



Conservation Act Recommendation and Decision Report – Seven Applications for Private Accommodation at Pourerere Conservation Area, Hawke’s Bay

Application Numbers	Applicants
120079-ACC	Horsfall Family Trust
120080-ACC	Richard and Anne Loan
120081-ACC	Hewitt Family Trust
120082-ACC	The Alvar and Aalto Trusts (Brown, Ewan)
120083-ACC	Robertson Trust
120085-ACC	Stewart Family Trust
120086-ACC	The Vondervoort Family Trust

Notified Accommodation Lease Recommendation and Decision Report	
To:	Alice Heather, Director Regional Operations Lower North Island
From:	Lauren Bollu, Permissions Advisor
Peer Review:	Lynette Trewavas, National Permissions Advisor
Date sent:	

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Other Key Documents:

Application Forms: [DOC-10356177](#)

Recommendation to Publicly Notify: [DOC-10448871](#)

Objections and Submissions Report: [DOC-10560114](#)

Executive Summary - Whakarāpopoto ā kaiwhakahaere

1. Within Purerere Conservation Area lies 23 land parcels (with associated structures, the 'baches'), originally leased in perpetuity under the Land Act 1948 (Land Act). These lease areas were transferred to Department of Conservation in 1987. The Conservation Amendment Act 1996 requires that any new or renewed leases on public conservation land are to be issued as concessions under the Conservation Act 1987 (Conservation Act).
2. In 2011, the Department incorrectly renewed the 23 leases under the Land Act. In 2021, the leaseholders were advised of this error – the Department agreed to honour the current term of the leases but advised leaseholders they would have to apply for a Conservation Act concession once these were up for renewal (between 2039 and 2041).
3. Of the 23 leaseholders, these seven applicants are those who have entered financial agreements based on the incorrectly renewed Land Act leases. Further information can be found in the Context section of this report (page 7).
4. This report brings together the relevant information to support you to make a statutory decision on the seven lease applications. The applications are for the continued and exclusive use of private accommodation (baches) and associated land parcels within the Purerere Conservation Area, Hawke's Bay.
5. The applicants have applied for a term of 60 years, seeking to rely on the "exceptional circumstances" exception to the requirement that a lease may not be granted for a term exceeding 30 years, as per section 17Z of the Conservation Act 1987. The assessment concludes that the applications are capable of meeting the definition of exceptional circumstances under the Conservation Act. If you are so satisfied that exceptional circumstances exist, you are able consider a term of 30+ years, for each application.
6. In accordance with the Conservation General Policy, the Department must phase out all private accommodation on public conservation land. In this case, the phase-in of public use is proposed to adhere to this policy (as guided by the National Principles for Private Accommodation on Public Conservation Land).
7. The applications have been considered under the notified process. The applications were publicly notified for 20 working days, ending 25 November 2025. Nine submissions were received – seven supported the applications, and two opposed. A hearing was held on the 12 of December 2025 where a member of the Purerere Hapū Trust provided an objection to the applications and to the 60-year term.
8. The baches fall within an Area of Interest of Heretaunga Tamatea under the Heretaunga Tamatea Claims Settlement Act 2018. There are no specific obligations imposed by that Act relating to the Purerere Conservation Area. The Department

engaged with the Tamatea Pōkai Whenua Trust (Tamatea Pōkai Whenua), the post-settlement government entity for Heretaunga Tamatea, however Tamatea Pōkai Whenua did not have capacity to provide any comments.

9. The District Office raised no critical issues with the applications. Conditions were recommended to ensure public access is maintained and no additional structures are built. These recommendations are implemented through the standard and special conditions.
10. The Conservation Board was consulted on these applications, to which no response was received.
11. The applicants were provided opportunity to comment on the decision report. In their response, they requested aspects of this report be clarified, provided details be included to support the statutory analysis and disputed aspects of the advice provided.
12. The applicants also requested a concession package be included in the decision that they conclude is the most fair, reasonable and legally robust outcome. The full feedback document, which outlines this package, can be observed in Appendix 1 of this report.
13. It is recommended that you grant a term that runs past the expiry of the applicant's existing Land Act leases, therefore the shortest term proposed is 20 years. You may then consider granting a longer term, based on the recommendations in this report.
14. Public use phase-in provisions have been proposed based on the advice sought and assessment undertaken within this decision report. Recommended Operating Conditions can be found on page 33.
15. The term and conditions for the leases are proposed to be the same across all seven applications. Proposed Lease example: [DOC-10643704](#).

Decision Recommendation (Ngā tohutohu)

16. You are required to decide whether exceptional circumstances apply, whether to approve the applications, what term to grant, and when public use should begin.

	Concession under Part 3B of the Conservation Act 1987	Decision
a)	Agree that the applications meet the criteria of exceptional circumstances as per section 17Z of the Conservation Act 1987.	Yes / No

	<i>I agree with the recommendations set out in this report. I am satisfied that this application meets the tests of Part 3B of the Conservation Act 1987, and that the assessment of it has been done with full regard of Section 4 of the Conservation Act 1987.</i>	
c)	Approve the applications, subject to the concession contracts the special conditions identified in this report.	Yes / No
d)	Term options - please circle your decision and strike other choices. <i>In deciding on a forty-five-year term I have attempted to strike a reasonable middle ground balance between the different perspectives and the recommendations arising from flood risk analysis and climate change projections. A term of forty-five years will ensure 'lifetime' enjoyment of the bach's by their current owners and a cessation of the current uncertainty around tenure.</i> <i>While the bach owners' preference is for 60 years, flood risk analysis and climate change projections indicate a significantly shorter term is prudent. A term less than sixty years also gives regard to the views expressed by Mātua James Kenrick on behalf of Pourerere Hapū Trust. While there is currently no first right of refusal for iwi over these sites, its historical and ongoing value to iwi as part of the wider area where ngā hapū and whanaunga can exercise their customary fishing traditions has been well argued.</i>	20 years 30 years 40 years 45 years 50 years 60 years Other Term (Please Justify within Decision Maker Rationale)
e)		6 years 9 years Expiry date of Land Act Leases (Recommended)

Time spent reading this report to make a decision.	90 minutes
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Date: 12 June 2026

Alice Heather, Director Regional Operations Lower North Island

Pursuant to the Delegation dated 9 September 2015 and 7 July 2019

Context - Te horopaki

The Applications

17. The seven applications are for the continued and exclusive use of private accommodation (baches) and associated land parcels within the Pourerere Conservation Area, Hawke's Bay.
18. A map of the Pourerere Conservation Area with the associated land parcels can be found in Appendix 3 of this report.

