

New approach for biking in CMS

Workshop 2: Bike-free areas

7th September 2023



Department of
Conservation
Te Papa Atawhai

New Zealand Government

Housekeeping

- › Presentation and notes will be shared on the website after each session
- › Raise your (virtual) hand to speak.
- › You can also put feedback in the chat. One of the project team will share it with the group.
- › We might put some issues in the car park for later.
- › Keep it respectful!



Photo credit: Brian Dobbie

There's quite a big group so I'll just run through some quick things we can all do to make sure this all goes smoothly, and everyone gets a chance to speak. Today's workshop will last 1-2 hours. We'll break up the presentation regularly with discussions, but we've planned around 30 minutes at the end of the session for topics that might need a bit more time.

- We'll put the presentation and some notes on the website after each session.
- We've broken the workshop into sections, with spaces for discussion in between. Please, raise your hand if you would like to speak. For any MS Teams novices on the call, you just click on the little hand icon that's on the toolbar at the top of the page. Jacqui or myself will come to you for your thoughts. When we come to you for the first time, please feel free to briefly introduce yourself so we can get to know each other. If you're happy to, please turn your camera on so we can see your lovely faces when you talk! Please keep your camera off and mute yourselves if you aren't speaking.
- If you don't feel comfortable to speak, feel free to put any feedback or questions in the chat. One of the project team will share feedback with the group.

- If discussions run long, we may put issues in the virtual "car park". Depending on time, we will either come back to them at the end of the session, save them for a future session, or follow up with an email after the session. The final workshop will be a wrap-up session where we will take the time to discuss anything that needs a bit more space.


- We ask that everyone is respectful of other participants and the project team. We've got people from lots of different interest groups here so it's important that we listen and learn from each other to make the most of these sessions. For this reason, we won't be discussing individual conservation management strategies or tracks. There's a big group of us here so we just wouldn't be able to discuss them all in detail.

Who are we?

And what do we do?



I'll go round the team and get everyone to introduce themselves.



**Today's workshop
will cover...**

- › Why are we proposing this approach?
- › Definition of bike-free areas
- › Process to determine bike-free areas
- › Criteria for bike-free areas

Lots of opportunities for discussion throughout!

Proposed Approach

Bike-free areas

Areas where bike tracks and biking infrastructure will not be allowed under any circumstances to protect areas

Criteria for considering new bike track proposals

This includes re-purposing existing walking tracks, extensions to bike tracks and new tracks

Managing biking activities

- Information
- Concessions
- Education and Advocacy
- Monitoring and Review
- Regulation and Enforcement

CMS would list “bike-free” areas where bike tracks and infrastructure are not allowed. The draft criteria for bike-free areas will be the topic of today’s workshop. In each region, we would work with DOC district staff, the local conservation board, iwi, hapū and whānau and statutory bodies to determine where these bike-free areas should be based on the values of the area.

Listing bike-free areas ensures that any applicants for new tracks can clearly see where bike track proposals would not be considered. It would also ensure that bike-free areas are broadly nationally consistent except where regional variation requires differences. It enables us to protect our most special places.

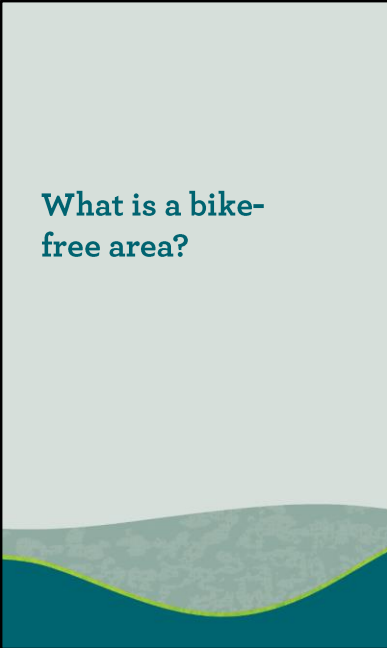
The CMS will then allow consideration of new biking opportunities in all other areas (excluding national parks). This doesn’t mean that we would allow biking just anywhere else. It would still take a fair bit of work for a track to be approved! New bike tracks would have to meet robust criteria which assess the effects on a case-by-case basis. This will be the topic of our third workshop.

