iwi/hapū. Some submitters suggested applying an RFR across all PCL. We do not recommend this as we do not consider it a practical option. There would be significant implications for the settlement process, including undermining existing RFR redress and potentially undermining future settlements (i.e. this would create a new standard and would no longer be available as cultural or economic redress). There is also complexity with what an RFR for all of PCL would mean in practice in terms of determining who the RFR would apply to (whānau, hapū, iwi) and in many cases, dealing with complexity from overlapping iwi interests on PCL. We understand you are interested in the feasibility of this option so we will discuss it with Te Tari Whakatau and provide further advice.	
Crown-owned reserves with administering bodies	35. **Agree** to retain the requirement for agreement of the administering body where that body is in place because of a Treaty settlement 36. **Agree** that any other types of administering bodies will be consulted on the proposal to exchange or dispose of land 37. **Agree** that, in an exchange, the administering body for the land being disposed of will not be the default administering body for land received	**Yes / No** **Yes / No** **Yes / No**	**The requirement for agreement of the administering bodies should be consistent with fast-track** The majority of Crown-owned reserves that have administering bodies are managed by local authorities. These types of reserves often provide for specific local values – including recreation, stormwater management, biodiversity protection etc. Other management bodies are commonly community associations (e.g. Scouts or Plunket) and voluntary groups or incorporated societies. For some types of management there are reserve boards or Trust associations and in addition to this some joint entities or PSGE's have been appointed through Treaty Settlement legislation. Under current legislation, the administering body's agreement is required for land exchanges and disposals. This requirement for agreement was removed in fast-track except where the body was in place as a result of a Treaty settlement (to prevent undermining that settlement). Under fast-track the administering body must be	There is no specific feedback relating to this proposal.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
			consulted where their agreement is not required. We understand you would like to take the same approach for these settings. Consulting the administering body ensures the Minister can assess the impact of the exchange on that body. **Management arrangements for the new land should be assessed on a case-by-case basis** Under current legislation, administering bodies automatically become the administering body for any replacement reserve in an exchange – this reflects that you can only exchange reserve of the same type. Land received in an exchange should instead be assessed on a case-by-case basis in terms of management arrangements. Land received in an exchange might be located in a completely different area and be of a different land type than that of the outgoing land. This will require consideration of different protections and management arrangements.	

Attachment E: Amenities areas decisions

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
Purpose of amenities area	1. **Agree** that the purpose of an amenities area is to provide for the development and operation of recreational and public amenities and related services appropriate for the public use and enjoyment of public conservation land (PCL). 2. **Agree** that amenities areas could be used to manage excess visitor demand or induce new demand by: a. Creating a specified zone for the purposes of tourism and visitor-related development; b. Applying rules to the zone that are more enabling of tourism and recreation and removing restrictions that would apply to other PCL; and c. Enabling a spatial planning approach to development within that zone.	**Yes / No** **Yes / No**	**Amenities areas are a tool for managing visitor pressure and enhancing the economic productivity of public conservation land (PCL)** The National Parks Act and the Conservation Act have the purpose of protecting PCL while also enabling recreation and tourism where it is consistent with this protection. These purposes can be in tension due to the impacts of visitor use on PCL. The amenities area (section 15 of the National Parks Act) provision is part of the existing toolkit for managing these dual purposes. The key effect of declaring land to be an amenities area is that it changes "the purpose for which the land is held". That has implications for how the land is managed, particularly what activities and infrastructure are allowed. Declaring an amenities area enables a greater scale of development within the defined area than is normally allowed in a national park, stewardship area or reserve. This is sometimes needed to provide facilities and services that meet visitor needs and manage the impacts those visitors have. Densification can also have other positive effects by creating 'gateways' to an area where visitors can be provided information and checked (e.g. not bringing bikes where they shouldn't). They may also be a useful point to charge and collect access charges if such charges are enabled in legislation. This provision has been rarely used. There is one amenities area in Aoraki Mount Cook village and three in Tongariro National Park for Tūroa ski field, Whakapapa ski field, and Whakapapa Village. The areas contain small villages and developments that support some of New Zealand's most significant visitor areas. Other amenities may include toilets, visitor centres, accommodation, carparks, restaurants and cafes, and other infrastructure necessary to support visitors and recreation. While amenities areas have been rarely used, our view is that their general purpose as areas where visitor services and facilities are allowed and encouraged remains fit-for-purpose. Amenities areas have traditionally been established where demand for visitor services and facilities already exists (i.e. ski fields). While amenities areas can be a useful reactive tool for managing visitor demand, there is also an opportunity to use them proactively to encourage visitation and economic activity in a structured and deliberate way. We recommend that enabling amenities areas is not limited to places where visitor pressures are already evident. This will support improving the economic productivity of public conservation land and enable visitor pressures to be dispersed by enhancing alternative destinations.	Just over half of the submissions that have been analysed have expressed support. Feedback suggests that a clear purpose and criteria for users is required. Concessionaires say that the proposal strikes the right balance between protecting nature and allowing for tourism. Those who oppose the proposal are concerned that development interests could outweigh conservation values. Statutory bodies and ENGOs have expressed concern about removing the recommendation role of the NZCA as it could allow the Minister of the day to establish an amenities tool in an inappropriate place. Treaty partners have also said that the proposal presented in the discussion document did not make the role of mana whenua clear when considering and making decisions on future amenities areas. Submitters generally agree that a statutory test is required before an amenities area can be progressed. Many submitters have expressed that environmental protection should have priority over tourism growth and revenue gathering. Concessionaires have added that potential for economic benefits, the level of visitor traffic, and the benefits to local communities should also be considered.