Location

19. Pourerere is a scenic coastal area located in Central Hawke's Bay. Pourerere Beach is popular for recreation, offers a freedom camping site, and is an important location for mahinga kai (customary gathering of food and resources by Māori). Adjacent to the coastline is a settlement of baches and lease areas, colloquially known as the Pourerere baches.
20. The bach settlement lies across a mix of land tenures: freehold tenure, a recreation reserve (vested in the Hawke's Bay District Council), and a section of public conservation land named the Pourerere Conservation Area. The seven applicants' baches and land parcels lie within this area, which is classified by the Department as stewardship land.

Historical Context

The land

21. Māori settled in Hawke's Bay around 1250–1300 AD, establishing communities along the coast from Māhia to Pōrangahau and inland along major waterways. Heretaunga and Te Whanganui-a-Orotū were key early settlement areas.
22. The first resident missionary arrived at the East Coast in 1840. Hawke's Bay Māori sought to balance the benefits of the emerging western world with the natural bounty of the land and seas.¹
23. The Waipukurau Block (279,000 acres) was purchased by the Crown Agent's Donald McClean (Land Commissioner) on 4 November 1851. The Crown, in 1888, set apart 28 acres of the acquired land along the Pourerere Beach coastline as a landing place reserve.
24. A full summary of the land status history of Pourerere Conservation Area can be found in Appendix 4 of this report.

¹ [History of the District | Central Hawke's Bay District Council](#)

Introduction of leases

25. The Chief Surveyor in 1927 approved a plan to set 22 acres of this reserve apart to become a Recreation Ground. Subsequently, 23 sections for leasing were separated out of the Recreation Ground and are held as a reserve and administered by the Department of Lands and Survey. Leasing to bach owners commenced at this stage.
26. In 1974, special 33-year leases (with perpetual rights of renewal) under the Land Act 1948 were issued to replace the former short-term leases.
27. In 1987, the reserve area was then transferred to the Department of Conservation to manage as a stewardship area, who then became responsible for the administration of the 23 leases.

Changes to Legislation

28. Prior to 1996, leases on public conservation land (PCL) were issued under various pieces of legislation, such as the Land Act. The introduction of the Conservation Amendment Act 1996 (Section 47(2) of the Act) required that any existing lease on PCL could continue until date of renewal, at which point it must be converted into a concession under Part 3B of the Conservation Act.² Most of the baches were due for renewal in 2008.

Administrative Error and Effects on Applicants

29. The 23 leases situated within Pourerere Conservation Area were incorrectly renewed under the Land Act around this time, instead of being converted to Conservation Act concessions as required. As a result, DOC considers these leases are defective (unlawful and voidable).
30. In September 2021, letters were sent to all leaseholders within the Pourerere Conservation Area advising that their leases were voidable but would be honoured until the next renewal date (between 2039 and 2041). Prior to this date, they would need to apply for a concession to replace their lease (see letter example: [DOC-6877263](#)).
31. Of the 23 leaseholders, seven have applied early because they entered financial arrangements on the understanding that their leases could be renewed in perpetuity. These arrangements were made after the Land Act leases were transferred to them, following the Department's incorrect renewal.
32. The applicants state the financial risk and loss associated with the Department's omission is significant – they wish for certainty and to gain a concession as soon as

² [Conservation Amendment Act 1996 No 1, Public Act 47 Transitional provisions relating to existing leases, etc – New Zealand Legislation.](#)

possible. The applicants also indicate that the loss can only be remedied, at this point in time, by a 60-year concession.

33. The extent of the financial losses incurred are described in detail within the ‘Other’ sections of the application forms (link can be found on page 2 of this report).

Exceptional Circumstances

34. The applicants have sought a term of 60 years, the maximum term as allowed under ‘exceptional circumstances’ exception to the maximum 30-year term allowable under section 17Z(1) of the Conservation Act 1987. The Act states that a *‘lease or a licence may be granted for a term (which term shall include all renewals of the lease or licence) not exceeding 30 years or, where the Minister is satisfied that there are exceptional circumstances, for a term not exceeding 60 years.’*

Other Matters to Consider

35. Other matters, such as climate change risks, concession compliance and potential changes to legislation are discussed in further detail throughout this report.

Treaty Partner Relationships

36. The table below summarises our engagement with Treaty partners on these applications:

Treaty partner	Summary of Treaty partner engagement	Feedback
Tamatea Pōkai Whenua	Engagement emails were sent on four occasions during the consultation period, but no response was received initially. An additional follow-up was made with Dianne Smith, General Manager for Environmental Planning, on 09/12/2025, including a request for further information. Dianne replied: <i>“Apologies for not receiving a submission from us, but we are absolutely bogged down with this type of RMA activity, and we only have two of us across the entire region and therefore we can't get across everything.”</i>	No feedback relating to the applications was received from Tamatea Pōkai Whenua.

