

Cabinet Paper Talking Points: Further policy decisions for the Conservation Acts (Land Management) Amendment Bill

To	Minister of Conservation		
Committee	Cabinet Economic Policy Committee (ECO)		
Date of meeting	17 September 2025		
Reference	25-K-0029	DocCM	DOC-10438257
Minister lead	Hon Penk for Minister of Conservation		
DOC Contacts	Peter Galvin, Deputy Director-General, Policy – s9(2)(a) Sam Thomas, Director Policy – s9(2)(a)		
Security Level	In Confidence		

Purpose – Te aronga

1. You have a paper being considered by the Cabinet Economic Policy Committee (ECO) on 17 September 2025 titled *Further policy decisions for the Conservation Acts (Land Management) Amendment Bill*. Given you will be on leave, Hon Penk will be speaking to the paper at ECO on your behalf.
2. This memo provides a brief outline of the key points in your Cabinet paper, suggested talking points and Q&As (see appendices) to support Hon Penk's attendance at ECO.

Proposals

3. In June 2025, Cabinet made decisions to modernise the management of conservation land (CAB-25-MIN-0213.01 refers). This paper reports back to Cabinet on a number of matters so that drafting of the Bill can continue.
4. Cabinet invited you to report back on the following policy topics:
 - Upholding the intent of Treaty settlements and Takutai Moana rights: Approximately 90% of relevant Treaty settlement commitments can operate as intended with minor consequential amendments. You are proposing the Bill provides a mechanism to translate those types of redress into the new environment. (). For the remaining more complex redress, you are seeking agreement to “temporary arrangements” to preserve redress pending further engagement with post-settlement governance entities (**PSGEs**).
 - Financial contributions to Treaty partners for their role in statutory processes: You are proposing to provide for financial contributions to Treaty partners for consultation on concession applications to support them to efficiently participate in line with new statutory timeframes.
 - Competitive allocation of leases and licences with significant private capital investment: You are proposing that, for major tourism concessions with significant private capital investment, the Minister of Conservation must notify the incumbent at least five years before term expiry if they intend to run a contestable process to

allocate the concession upon expiry. If not, there will be a protected window for incumbents to be able to apply for a new concession before any other applicants.

5. You are also providing an update on decisions you have made about amending the purpose statement of the Conservation Act 1987, as directed by Cabinet. You have decided on a range of targeted changes, which ensure the National Conservation Policy Statement and area plans can enable greater economic development on conservation land, and which do not require a new explicit purpose statement.

Talking points are attached to this memo

6. We recommend highlighting the following points:

- **You seek decisions on three areas you committed to reporting back on.** These are how to uphold Treaty settlements and Takutai Moana rights, a mechanism for providing financial contributions to Treaty partners, and contestability of concessions with significant private investment.
- **You are proposing that, for approximately 90% of relevant Treaty settlement commitments that can operate as intended with minor consequential amendments, the Bill translate this redress into the new environment().** For example, an overlay classification that refers currently to a conservation management strategy will now refer to an area plan. For the remaining more complex redress, more time is required to engage further post-settlement governance entities (PSGEs).
- **You are therefore seeking agreement to placeholders to preserve complex redress pending further engagement.** For example, some settlements give PSGEs roles in drafting and approving conservation management strategies, but these will no longer exist in the new system. More time is needed to work with PSGEs to provide for that redress in a manner that upholds the original intent.
- **You are also proposing that a financial contribution to Treaty partners, funded by a charge on concession applicants, will support them to participate in a timely and effective way in concessions processes.** You have agreed to charge applicants as the economic benefits of obtaining a concession accrue primarily to them, and Treaty partner consultation supports informed and durable decision-making. s9(2)(f)(i)
[REDACTED]
- **You propose an approach to contestability for major tourism concessions.** This would give incumbents at least five years' notice of a contestable process before term expiry. If a contestable process isn't notified before this point, the incumbent would then have a protected window to apply for a new concession ahead of any other applicant.
- **You are providing an update on decisions you have made regarding Cabinet's direction to amend the purpose of the Conservation Act.** You have decided to make targeted changes to ensure the new planning system enables greater economic development on conservation land. A new explicit purpose statement is not required.
- Any approach that is a significant departure from the current purpose (e.g. a new overarching purpose statement, changing conservation as the primary purpose or balancing conservation and development outcomes) introduces significant risks without guarantee of effectiveness. The scale of drafting required would also mean it cannot be delivered during the current parliamentary term.