The criteria will be broadly based on those from the Otago CMS review. The framework will enable us to consider new bike track proposals whilst protecting the

special places in a region. It also means that our processes and assessment criteria are clear and transparent for everyone. The criteria will be the topic of our third workshop.

We'll also be looking at how we will manage biking on bike tracks once they are approved.

All reviews will go through the public consultation process so there will be lots of chances for people to have their say in how bike tracks and infrastructure will be managed in their regions.



What is a bike-free area?

An area where bike tracks and biking infrastructure will not be allowed under any circumstances, to protect those areas.

Bike-free areas will:

- > remain in place through the life of the CMS so must be future-proof, and
- > be clear where bike tracks and infrastructure will not be considered – reducing time and resources used to prepare a proposal that couldn't proceed

Objectives:
Bike-free areas



To protect areas with significant conservation values that are vulnerable to change arising from the development and use of bike tracks and associated infrastructure



To give effect to CGP Policy 9.5(b) by identifying where bikes are not allowed.

Read objectives

After objective 1: This will become a lot clearer as we go through the criteria for determining bike-free areas later in the workshop.

After objective 2: We'll go into what policy 9.5 (b) means now.

Why do we need to say where bike tracks are or are not allowed?

Conservation general policy: Policy 9.5(b)

- › “Conservation management strategies and plans will identify where the use of specified types of vehicles and other forms of transport may be allowed and will establish any conditions for use”.
- › It requires CMS to:
 - a) Identify where vehicles and other forms of transport may be allowed;
 - b) Specify the **type of vehicle** or other form of transport; and
 - c) Specify **conditions for use** (if any).

We are required to ensure our approach for biking in CMS is consistent with legislation and statutory policy. Under the Land Transport Act 1998 (and the Conservation Act 1987), bikes are defined as vehicles.

CGP Policy 9.5(b) directs what needs to be included in a CMS regarding vehicles (including bikes). As in the slide.

The use of ‘will’ in the policy means this is a mandatory requirement, [don’t read: *as set out in Policy 1(d) of the CGP*]. We can’t deviate from it. This is different from policies that say should or may where there is more room for discretion.

“Will identify where” directs us to identify locations. Identifying situations where a bike tracks could be considered through criteria would not meet the requirement of the CGP. It would be silent on where biking is allowed.

We have two options: list where bike tracks are allowed or where they are not allowed.

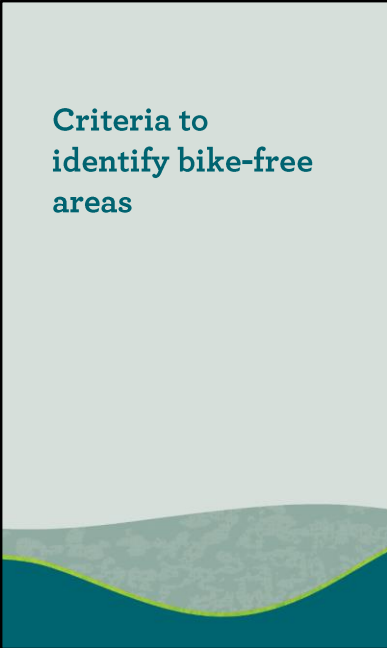
As we know from the current approach, listing every single track or area where bikes are allowed is problematic :

a) a really long process; and

b) leads to some tracks/areas being missed off if there are no plans for bike tracks at the time of CMS writing, requiring a partial review to the CMS to allow the new bike track proposal to be considered.

SO, we propose to identify where bike tracks and associated infrastructure are not allowed.

Criteria to assess new bike track proposals – for anywhere outside the identified bike-free areas - is next sessions topic.