James Kenrick on behalf of the Purerere Hapū Trust	Mātua James Kenrick provided a submission opposing the applications, indicating the comments arise on behalf of Purerere Hapū Trust and represent the tribal interests of Ngā Hapū o Ngāi Te Ōatua. Mātua James is a kaumātua of the hapū and a member of Tamatea Pōkai Whenua Te Mana Taiao o Tamatea Environmental rūpū.	Opposes the applications.
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37. Tamatea Pōkai Whenua is the post-settlement governance entity for Heretaunga Tamatea. Heretaunga Tamatea and its hapū are one of six large natural groupings involved in negotiating the historical Treaty of Waitangi claims of Ngāti Kahungunu. The hapū of Heretaunga Tamatea are tangata whenua within their respective takiwā.
38. Ngā Hapū o Ngāi te Ōatua, a hapū of Tamatea Pōkai Whenua, are tangata whenua for the Purerere Beach area. The Purerere Hapū Trust is a collective of hapū, including Ngāti te Ōatua, representing wider interests in the Purerere area.
39. The Department engaged with Tamatea Pōkai Whenua but did not engage directly with Ngāi te Ōatua nor the Trust for these applications. The Department's approach reflects established engagement processes with Heretaunga Tamatea, in which Tamatea Pōkai Whenua is the recognised representative entity.
40. DOC emailed Tamatea Pōkai Whenua to notify them of the submission process; however, no feedback was provided due to a lack of capacity. They also clarified that Mātua Kenrick's feedback is separate to that of Tamatea Pōkai Whenua.
41. District staff advised that, in previous discussions, local iwi and hapū have expressed frustration to the Hawke's Bay Operations Manager that Tamatea Pōkai Whenua should hold the first right of refusal if the land at Purerere ever becomes available.
42. Previous Statutory Land Management advice (2022) noted that Tamatea iwi, whose former reserves at Tuingara Point and Purerere Stream were sold to the Crown (See Appendix 4) are seeking a stake in public conservation land at Purerere Beach. The advice anticipated that this issue would be raised in any future discussions with DOC on concessions or potential land disposal.

Section 4: Giving effect to the Principles of The Treaty of Waitangi - Ngā mātapono Tiriti

43. Section 4 of the Conservation Act requires that the Minister and the Department are to give effect to the Principles of the Treaty of Waitangi when interpreting and

administering the Act. This obligation applied to both the process and decision-made for concession applications.

44. The principles identified as most relevant to the work of Te Papa Atawhai are Partnership, Informed Decision-Making, Active Protection, and Redress and Reconciliation.

Partnership

45. The Department and Treaty partners must act towards each other reasonably and in good faith; these mutual duties describe the nature of the relationship between the Department and Treaty partners. This partnership is centred around balancing in context kāwanatanga of the Crown and rangatiratanga of Māori.
46. Engaging with iwi/hapū and undertaking Treaty due diligence enables the Crown to properly understand the nature of the rights or interests of Treaty partners when making a decision that may affect such rights or interests. Partnership can be applied to the decision by the Department adopting behaviours of an honourable Treaty partner – being open, honest, fair and reasonable.

Informed Decision-Making

47. Informed decision-making is central to the partnership between the Department and Treaty partners. It requires the Crown to understand the interests and views of the relevant Treaty partners and to provide them with sufficient information to meaningfully contribute to the decision-making process.
48. Engagement with Treaty partners is the primary mechanism by which informed decision-making occurs, and contributions received through this engagement are considered as part of the Department's decision-making. The Department may also consider previous advice and/or comments raised on relevant matters by Treaty partners.

Active Protection

49. The Crown must actively protect Māori interests retained under the Treaty as part of promises made in the Treaty for the right to govern. Active protection requires informed decision-making and judgement as to what is reasonable in the circumstances.

Redress and Reconciliation

50. The Treaty relationship should include processes to address differences of view between the Crown and Māori to address past grievances. The Crown must preserve

capacity to provide redress for agreed grievances from not upholding the promises made in the Treaty. Māori and the Crown should demonstrate reconciliation as grievances are addressed.

Concerns raised by Treaty Partners

51. Mātua Kenrick outlined the importance of the Department's responsibility to give effect to section 4 of the Conservation Act through the decision-making process for these applications. Mātua Kenrick commented on the limiting public notification process and stated that Ngā Hapū o Ngāi te Ōatua had not been consulted appropriately for the applications.
52. Mātua Kenrick objected *'not on the grounds as prescribed [by the Conservation Act 1987], but on the lore and the intent of [their] tupuna, in natural justice and acknowledgment of the Treaty of Waitangi'*.
53. The submission outlined that the Department should no longer perpetuate the continuation of arrangements that suppress (*'drown'*) the voices of local hapū.
54. Mātua Kenrick discussed important historical and cultural context for the location of the applications, stating that such context is not contained in the decision-making process. Kenrick accounted for the history of land declarations, sales and arrangements for the areas, describing that the land has not been managed in respect to local hapū.
55. Mātua Kenrick specifically described the 60-year terms as a perpetuation of theft by the Crown, and that the Department are collaborators in the continuing tokenistic recognition of hapū interests in the Reserve (likely referencing both the Pourerere Conservation Area and the Pourerere Domain Recreation Reserve).
56. Mātua Kenrick describes that the negative experience felt by his family when visiting Pourerere, that him and his whānau are looked down on by the baches:

'Do you know how bad we feel going standing in front of those baches and trying to dive out there, knowing people are looking at us, look at those Māori over there...it hurts us pretty bad knowing that land was stolen from us.'
57. Mātua Kenrick also outlined that Wai 1345, a historic Treaty claim, is currently before the Waitangi tribunal.³ This historical claim has been settled.⁴

³ The claim concerned land and coastal areas at Tuingara Point. The claimants alleged Crown breaches of the Treaty in relation to the acquisition and control of that land, failure to protect Māori interests, and loss of rangatiratanga.

⁴ Heretaunga Tamatea Claims Settlement Act 2018, ss 14, 15, Schedule 2.

Cultural and historical significance of the land

58. Mātua Kenrick has identified, through both the public notification process and through prior conversations with the Department, that Pourerere Beach is important for the practice of mahinga kai for local iwi and that burial grounds lie within the area. The comments raised by Kenrick encompass the wider Pourerere area, with some specific to the management of the Pourerere Conservation Area and the adjacent Pourerere Domain Recreation Reserve (which vested in the Central Hawke's Bay District Council).
59. Mātua Kenrick described that the original intent of this (landing place) reserve was to establish an area where ngā hapū whanau and whanaunga could continue to exercise their customary fishing traditions, as they had done pre-colonisation.
60. Relevant comments raised in the submission are as follows:

'Our Tūpuna lived there. Our last tūpuna that lived there...he's now buried at the back of Tuingara Point, what you call Muddy Point. There used to be houses up there. All along the place where those baches are. That is where they used to do all their mahinga kai.