Next steps – Ngā tāwhaitanga

7. Your Cabinet paper will be considered by ECO on 17 September 2025. DOC officials will be available to support Hon Penk's attendance and answer questions as required.
8. The Cabinet paper reflects the new timing for the Bill, given there is no House time available for introduction this year. It reflects your desire to introduce the Bill as soon as possible, to be enacted before the end of the current parliamentary term.
9. Given House time is currently oversubscribed, Parliamentary Counsel Office (**PCO**) have advised that your office needs to book in time for first reading and other House stages with the Leader of the House's office. This will then inform the pace of PCO's drafting work on the Bill.
10. In the coming weeks:
 - You will receive briefings seeking further policy decisions required for Bill drafting, as well as the National Conservation Policy Statement (**NCPS**).
 - You are planning to seek Cabinet policy approval to begin drafting the first NCPS later this year.

ENDS

Appendix 1: Talking points

Reporting back on matters for conservation land management reform

- In June, Cabinet made policy decisions to modernise the management of conservation land.
- Today, I seek decisions on a few matters where I committed to reporting back, so that drafting of legislation can continue. These matters are:
 - How the reforms will uphold the intent of Treaty settlements and Takutai Moana rights,
 - A mechanism for financial contributions to Treaty partners for their role in statutory processes, and
 - Contestability of concessions with significant private capital investment.
- I also have an update on decisions I have made to amend the purpose of the Conservation Act, so the new policy statement and area plans can be more enabling of economic development.

Upholding Treaty settlements and Takutai Moana rights

- The reforms we agreed in June interact with about 700 Treaty settlement commitments in the conservation portfolio.
- DOC has been engaging with post-settlement governance entities (PSGEs) over the last year on upholding the intent of that redress.
- The approach I propose today is in two parts.
- First, about 90% of those 700 relevant commitments can be upheld in the new system with relatively minor consequential changes.
 - I seek agreement to those changes today. They can then be included in the Bill at introduction.

- PSGEs will have views on whether these arrangements are sufficient. I expect further fine-tuning through select committee if needed.
- This will leave around 45 more complex commitments. These are more affected by the reforms.
 - For these, I propose the introduction version of the Bill include placeholders – effectively, temporary arrangements demonstrating the Crown’s intent to uphold redress.
 - These would need to be replaced with more specific drafting by enactment.
 - I am confident that DOC can develop solutions alongside the relevant PSGEs over the coming months.
- DOC will advise me on the outcome of targeted and intense engagement with those PSGEs on how to provide for complex redress in the new system. That process of engagement would benefit from:
 - Cabinet “agreeing in principle” to carry across the key intent of redress to co-develop or co-approve statutory plans and the effect of legal weightings.
 - Including placeholders that can be updated prior to enactment *[see Q&A if queried]*.
- In terms of Takutai Moana rights, I propose:
 - Some minor tweaks to enable the Takutai Moana Act to operate as intended in the new system.
 - Direct engagement with Ngā Hapū o Ngāti Porou ahead of any decisions about that legislation.
- I will write to all PSGEs, groups in negotiations and relevant Takutai Moana groups to inform them of Cabinet’s decisions and the process to come.