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
Where amenities areas can be established	3. **Agree** that amenities areas can be established in the following categories of land: *National Parks Act 1980* a. National Park *Conservation Act 1987* b. Conservation Park c. Stewardship area *Reserves Act 1977* d. Recreation reserve e. Historic reserve f. Scenic reserve g. Government or local purpose reserve 4. **Note** that we do not recommend enabling amenities areas in: a. Nature reserves or scientific reserves b. National reserves c. Ecological areas d. Wildlife sanctuaries, refuges or management reserves e. Wilderness areas 5. **Agree** that the Minister will be delegated decisions on whether existing “amenity areas” under section 23A of the Conservation Act should become proposed “amenities areas” or be renamed to avoid confusion.	**Yes / No** **Noted** **Yes / No**	**We recommend enabling amenities areas across categories of public conservation land** Amenities areas that are more enabling of development may currently only be used in national parks. This inhibits the government’s ability to strategically manage pressures and realise recreation and economic benefits from increases in visitor volumes on PCL outside national parks. We recommend enabling amenities areas to be established beyond national parks, in categories of land that are generally consistent with tourism and/or public visitation. That includes categories of land held under the Conservation Act and Reserves Act. We do not recommend enabling amenities areas in ecological areas, nature and scientific reserves, wilderness areas, and wildlife sanctuaries, refuges or management reserves. These categories generally discourage tourism and public visitation to preserve natural landscapes, ecosystems and/or species. Enabling amenities areas across a wider amount of PCL could improve the government’s ability to facilitate recreation and tourism and its associated economic benefits, while also managing its pressures on these types of PCL. It is also likely to create a more fit for purpose, cohesive, responsive and well-integrated framework, aligning the conservation legislative frameworks. **Transitioning to the new system – existing Conservation Act amenity areas** While there is a section titled “Amenities areas” in the Conservation Act (section 23A), this section does not provide for increased development of amenities in the same way as section 15 of the National Parks Act. We recommend you seek Cabinet agreement to be delegated decisions on whether these become amenities areas with the purpose proposed above. If their purpose is to be retained, we recommend section 23A amenity areas are renamed to avoid confusion.	
Protecting conservation values – statutory test for establishing an amenities area	6. **Agree** to a statutory test to establish an amenities area, where reasonably necessary to enable tourism and recreational enjoyment of the relevant PCL, while protecting and preserving the values of the wider area. 7. **Agree** that the criteria for the statutory test include the following criteria: a. the location is already, or is predicted to be, an area of high visitor use b. the amenities area is in the practical location where it would have the least effect on conservation and cultural values c. the proposed size of the amenities area is no larger than reasonably	**Yes / No** **Yes / No**	**A statutory test in the form of criteria will provide for the protection of conservation and cultural values** Under this proposal, the statutory test would set a threshold, requiring that an amenities area may only be established where reasonably necessary to enable tourism and recreational enjoyment of the relevant PCL, while protecting and preserving the values of the wider area. It would set more specific criteria that must be met. This statutory test and process would ensure protection of PCL and that the use of amenities areas is targeted to areas under pressure that need a new approach. The statutory test, and requirements for public consultation on new amenities area proposals, can mitigate risks around undue development that would threaten ecological and other values. These considerations would be informed by consultation with iwi and public submissions.	