Right of First Refusal Provisions - Heretaunga Tamatea Claims Settlement 2018

61. The right of first refusal (RFR) provisions in the Settlement apply only to the specific parcels listed in Part 3 of the Deed of Settlement Attachments, which relate to land around the Hawke's Bay Prison. There is no general RFR over surplus Crown land.

Section 4 Compliant Outcome

62. While the Department has engaged with Tamatea Pōkai Whenua in accordance with established processes, to which no response was received, there is scope to further align both the decision and any subsequent actions with the principles of the Treaty of Waitangi.
63. You may consider a shorter term, given the concerns raised by Mātua Kenrick, which focus mainly on opposition to a 60-year term. However, this decision must be balanced with consideration of the following factors:
- a) This opposition was provided separately from the Department's formal engagement process with Tamatea Pōkai Whenua and therefore does not represent the perspective of the Post-settlement Governance Entity (PSGE). Mātua Kenrick has indicated through the Hearing that his submission is made on behalf of the Pourerere Hapū Trust, however the submission document identified

James Kenrick as the sole submitter. The Department has not clarified this matter with Matua Kenrick and opted to capture his feedback as a Treaty partner to the Department.

- b) The land has not been identified by iwi or the Crown as requiring transfer, exchange or a right of first refusal under the Settlement;
- 64. The Crown may still dispose of the land even if it is leased. Any disposal would be subject to the lease continuing, unless the lease is lawfully surrendered, terminated, or acquired. If the land is disposed of, it would cease to be held for conservation purposes in accordance with section 26(4) of the Conservation Act. While the existence of a lease does not prevent disposal, it would bind the new owner, who would take the land subject to the lease for the remainder of its term and on the same conditions.
- 65. The Department seeks to improve relationships with hapū within the area. Acting as an honourable Treaty partner and in good faith, the Department has the opportunity discuss the decision and the reasoning with the Purerere Hapū Trust.
- 66. It can be communicated to the Trust through the Outcome Letter (notification process) that the granting of these leases does not limit any rights currently held by hapū under the settlement, including any rights to acquire the land if it is to be disposed of in the future.
- 67. A special condition has been included to provide an Accidental Discovery Protocol, to ensure that archaeological and heritage values are protected. Within this condition, the Concessionaire is required to contact Tamatea Pōkai Whenua if an archaeological site relating to Māori activity is discovered.
- 68. The Department may also investigate into whether any other land adjacent to the Purerere Beach is suitable for disposal outside of the concessions process.
- 69. The Purerere Hapū Trust has been provided with a copy of the hearing held for the notification process.
- 70. In summary, a decision to approve the application would be consistent with Section 4 of the Conservation Act 1987. Steps outside of the application process, as discussed within this section, can be taken to enhance the Department's relationship with Treaty partners.

Conservation Board

- 71. The Department engaged with the Conservation Board for the Hawke's Bay region. No response was received.

Department Contributions

Management Planning

72. Management planning advice was sought to assess whether the applications are consistent with relevant statutory documents and Departmental operational policy. The advice has informed the assessment within this report.
73. Full Management Planning advice can be observed in the Contributions Document Register (Appendix 1).

Advice from District Operations

74. The Hawke's Bay District Office provided Treaty settlement context and previous issues raised by iwi and hapū about the land.

'None of those lands are part of a Treaty settlement [redress]. However, the iwi and hapū have previously expressed frustrations to the former Operations Manager about how Tamatea Pōkai Whenua should have the first right of refusal if these lands ever become available, given their prime location for mahinga kai.'

Mātua James Kenrick in his submission noted Wai 1345 that is before the Waitangi Tribunal, it would seem that this is a historic claim and is no longer active.'

75. The District Office also recommended that provisions are included to ensure that public areas remain accessible and that no additional buildings be constructed on the land. Conditions are included to address these recommendations.
76. District Request for Comments can be observed in the Contributions Document Register (Appendix 1).

Statutory Analysis – Conservation Act 1987

Section 17S: Contents of Application

Does the Application include all required information as per s17S?	Yes
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77. DOC requested information from the applicants. This request included the provision of a detailed map of the land and structures, and supplementary images of the structures applied for. The applicants provided this information accordingly and it was determined the Applications included all requirements as per section 17S.
78. A submission in objection identified that the applicants had been unclear in their application forms that exclusive use of the baches has been sought. The applications state *'No, but access needs to be managed by concession holders.'*

79. The Department understands that the applicants have sought exclusive use as described in the Conservation Act 1987, and this statement refers to the ability for the concessionaires to manage public use via booking platforms.

Section 17S(f): Ability of the applicants to carry out the activity

Have the applicants demonstrated their ability to carry out the activity?	Yes
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80. As per 17S(f), you must consider the applicant's ability to carry out the proposed activity.
81. In relation to these applications, 'ability to carry out the proposed activity' refers to the applicants' ability to comply with the conditions of their concession, including the payment of processing fees and ongoing concession fees. All seven applicants have undergone a debt check with the Department and have been cleared of any outstanding debt. The District Office have not raised any issues of non-compliance for resolution.

There is no outstanding financial or compliance risk to the Department if the decision is to approve the applications, as the applicants are likely to comply with the proposed conditions. Public liability insurance protects concessionaires against claims made by third parties – such as visitors and members of the public – for incidents that occur in connection to the use of the land and structures. The standard condition requiring public liability insurance is a means of protecting the Department from losses associated with the concessionaire's activity.

Section 17SC: Public Notification

Is public notification required?	Yes
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82. The applications are for leases with terms exceeding 10 years, therefore public notification was required.
83. The applications were publicly notified together on the 28th of October 2025, for a period of 20 working days. During this time, nine submissions were received, with seven in support and two in opposition of all applications.
84. A hearing was held on 12 of December 2025. The Panel was chaired by Helen Neale, and Grant Bennett, Operations Manager Hawke's Bay supported as a panel member.
85. James Kenrick was the sole submitter heard at the hearing. Maria Robertson and Jeff Loan represented the applicants.
86. A submissions recommendation report was prepared by Helen Neale, Panel Chair ([DOC-10560114](#)). Within the report, the core themes of the submissions, and the extent to which they have been allowed or accepted, have been identified.