A mechanism for financial contributions to Treaty partners

- Cabinet also invited me to report back on an appropriate mechanism for financial contributions to Treaty partners for efficient engagement as part of statutory processes.
- In June, we agreed a statutory timeframe of 20 working days (or 4 weeks) for Treaty partner consultation on concession applications, to speed up processing.
- There will also be significantly fewer concessions requiring individual processing in the new system. The National Conservation Policy Statement (**NCPS**) will remove straightforward applications from the system by either exempting them from needing a concession, or approving them in advance.
- There is a statutory obligation on the Minister of Conservation and DOC to give effect to Treaty principles when making decisions on concessions. Consultation with Treaty partners provides valuable information on Treaty rights and interests, and supports informed and durable decision-making.
- Even though there will be fewer concession applications requiring individual processing and therefore Treaty partner consultation, the effectiveness of new statutory timeframes may be undermined without sufficient support for their involvement. Therefore, I propose a charge on concessionaires to fund a financial contribution to Treaty partners to enable them to participate in a timely and effective way in these statutory processes.
- Charging concessionaires is appropriate as the economic benefits of obtaining a concession – including faster and easier decisions through the improved system – accrue primarily to the applicant. I do not expect that the contributions will completely cover Treaty partners' costs. Some support is likely to lead to better quality consultation – rather than Treaty partners having to take a default position of objection to an application, due to an inability to meaningfully engage.
- I will come back to Cabinet once the empowering provisions are in place for further decisions on the specific level of any charges.

- DOC cannot fund these costs directly without reprioritising away from other conservation priorities, given baseline reductions and growing cost pressures. DOC will also need to implement these reforms from baselines.
- The approach proposed in the paper is also consistent with what happens in the fast-track scheme, where consultation with Treaty partners is expected, and needs to occur within specified timeframes.
- I will come back to Cabinet once the empowering provisions are in place for further decisions on the specific level of any charges.

Contestability of concessions with significant private capital investment

- In June, Cabinet made a range of decisions to make it easier to contestably allocate concessions. At the time, I was invited to report back on any circumstances in which concessions with significant private capital investment should be contestable.
- For most concessions, contestability is not problematic. However, for major tourism concessions with significant private capital investment, a concession changing hands after a contestable process raises questions about the incumbent's fixed assets and structures, which the new operator may require to operate.
- The risk of losing a concession at the end of the term may, in some circumstances, deter concessionaires from investing in fixed assets on conservation land. This would run counter to the Government's wider economic objectives.
- My proposal is designed to strike a balance between realising the benefits of competition and encouraging long-term investment in visitor experience infrastructure.
- For major tourism concessions, I propose:
 - The Minister must notify the incumbent at least five years before expiry if a contestable process will be run to allocate the concession upon expiry.

- If not, there will be a protected window during which only the incumbent can apply for a new concession, before any other applicants.
- This is a light-touch intervention designed to respond to reasonable concerns raised by concessionaires, while still realising the benefits of competition, driving economic growth and giving the Crown the flexibility it needs to manage conservation land efficiently.

Changing the purpose statement of the Conservation Act 1987

- In June, Cabinet directed me to amend the purpose statement for the Conservation Act to ensure the new National Conservation Policy Statement (**NCPS**) and area plans can enable greater economic development on conservation land.
- There is no single purpose section in the Conservation Act. Instead, the purpose is implicitly reflected through its long title and specific provisions. Together, these create a clear and strong conservation purpose. There are also relevant provisions in other conservation laws, like the National Parks Act and the Reserves Act.
- I am making targeted changes to parts of the Conservation Act that form the existing 'purpose architecture'. These changes will ensure faster, clearer and more consistent decisions on concessions, and remove the rigidity in existing plans.
- I do not see a strong case for a fundamental shift away from conservation as the primary purpose of the system:
 - Concession applications are typically approved. Between 1 January 2025 and 30 June 2025, of the 1,395 decisions made, only 2% were declined.
 - Mining projects, projects of regional or national significance, and wildlife authorisations are all dealt with under separate legislation that is out of scope of this reform.

s9(2)(h)

Appendix 2: Questions and answers

Question 1: What are the “temporary arrangements” the Bill will include relating to Treaty settlements?

Answer

A “temporary arrangement” is effectively a placeholder for more specific drafting setting out how complex redress will operate in the new conservation planning system. This will convey the Crown’s intent to uphold the intent of redress. However, any “temporary arrangement” will likely also be very general, and therefore need to be replaced before enactment with more specific drafting.