Proposal	Options	Decision	Analysis and advice	Initial assessment of submitter views
	necessary to provide for facilities and services d. development of the amenities area would not threaten the persistence of the values that underpin the purpose for which the wider area is protected		**Treaty impact analysis** The Minister's decision to establish an amenities area would have to give effect to the principle of active protection. The criteria provide for the application of that principle in needing to locate the amenities area where it would have the least negative effect, the necessary size and scale of the amenities area, and in ensuring that the amenities area would not threaten the persistence of the values for which the wider area is protected. In the context of amenity areas, this includes the need to ensure that taonga and connection to whenua are actively protected. The Minister's decision would be informed through the process outlined below, including the requirement for early consultation with iwi.	
Process for establishing an amenities area	8. **Agree** that the Minister must consult relevant iwi on an amenities area proposal prior to public notification. 9. **Agree** that the Minister must publicly notify an intent to create an amenities area, and provide a minimum of 40 working days for comment (status quo for land classification decisions). 10. **Agree** to remove the requirement that amenities areas can only be established in national parks on the recommendation of the NZCA.	**Yes / No** **Yes / No** **Yes / No**	**The requirement for NZCA to recommend an amenities area should be removed as the proposed statutory test provides for a safeguard of conservation values** Section 15 of the National Parks Act requires that for an amenities area to be established, the New Zealand Conservation Authority (NZCA) must recommend its establishment to the Minister. This existing process fragments decision making in the regulatory system by splitting it across the Minister and NZCA. While this requirement is intended to provide a check and balance on the Minister's power to declare these areas, it makes it difficult for government to administer this provision. This can make it difficult to respond in a strategic and timely manner to manage visitor pressures and realise benefits from increases in visitor volumes in national parks by enabling amenities where necessary; with Milford Sound Piopiotahi serving as an example of this. Submissions highlighted that there is potential public concern around removal of a check and balance by removing the NZCA's recommendation role. The proposed safeguard, in the form of the statutory test, will address the problem of fragmentation, increase responsiveness and cohesion of decision making and align with corresponding reform proposals to shift the NZCA into an advisory role. Addressing fragmentation also better allows the government to respond strategically and promptly to increasing visitor volumes through zoning to enable adequate amenities in appropriate locations for recreation purposes. **Treaty impact analysis** The proposed process provides for informed decision-making through the requirement to consult with relevant iwi. Requiring this consultation before public notification would be more reflective of iwi aspirations for engagement on conservation matters. Removing the role of the NZCA in recommending the establishment of amenities areas may impact Ngāi Tahu. Membership of the NZCA includes 1 person nominated by Te Rūnanga o Ngāi Tahu (as established by section 6 of Te Runanga o Ngai Tahu Act 1996). Discussions over the next few weeks with PSGEs will further inform this policy.	
Relationship between amenities areas and area plans	11. **Agree** that, to establish an amenities area, its geographical boundaries, objectives and policies will be included as a chapter within an area plan. 12. **Agree** that, where there is inconsistency, any policies or rules within the amenities area chapter will override the policies and rules set by the broader area plan, when applied within the amenities area.	**Yes / No** **Yes / No**	**Including an amenities area chapter within the relevant area plan ensures that only one planning document applies to a given area, that the broader connections between the region and the amenities area are reflected, and that all relevant regional objectives and policies are located in one place.** An amenities area means that the area will be managed for the purpose of providing for visitor facilities and public use. This is very likely to require a different set of rules and policies than those prescribed by the broader area plan that the amenities area is to sit within. As such, we recommend that the	A lack of detail in the discussion document has left submitters questioning how the Minister of the day and DOC will make use of the proposed amenities tool. Submitters have generally suggested that a strategic approach is required that considers high traffic areas and the distribution of visitors.

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	13. **Note** that this would not require triggering a review of the affected area plan.	**Noted**	amenities area has its own chapter within the relevant area plan. This means that: • There is one place to go to, to understand the rules and policies that apply within the amenities area; • The overall area plan document can articulate the broader objectives for the region, and the role of the amenities area within that; and • The process to establish an amenities area would not involve triggering a review of the relevant area plan, even though it would lead to the creation of a new chapter within the relevant area plan (the amenities area establishment process would itself include appropriate Treaty Partner and public consultation). **Treaty impact analysis** As highlighted earlier, the establishment of an amenities area will require appropriate consultation with relevant Treaty Partners before public notification.	