87. Of the submissions in support, the common themes referred to the positive effects the leaseholders have on the community, infrastructure maintenance, family ties and the wider environment (environmental stewardship). The submitters also stated their support for the term applied for.
88. Submissions in objection raised concerns with the Department's engagement with Treaty partners, grievances with prior land management, inconsistencies with statutory planning documents, compliance risks and whether exceptional circumstances apply (when considering the term).
89. You must consider the recommendations and the summary report before deciding whether to proceed with the proposal, as required by section 49(2)(e). Themes and recommendations that have been allowed or accepted as relevant to the decision are addressed in the appropriate sections of this report.

Section 17U(1) and (2): Analysis of effects

Is the activity consistent with s17U(1) and (2)	Yes, with conditions
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90. Discussion: Under section 17U, the Minister is required to consider the effects of the activity and any measures that can be undertaken to avoid, remedy, or mitigate adverse effects of the activity on public conservation land. Consideration of effects and mitigations may include offsite effects under s 17U(1) of the Act. Considering offsite effects and mitigations (however characterised) cannot alter the prohibition on granting the concession if the threshold in s 17U(3) is met.
91. The baches are established, well-maintained structures that have been present in this location for many years, therefore are not a new or novel activity for the Department to consider.
92. The analysis draws on material provided by the applicants, input from Treaty partners, recommendations from the Submissions Summary Report, Management Planning Advice and Hawke's Bay District Office advice.

Environmental Effects

93. The environmental effects of the baches and lease areas are well understood. The stewardship land where the baches are located holds low conservation value, and the structures predate the Department's management of the area. The applications therefore do not introduce new or significant environmental effects on the public conservation land. Based on information from the applicants and discussions with the District Office, the land and buildings are maintained to a high standard.

94. The applicants and submissions in support discuss the actions taken by the Pourerere community to promote environmental stewardship in the wider coastal area. This includes pest control, rubbish collection, enhancement of community awareness and dune planting.
95. The applicants provided an Environmental Impact Assessment (EIA), which outlines how the leaseholders contribute to DOC's strategic outcomes. For example the EIA described the community's support for establishing Te Angiangi Marine Reserve, involvement in improving freedom camping management (reduction of waste dumping), and encouraging a council bylaw to prevent vehicles driving on reef platforms.
96. However, the EIA did not provide specific evidence of outcomes—such as the location of activities, how often they occur, who undertakes them, or any measurable environmental results (for example, numbers of reef-protection interactions, details of dune-planting sites, or documented contributions to establishing the marine reserve). Because this information is not included, the statements carry limited weight and capacity for assessment. The EIA also describes the efforts of the wider bach-owner community rather than the individual applicants. Special conditions have been included to allow for continued vegetation maintenance by the Concessionaire, and that no introduced species may be planted.

Climate Change and Natural Disasters

97. You must consider the potential effects of climate change and sea level rise as forecasted by Hawke's Bay Regional Council. While the Department is not required to assess the applications' consistency with the Regional Coastal Environment Plan (developed under the RMA),⁵ the Plan provides useful guidance in terms of understanding potential climate change effects.
98. The present-day extent and likelihood of various coastal hazard risks are expected to increase, as climate change projections expect both increased storm intensities and a rise in sea level of around one metre in the next 100 years.⁶ The risk analysis undertaken by the Council shows the baches are at risk of flooding in the next 20 years.
99. According to maps prepared for the Council's Regional Coastal Environment Plan (RCEP), the baches lie within Coastal Hazard Zone overlays.⁷ It is the objective of the Plan to avoid new and further inappropriate development in areas identified as currently being at-risk of coastal erosion or flooding.

⁵ [HB-Regional-Coastal-Environment-Plan-excl-Schedules-and-Maps.pdf](#)

⁶ [Coastal Hazards | Hawke's Bay Regional Council](#)

⁷ [RCEP Maps V10-1.mxd](#) (page 5), [Map Key](#)

100. Management Planning advice recommends that the decision-maker consider an appropriate term (one that is demonstrably reduced) considering the Council's flood risk analysis and include special conditions that clearly state the Department does not accept responsibility for protecting the sites from the effects of those risks. This advice is consistent with the National Principles.

Slip in the Adjacent Reserve

101. In 2011, the baches were impacted by a slip that occurred in the local purpose (soil conservation) reserve behind the Pourerere Conservation Area. A contour drain and storm water interception system was installed near the hilltop. Several leaseholders directed their EQC (Natural Hazards Scheme Insurance) payments arising from the storm damage to their properties into the investment in this infrastructure, working alongside Council, DOC and the Ouepoto Station owners.
102. The management planning advice reiterates the consideration of a reduced term considering the risk of slips and erosion. The advice also recommends special conditions ensure that private accommodation buildings or facilities damaged or destroyed by fire, natural hazards or disrepair should not be able to be replaced.

Applicant Contributions

103. The applicants, through the EIA provided, acknowledge the issues of coastal erosion, the Domain slip and climate change risks. The applicants discuss the previous efforts taken and investments from the community to recover from and prepare for adverse weather events and natural disasters (including earthquakes). This includes geotechnical land assessment and restoration, restoration planting and infrastructure maintenance (vehicle access points).
104. Through feedback on this report, the applicants provided supplementary information on slip remediation undertaken within the soil conservation reserve. This included details of the geotechnical assessment of hill stabilisation works and the associated consent process, which provides for a minimum design life of 50 years. As the work was completed in 2011, the remaining minimum design life is therefore approximately 35 years from the date of this report.
105. The applicants dispute the advice provided by management planning that the decision-maker should consider a reduced term when making their decision, as they have asserted more appropriate statutory powers to address such safety risks (health and safety obligations, remedial works, termination of concession if deemed unsafe etc.).

Recreational Values

106. The exclusive use of the baches does not provide recreational value for the public – this is a value that is only experienced by the occupants. Recreational values are displayed through environmental stewardship initiatives and the management of local infrastructure (such as ramp maintenance), as described by the applicants and submitters.
107. By allowing for public use to be phased in, recreational values are enhanced as the public are provided the opportunity to enjoy the facilities and lease areas, therefore the opportunity to enjoy the public conservation land.