“Temporary arrangements” will require careful drafting but would provide assurance to PSGEs on the intent of the Crown to uphold settlements. For example, this could involve stating that Treaty settlement redress that is not amended through the Bill will be discussed with the relevant PSGEs before enactment of the legislation.

When preparing this Cabinet paper, Ministers and agencies were consulted on including actual “placeholders” but s9(2)(h)

[REDACTED]

The Bill’s explanatory note will be clear that “temporary arrangements” are effective “placeholders” that will be updated with more specific drafting prior to enactment.

Question 2: What specific changes are you making to the purpose of the Conservation Act?

Answer

Subject to further advice from the Parliamentary Counsel Office and Crown Law on specific drafting, I am making the following changes:

	• Adding new purpose provisions to Parts 3A (management planning) and 3B (concessions) of the Conservation Act. These would clearly state the National Conservation Policy Statement (NCPS) and area plans can include policies for the <u>use and development</u> of conservation land. • Explicitly stating that one of the functions of the NCPS and area plans is to provide additional detail about the relationship between various activities and the purposes for which different types of land are held. This ensures the powers of the NCPS and area plans are linked to concession decision-making. • Changing “the purposes for which the land concerned is held” from something that a concession cannot be inconsistent with to a mandatory consideration. This aligns with the approach taken in the Fast-track Approvals Act and the Crown Minerals Act and provides a degree of discretion for decision-makers.
<i>Question 3: Will the purpose changes increase adverse effects on and loss of historic resources managed within the conservation estate?</i>	
Answer	We already approve most activities that are applied for on conservation land. Between 1 January 2025 and 30 June 2025, of the 1,395 concession decisions made, only 2% were declined. The change will provide the Minister of Conservation with more discretion when deciding whether to grant concessions, including the conditions that are set. This is the same level of discretion that the Minister has when deciding on mining access arrangements on conservation land. The Minister must still consider measures to avoid, remedy or mitigate adverse effects when deciding whether to grant a concession. However, the point of these changes is to enable greater development which may come with greater

	adverse effects on conservation values, including historic resources.
Question 4: Will a charge for Treaty partner consultation increase costs on concessionaires compared to the status quo?	
Answer	Yes – this will increase the cost of applying for concessions. However, DOC has historically under-recovered concession costs, meaning some costs are currently borne by the taxpayer rather than those who use and benefit from the system. In addition: • Our decision to exempt and pre-approve certain activities will reduce the number of applications that require individual processing by 30 to 40%, significantly reducing the cost of those concessions. • Treaty partners are not consulted on every application. Changes we are making to clarify the Treaty clause in the Conservation Act and other process improvements will streamline this process. • New timeframes for decisions (including on Treaty partner consultation) will speed up processing, and could offset any impact of the additional charge. DOC is also working to improve cost recovery for concessions more generally, so that those who benefit from concessions bear the costs associated with them.
Question 5: Why should concessionaires be expected to fund Treaty partner consultation? If the Crown feels obliged to consult with its Treaty partners, shouldn't the Crown compensate them for their time?	
Answer	The concession system is user pays. This approach is appropriate as the economic benefits of a concession accrue primarily to the applicant. DOC has a statutory obligation to

	give effect to Treaty principles when making concession decisions, but concessionaires ultimately benefit from these decisions, which requires meaningful Treaty partner engagement. A charge on concessionaires for this would be consistent with the rest of the cost recovery regime for concession processing and management. I do not expect that this charge will completely cover Treaty partners' costs, but some support is likely to lead to better quality consultation. The alternative is Treaty partners having to take a default position of objection due to a lack of capacity to meaningfully engage.
<i>Question 6: How many concessions will be subject to the protected window for incumbents?</i>	
Answer	The exact definition of 'major tourism concessions' would be set in secondary legislation, and decided at a future date. DOC's indicative analysis is there are around 30 concessions that: • Are for a lease or licence granting exclusive occupation of land, and • Relate to tourism activities, and • Involve annual activity fees payable to DOC of more than \$100,000. A subset of these would involve significant privately owned structures or other fixed assets, which would likely also be a criterion. This change would only apply to a small proportion of all concessions. However, the concessions to which it applies represent substantial businesses that are significant to local or regional economies.

s9(2)(h)

s9(2)(h)

Question 8: Why not just require competitive allocation of all high-value tourism concessions? Wouldn't that maximise benefits for the Crown?