Criteria to identify bike-free areas

- › High-level, non-prescriptive
- › Designed to stimulate discussion:
 - DOC district staff
 - iwi, hapū and whānau
 - Conservation Boards
 - statutory bodies
- › Aim to identify the values requiring protection at a regional level
- › Not weighted, or in priority order

The following criteria ONLY apply to identify bike-free areas. Outside of bike-free areas, assessment of proposals for new bike track and infrastructure will be done using other criteria, which is the topic of next week's session.

The criteria to identify bike-free areas take a high-level approach. *We do not anticipate that they will generate a huge list of bike-free areas in each CMS.*

Most of the criteria are not prescriptive (except 1 & 2 for good reason).

They are designed to frame discussion at a regional and local level between DOC district staff, iwi, hapū and whānau, Conservation Boards and other statutory bodies to identify the values needing protection.

The idea is that they allow regional flexibility whilst keeping the identification of bike-free areas broadly nationally consistent.

It's important to note that criteria are not weighted and are not in priority order

I'll run through them all now so that you can see the whole package (there are only 7)

Criteria 1 and 2: Legal requirements

These areas must be included as bike-free areas:

No change

- › Wilderness areas under Section 20 Conservation Act
- › Wilderness areas under Section 47 Reserves Act
- › Nature reserves under Section 20 Reserves Act

...if the Order in Council or Proclamation declaring the area includes an absolute condition that prevents access by means of vehicles:

- › Wildlife sanctuaries under Section 9 of the Wildlife Act
- › Wildlife management reserves under Section 14A of the Wildlife Act

The first set of criteria relate to legal requirements. Legally, these areas have always been required to be bike-free. We have no discretion to change that. With these criteria, we are making these requirements clear.

Wilderness areas and nature reserves must be included as bike-free areas.

Wildlife sanctuaries and wildlife management reserves must be bike-free areas where the order in council or proclamation includes a condition that prevents access by vehicles (and therefore bikes).

ADDITIONAL MESSAGING

Land held for the following purposes must be included as bike-free areas:

i) Wilderness areas under Section 20 Conservation Act

ii) Wilderness areas under Section 47 Reserves Act

In both cases the acts specifically state that vehicles are not allowed to be taken into wilderness areas and no roads, tracks or trails constructed within them.

iii) Nature reserves under Section 20 Reserves Act – entry is by permit only

Land held for the following purposes must be included as bike-free areas if the Order in Council or proclamation declaring that the area includes a condition that prevents access by vehicles

i) Wildlife Sanctuaries held under Section 9 of the Wildlife Act 1953

ii) Wildlife Management Reserves held under Section 14A of the Wildlife Act

The wildlife act provides the governor general to impose conditions on entry by means of vehicle into these areas. We don't have discretion over this to make exemptions.

Bike-free areas identified under these criteria would apply to the entirety of the parcel of land.

Criteria 3: Conservation Values

Irreversible and
significant adverse
effects

Identify areas as bike-free areas where the construction, maintenance and use of a track would result in irreversible adverse effects on values of national or international significance:

- > Threatened species and their habitats
- > Geological features, landscapes or landforms of international or national significance
- > Heritage sites or places of international or national significance
- > World heritage sites as identified in Statement of Outstanding Universal Value
- > RAMSAR sites

For a bike-free area to be determined under this criteria, it must be of national or international significance AND the construction, maintenance and use of a bike track would result in irreversible adverse effects on its values.

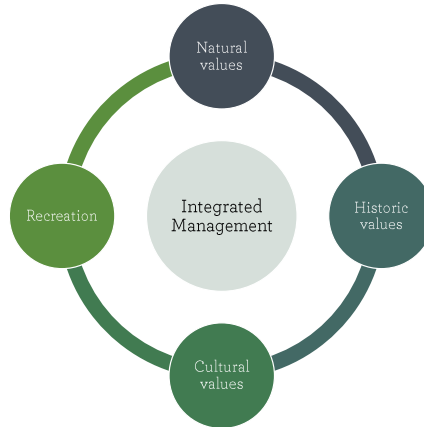
When applying the criterion, a bike-free area wouldn't need to apply to the full area containing a feature, only that part of an area that would be irreversibly damaged. For example, it might be OK to have a bike track on the edges of a RAMSAR wetland but not through the middle of it.