Social Values

108. The applicants and submissions in support describe the positive social values that arise with the existence of baches and owners, with reference to long term leases providing certainty for the wider community. These values are limited as they are experienced primarily by the bach owners. Social values for the wider public would be enhanced with the phase-in of public use.
109. The presence of the baches and bach owners likely provide a degree of safety to the area, providing a community that can respond in adverse events. This is highlighted in examples such as the 'Freedom Camping Project' details as listed in the application forms. However, these values likely have only a limited effect on public conservation land and are considered off-site effects.
110. A submission in objection discusses negative social effects experienced through the baches. The submitter describes that the existence of the baches provides a negative social experience to their whānau as they feel looked down on by those occupying the baches.

Historical Values

Baches

111. It is theorised that Pourerere settlement has existed for around 100 years. Leases to blocks of land within the area have existed since 1927; The applicants note that many of the baches have been used in publications, noted as iconic of the NZ bach.
112. The applicants and submissions highlight the generational ties held by the current bach owners. These ties are relevant positive effects for consideration, however are likely to be of greatest impact to the bach occupiers and do not determine historical value.

113. The baches are not included on the New Zealand Heritage List/Rārangī Kōrero, therefore do not hold a status that asserts their cultural or historical significance.⁸

The Land

114. As discussed under the section 4 analysis of this report, Mātua Kenrick's comments highlight historical grievances linked to the Waipukurau Block and the Crown's past management of the area, predating the establishment of the baches.
115. His reference to the settled Wai 1345 claim also shows that local hapū continue to hold interests in the area. These matters are relevant under the Conservation Act and can also be considered when assessing historical values and effects.

Cultural Values

The Land

116. Cultural values have been described in detail under Section 4 Analysis within this report, with the account describing the baches having an adverse effect on such values. Many of these values overlap with historical land values as described by Mātua Kenrick.
117. The land is not listed as wāhi tapū (places sacred to Māori in the traditional, spiritual, ritual or mythological sense) or wāhi tupuna (places of ancestral significance for Māori) on the New Zealand Heritage List/Rārangī Kōrero.

Applicant Feedback on Decision Report

118. In response to the Department's view that the applicants' activities lacked clear evidence of location, frequency, and outcomes, they have provided further detail on specific cases addressing these aspects. For example:
- a) The Pourerere Beach Improvement Society (PBIS) - this information was detailed by Judi-Keith Brown. Judi identifies Ewan as the chair, which likely refers to Ewan Brown (120082-ACC);
 - b) Applicant Richard Loan arranged for a defibrillator to be installed locally, paid for by the PBIS (120080-ACC);
 - c) Funding of Beach planting, signage and walkways funded by PBIS (which included information on protecting the reef to the south of the beach).

⁸ [Heritage New Zealand - Search the New Zealand Heritage List/Rārangī Kōrero | Heritage New Zealand Pouhere Taonga](#)

- d) Ewan created a website that displays the community services, weather, tides, rules for driving on the beach and other PBIS information.
119. Some examples also refer to other named individuals within the wider bach community who are not among the seven applicants. These are not recommended for consideration as these examples are not relevant considerations for this decision-making process.
120. As identified by the applicants, the decision-maker can consider these matters as off-site effects of the activity, particularly as the off-site effects align with the broader purpose of the Conservation Act. It can be argued that these positive effects may not have occurred in the absence of the applicants' presence in the area.
121. These cases cover past actions of the applicants rather than future endeavours to provide positive effects to the area. It can be argued that the existence of the Pourerere Beach Improvement Society indicates a desire to continue similar initiatives over the duration of the concession term.

Section 17U(3): Purpose for which the land is held

122. The land is stewardship land, which is held, broadly, for conservation purposes. Stewardship areas are to be managed that their natural and historic resources are protected. The baches have existed prior to the Department's administration of the land and the conservation value of the land is deemed relatively low.
123. With appropriate conditions for the protection of natural and historic resources, the proposed activity is not contrary to the purpose for which the land is held.

Section 17U(4): Can a structure or facility be reasonably undertaken elsewhere?

124. The applicants have applied to use existing structures and facilities. They have not sought permission to build or extend any structures as part of their applications. The activity could not reasonably be undertaken elsewhere. You are not prevented from granting the applications on this basis.

Section 17U(5), (6) and (7): is exclusive possession necessary?

125. In order to grant the lease, you must be satisfied that the requirements of section 17U(5) are met. This section provides:

The Minister may grant a lease or a licence (other than a *profit à prendre*) granting an interest in land only if—

(a) the lease or licence relates to 1 or more fixed structures and facilities (which

structures and facilities do not include any track or road except where the track or road is an integral part of a larger facility); and

- (b) in any case where the application includes an area or areas around the structure or facility, —
 - (i) either—
 - (A) it is necessary for the purposes of safety or security of the site, structure, or facility to include any area or areas (including any security fence) around the structure or facility; or
 - (B) it is necessary to include any clearly defined area or areas that are an integral part of the activity on the land; and
 - (ii) the grant of a lease or licence granting an interest in land is essential to enable the activity to be carried on.

126. Section 17U(6) further restricts the situations in which a lease can be granted. It provides that no lease may be granted unless exclusive possession is necessary for:
- a) the protection of public safety;
 - b) the protection of physical security of the activity concerned; and
 - c) the competent operation of the activity concerned.
127. The Department's view is that the request for a lease over the buildings and land parcels meets the tests in s 17U(5) and (6) and that it would be appropriate to grant a lease over these areas. The proposed lease areas that relate to buildings satisfy the test in s 17U(5)(a) because they are fixed structures and facilities, and they do not include any track or road. The buildings are all clearly defined as fixed structures or facilities.
128. As to s 17U(6), the Department considers that exclusive possession is necessary over buildings and infrastructure for the purposes of safety and security of those assets, and to ensure that the applicants can operate the activity competently (which includes the need to achieve adequate maintenance and investment).
129. Exclusive use, as proposed, does not interfere with the Department's implementation of operational policy, including the phase-in of public access. The applicants will be responsible for managing risks associated with public use of the baches through controlled booking systems and must meet their health and safety obligations under the Health and Safety at Work Act 2015.