Answer

Requiring in law that a competitive process be run for every high-value tourism concession *may* maximise gross returns to conservation from these concessions. However, if a new concessionaire wanted to do something different, the costs of any infrastructure decommissioning would impose costs to conservation.

Routinely running competitive processes would also impose considerable costs on DOC, which would need to be funded. It would provide neither certainty for investment, nor address the other concerns of businesses who ultimately make decisions about whether to invest on conservation land.

	My proposal is a measured approach that will allow the Crown to realise the benefits of competition. It encourages good quality performance through the possibility of running a competitive process, without necessarily having to run a contestable process for every high-value concession.
<i>Question 9: The competitive allocation proposal requires DOC to have visibility of the fixed assets concessionaires own on conservation land. Will the Bill require DOC to establish a fixed asset register for all privately-owned capital assets on conservation land?</i>	
Answer	I do not propose including such a requirement in the Bill. This would be overly prescriptive, for a matter that can be dealt with operationally as part of implementation of the Bill.

Appendix 3: Copy of recommendations

The Minister of Conservation recommends that the Committee:

- 1 **note** a Bill is being drafted to give effect to Cabinet decisions to modernise conservation land management [CAB-25-MIN-0213.01];
- 2 **note** in June 2025, Cabinet invited the Minister of Conservation to report back on a range of matters, including those described in this paper [CAB-25-MIN-0213.01]:

Upholding Treaty settlements

- 3 **agree** to uphold redress relating to deeds of recognition, overlay classifications, decision-making frameworks, cultural materials and consultation on exchanges and disposals as described in this paper;
- 4 **agree** in principle to carry across to the new system:
 - 1.1 co-approval and/or co-development roles for PSGEs directly provided through Treaty settlements in relation to statutory planning documents; and
 - 1.2 the substantive effect of legal weightings provided through settlement redress;
- 5 **agree** the Bill will include temporary arrangements preserving redress commitments to enable further engagement on about 45 more complex commitments prior to enactment;
- 6 **delegate** authority to the Minister of Conservation to make final decisions, in consultation with the Minister for Māori Development, to replace drafting relating to temporary arrangements for complex redress;
- 7 **note** the Minister of Conservation will consult the Minister for Treaty of Waitangi Negotiations on outcomes of talks with groups in negotiation before making decisions;

Upholding Takutai Moana rights

- 8 **agree** to uphold the requirement for a CMT planning document to be considered by replacing references to conservation management strategies with area plans;
- 9 **agree** to preserve the requirement for the CMT group to have 40 working days to give or decline permission for a concession application to be considered;
- 10 **agree** the Bill will include temporary arrangements in relation to the Ngā Hapū o Ngāti Porou arrangements to enable engagement with Ngā Hapū o Ngāti Porou before enactment;

A mechanism for financial contributions to Treaty partners

- 11 **agree** to enable disbursing funds to Treaty partners collected from concession applicants to help meet costs of statutory consultation on those applications;

Contestability of leases and licences with significant private capital investment

- 12 **agree** incumbent operators for major tourism concessions involving significant private capital investment will have a protected window from 2 to 5 years before expiry of the current concession to apply for a new concession;

Other matters

- 13 **note** the approach taken by the Minister of Conservation to amend the purpose of the Conservation Act 1987 through a range of targeted changes, which ensure the National Conservation Policy Statement and area plans can enable greater economic development on conservation land, and which do not require a new explicit purpose statement;

Drafting of legislation

- 14 **invite** the Minister of Conservation to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above decisions through the Bill; and
- 15 **authorise** the Minister of Conservation to make decisions consistent with this paper on issues that arise during drafting.

Authorised for lodgement

Hon Tama Potaka
Minister of Conservation