CMS contain policies and supporting schedules and appendices that identify priority areas within the area covered by the CMS and these should inform the identification of bike-free areas under this criterion.

Criteria 4: Conservation Values

CMS Outcomes

- › Identify an area as bike-free where providing for biking in that area is not consistent with CMS Place Outcomes



- Each CMS identifies Places for the purpose of integrated management. When a CMS is written, community aspirations help to form the outcomes for these places. Place outcomes could relate to a combination of natural, historic, cultural and/or recreational values. This would apply in an operative CMS or proposed in a draft CMS.
- This is based on the Conservation General Policy, which enables activities to be limited to support the outcomes planned for places. *[Policy 9.1(e)]*
- This criteria allows bike-free areas to be applied where the construction, maintenance or use of a bike track would compromise these community aspirations for Place outcomes. This criterion reflects the concept of reverse sensitivity.
- It could be a whole parcel of land or parts within it.

Examples include where:

- The construction or maintenance of a track would require regular aircraft and/or

vehicle use but these activities are not provided for within an area

- Ecological restoration is being undertaken to support species rehabilitation or translocation, and track building and use would compromise these outcomes
- Areas where biking would conflict with another existing recreational activity

- Bike-free areas determined under this criteria would require robust discussions at the local level.

Criteria 5: Conservation Values

Climate Change

Identify an area as bike-free where retaining an area in a near natural state by excluding infrastructure, would support climate change adaptation.



Public conservation lands and waters play an important role in providing nature-based solutions or areas for ecological retreat, and this might mean that we need to keep some areas free from development. It is important to consider the projected future state of pcl&w, if known and its potential role in adaptation to climate change, as biking tracks and infrastructure might or might not be consistent with the changing conservation value of an area.

Climate change provisions are new in CMS so we are feeling our way through to some extent. However, including them is an important part of future proofing the CMS.

We know that adaptation responses lie within a spectrum and maintaining some areas free from development is just one type of response. However, it might be increasingly needed as the effects of climate change become more pronounced and so we need to have a criteria like this in place to future proof the next generation of CMS.

Possible scenarios where bike-free areas could be applied could include:

- Habitat currently occupied by a threatened species is at risk from coastal erosion. The bike-free area is the only suitable refuge for the species not subject to coastal

erosion and the construction of a bike track would damage this refuge.

- A coastal sand dune area provides protection against inundation and the addition of infrastructure would damage its ability to protect vulnerable inland areas from sea level rise.
- A wetland providing a natural water retention area where infrastructure would not be compatible with natural hydrological processes.

Criteria 6: Treaty Partnerships

Active protection

Identify an area as bike-free where the area contains taonga of significance to whānau, hapū and iwi that would be adversely affected by the construction, maintenance and or use of bike tracks.

- DOC is required to give effect to the principles of the Te Tiriti o Waitangi / Treaty of Waitangi under section 4 of the Conservation Act.
- Under the principle of active protection, DOC must actively protect Māori interests as part of the promises made in the Treaty.

DOC would engage with whānau, hapū and iwi at a local level to:

- identify areas containing taonga
- assess the potential effects of bike infrastructure on taonga
- establish which taonga need to be actively protected from adverse effects through the exclusion of bike tracks and biking infrastructure

Example of where whānau, hapū and iwi have not supported bike track proposals in the past include:

- Passed through wāhi tapu areas or urupā

[the CGP definition of taonga includes tangible and intangible aspects]

Criteria 7: Treaty Partnerships

Protection derived from Settlements

Identify an area as bike-free where Treaty Settlements, Deeds of Settlement or related mechanisms identify values to be protected and providing for biking would be contrary to this.

While it is unlikely that Treaty settlement commitments would specifically exclude bikes from an area, the various mechanisms might include commitments to protect specified values and excluding biking from an area might be one way to do that. These areas would need to be identified in discussion with whānau, hapū and iwi.