Section 17U(8): Discretion to decline if you consider appropriate

130. Section 17U(8) provides that nothing in the Conservation Act or any other Act requires you to grant any concession if you consider it is inappropriate in the circumstances of the applications having regard to the matters set out in section 17U.

Section 17W: Relationship between concessions and conservation management strategies and plans

Is the activity consistent with all relevant statutory planning documents?	Yes
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131. A concession shall not be granted unless the proposed activity is consistent with any established conservation management document. The relevant documents are the Conservation General Policy 2005 and the Hawke's Bay Conservation Management Strategy 1994. The assessment within this section has been informed by the advice from Management Planning.
132. Because the Hawke's Bay CMS was written before the Conservation General Policy and the Conservation Amendment Act 1996, the two documents manage private accommodation in different ways. The CMS does not address the phase-out of private accommodation, so the relevant clauses of the Conservation General Policy apply to this matter.

Conservation General Policy 2005 (CGP)

Policy 2

133. Policy 2 outlines policies to ensure that the Department are an honourable Treaty partner. Particularly relevant to the applications are policies 2(a) – relationships sought and maintained, and 2(e) - tangata whenua are consulted on specific proposals that involve places of cultural and historical significance to them.
134. The assessment of the Department's obligations under section 4 of the Conservation Act have been assessed within this report.

Policy 3

135. Policy 3 outlines how the Department shall encourage public participation in conservation management. In accordance with policy 3(e), the Department has hosted a public notification process to allow for people and organisations interested in public conservation lands to be consulted on specific proposals that have significance for them.

Policy 5

136. Policy 5 outlines the ways in which the Department shall manage places that contain rich historical and cultural heritage. The baches and Pourerere Conservation Area have

been assessed as not holding high significance in accordance with the Historic Places Act 1993 (policy 5(b)).

137. The Department has assessed the baches for their cultural and historical values through the Analysis of Effects section of this report (page 16).

Policy 8

138. Policy 8 sets out how the Department manages risks from natural hazards. As outlined in the analysis of effects, climate change and natural hazard events pose potential risks to the baches.
139. While there is no specific policy directing how concessions should be administered in relation to natural hazards, consideration of hazard risk is relevant when determining the appropriate term and conditions.
140. As described in the Climate Change and Natural Disasters section of the Assessment of Effects within this report, the applicants have disputed the assertion that a term can be used as a hazard management tool.
141. Reduced concession terms have been presented as options to you, having regard to the National Principles and the Department's statutory obligation to ensure that activities are consistent with the protection of natural and historic values, public safety, and the long-term management intent for the area. Available climate projections and hazard information indicate that the nature, frequency, and severity of risks (including flooding, slips and coastal erosion) are likely to increase over time within the concession area. These risks introduce a material level of uncertainty as to the ongoing appropriateness, safety, and environmental effects of the activity if authorised for an extended duration.
142. In these circumstances, granting a shorter concession term may be considered a proportionate and precautionary response, reducing the risk of approving an activity that may become inappropriate, unsafe, or inconsistent with statutory management objectives over time. It avoids constraining future decision-making under evolving environmental conditions and enables the Department to reassess the activity against updated climate science, hazard information, and management priorities upon the expiry of the leases. Policy 8(d) states that individuals are responsible for the risks they choose to take when using public conservation land and waters. Under the Health and Safety at Work Act 2015, the applicants are responsible for managing risks to bach users and for providing appropriate information about those risks. Standard conditions of the lease outline the responsibilities of the applicants and the Department in terms of health and safety.

143. Policy 8(e) asserts that the Department may notify the closure of any part of public conservation lands and waters to public entry when it considers there to be imminent danger to people and property that cannot be reasonably avoided by other means. Standard conditions ensure that the Department can temporarily suspend the leases if such risks arise.

Policy 9

144. Policy 9 details how the Department manages public conservation land for people's benefit and enjoyment. Policy 9.1(g) asserts that public access to public conservation lands and waters will be free of charge – however, charges **may** be applied for use of accommodation.
145. In accordance with the policy, the special conditions ensure public access is provided. Policy 9.1(g) is a 'may' policy, which gives you discretion to allow for charges to be applied in this instance.⁹

Policy 10

146. Policy 10 discusses policies on the management of accommodation and related facilities. As required by policy 10(b), accommodation and related facilities on public conservation lands owned and occupied by people other than the Department require a concession.
147. Policy 10(c) notes that an application for a concession will comply with, or be consistent with, the objectives of the relevant Act, the statutory purposes for which the land is held, and any relevant conservation management strategy or plan. Assessment against these criteria are included within this report.
148. Policy 10(d) states that any application for a concession to provide accommodation or related facilities, or to extend or add to an existing structure or facility, should meet the following criteria:
- i. the accommodation or related facility cannot reasonably be located outside public conservation lands and waters;
 - ii. it cannot reasonably be built elsewhere on public conservation lands and waters where the potential adverse effects would be significantly less; and
 - iii. the applicant cannot reasonably use or share an existing structure or facility.
149. Management Planning advice states the applications **do not** meet the above criteria for the following reasons:

⁹ Interpretation and Application of Statutory Planning Documents Guidance: [DOC-2827557](#)