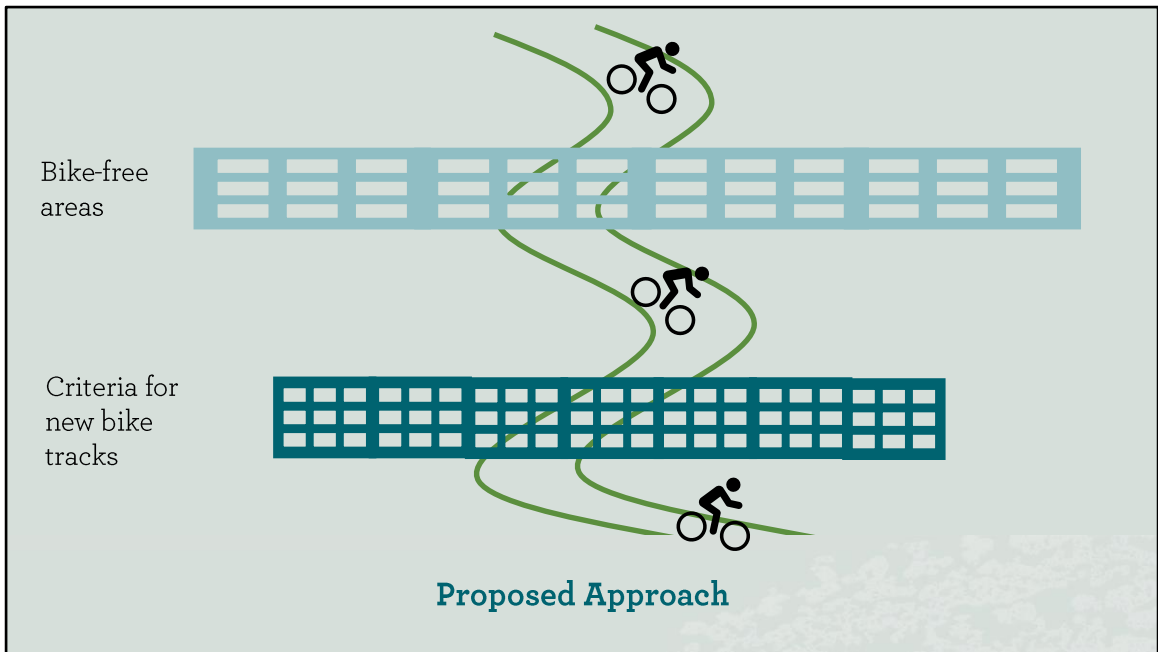
[PAUSE FOR QUESTIONS DISCUSSION]



The process for identifying bike-free areas is pretty much what we do for a wide range of topics throughout the drafting and consultation processes in any CMS review.

The process is designed so everyone gets the chance to have their say through the statutory process.

However, specifically for bike-free areas, the approach we propose is as shown here.



Everything we have discussed today is the first step for applicants to check when they want to apply to build a new bike track on public conservation land.

The bike-free areas are effectively the first gate applications for new bike tracks will come to and they'll be able to easily check the CMS to see if the route falls within a bike-free area, or if the application can be assessed to proceed.

If it falls outside the bike-free areas, DOC will be able to consider the application. The finer grain assessment will be done on a case-by-case basis using effects-based criteria.

The idea is that the process to assess applications will be much clearer and easier to understand for applicants, like a well-marked track

Next Steps

- › Presentation and summary will be on website
- › **Workshop 3: Criteria to assess new bike tracks**
5 October: 12:30-2:30pm
- › **Workshop 4: Wrap up**
26 October: 12:30-2:30pm

We'll pop the presentation and a summary of the session on the website shortly. Please feel free to share this with anyone who has missed this session.

Workshop 3 will be held 5 October, and we will look at the criteria to assess new bike track applications

The final workshop 26 October will be a wrap up session. We'll run through any remaining issues, talk through any key changes we have made and evaluate the workshops. This will help us to refine our approach for other workshops.

If anyone hasn't already received an invite to the other two, let me know and I will wing one your way!

Thank you for your time. Any final questions or thoughts?

For further information or to share your feedback, you can
also contact us at

NationalReviewBikingCMS@doc.govt.nz



New Zealand Government