- Criterion i: Given the land next door has baches on it, it is hard to argue that the accommodation couldn't be located off PCL.
 - Criterion ii: It is the Management Planner's opinion that criterion ii is not applicable as we would not consider building new accommodation on other PCL within this region, particularly as it would not provide access to other PCL areas.
 - Criterion iii: As there is other accommodation within the same area, it could be argued there is no accommodation needed on the PCL.
150. The advice argues that Policy 10(d) is difficult to apply for these applications, given the site has been used for accommodation for the last 100 years, and the area is surrounded by accommodation for visitors to the area.
151. Since the structures existed before the land became a conservation area and there are limited practical options for relocation, it is open to you to take the view that the baches that are the subject of the applications cannot be reasonably re-located and that the applicants cannot reasonably share existing structures. There's a strong basis for you to therefore conclude that the applications are consistent with policy 10(d).
152. Policy 10(e) states that all accommodation and related facilities including replacements, additions and extensions on public conservation lands and waters should:
- i. be consistent with the outcomes planned for places;
 - ii. avoid or otherwise minimise adverse effects on natural resources and historical and cultural heritage, and on the benefit and enjoyment of the public, including public access;
 - iii. complement and, wherever possible, be located close to existing accommodation and related facilities;
 - iv. be located, designed, constructed and maintained to meet all legal requirements and standards;
 - v. be of such a scale, design and colour that they harmonise with the landscape and seascape;
 - vi. provide for disabled people in places where this is practicable; and
 - vii. be available for use by the public.
153. The applications would meet the criteria within policy 10(e) with the phase-in of public use.
154. Policy 10(f) states that the Department and all concessionaires should monitor the effects of the use of accommodation and related facilities on natural resources and

historical and cultural heritage, and on the benefit and enjoyment of the public, including public access, to inform future management decisions. Special conditions will ensure the objectives of this policy are met.

155. Policy 10(h) provides that existing private accommodation on PCL, not provided for by other legislation, **will** be phased out in accordance with relevant conditions and timeframes set out in the CMS or the concession document.
156. The Hawke's Bay CMS does not provide any such guidance. The CMS was drafted before the Conservation General Policy became operative (and prior to the Conservation Amendment Act 1996); therefore, the concession document shall dictate the phase out.
157. Policy 10(h) then states the private accommodation and related facilities should then be removed at the end of the phase-out period, unless retained by DOC. Discussions with the District Office confirm that there is no intention for these buildings to be removed by the Department, therefore they will either be removed or retained on the land at the discretion of the applicants.

Policy 11

158. Policy 11 outlines general provisions for activities requiring specific authorisation. The objectives of some of the policies are also addressed in the analysis against policy 10 (policy 11.1(a), 11.1(b) and 11.1(c)).
159. Policy 11.1(d) provides that concession holders will operate safely and comply with legal standards and obligations. The applicants are capable of concession compliance, and standard conditions address these requirements.

Submitter Comments

160. The submission in opposition from Mr Barry Wards states that the applications are inconsistent with the CGP when applying for exclusive possession. As discussed through the assessment above, I consider the applications consistent with the CGP.

Hawke's Bay Conservation Management Strategy 1994 (CMS)

Section 2 - Places

161. Section 2 details the specific issues and objectives related to specific geographical areas within the Conservancy (Places). Pourerere Conservation Area lies within the CMS Coastal Place (section 2.5). This Place is described to host an array of natural values and historical significance. Many sites are also of cultural significance, as traditional food gathering areas, sources of cultural materials, or as places of important historical or legendary events (2.5.4.1).

162. The CMS notes a lack of protected areas, with prevalent threats of coastal erosion and damage from public use (2.5.7, 2.5.8). To protect the natural and historic values of the Place, the relevant management objectives to meet are as follows:
- To protect the natural and historic values of areas managed by the Department, primarily through fire prevention and control, weed control and animal pest control (2.5.10.i)
 - To advocate the maintenance and enhancement of legal public access to the coast where this is appropriate (2.5.10.v)
 - To promote greater public awareness and appreciation of the values of, and threats to, the coastal environment (2.5.10.vii).
163. Special conditions have been proposed to ensure the above objectives have been met (see Appendix 5).

Section 3 – Functional Objectives and Implementation Provisions

164. Section 3 contains objectives and implementation provisions for all of the functions of the Department (at date of publish).
165. Section 3.1 details the Department's Treaty obligations under section 4 of the Conservation Act, and the statutory obligation of the Department to be responsive to Treaty issues raised by tangata whenua. The relevant objective in the present context is for the Department to 'develop an effective partnership between the Department and tangata whenua in protection and management of natural and historic resources administered by the Department' (Section 3.1 Objective ii).
166. This section has been drafted prior to the Heretaunga Tamatea Claims Settlement Act 2017, therefore implementation provision Section 3.1, Implementation ii, which provides for resolution of claims, is no longer directly applicable.
167. As required through Section 3.1, Implementation iv., engagement with Tamatea Pōkai Whenua has ensured that Treaty partners are fully informed and their participation is sought in Departmental activities (in this instance, the concession decision-making process).
168. Section 3.6.3 of the CMS discusses non-recreation leases and identifies that leases and licences may not be granted over lands held under the Conservation Act unless the CMS provides for the issue of leases and licences and such right is in conformity with this CMS or any Conservation Management Plan.
169. The Hawke's Bay CMS specifically addresses private accommodation in section 3.6.3.5 – Bach Sites and Private Houses. This section specifically identifies the Pourerere

baches as the only authorised private accommodation within the Hawke's Bay conservancy at the time the document was written.

170. The Objective of section 3.6.3.5 is to '*restrict the use of lands managed by the Department for private or commercial residential buildings.*'
171. The section outlines three implementation measures to meet the objective:
- i. No new baches will be permitted on DOC land.
 - ii. Baches that exist on PCL subject to existing lease agreements will be administered in terms of those agreements. Approval to rebuild and/or alter buildings may be granted in respect of existing licenced baches provided local authority requirements are met.
 - iii. Unauthorised private baches will be removed, unless there is historic value that justify their protection.
172. This policy refers to the existing perpetually renewable Land Act leases – and it is silent on granting concessions for private accommodation. To this extent, weight must be given to the CGP in this instance.

Submitter Comments

173. The submission in opposition from Mr Wards discusses how the CMS implementation measures are inconsistent with the management objective – instead of restricting the use of lands for private residential buildings, the management approach is allowing for it to continue.
174. The CMS reflects the legal rights created under the Land Act leases, and neither the CMS nor the Conservation General Policy can derogate from those statutory rights. As the applications are for concessions under the Conservation Act, the CMS implementation measures relating to existing Land Act leases do not apply. Any apparent inconsistency with this aspect of the CMS is therefore not a relevant consideration.

Summary:

175. I summarise that the statutory planning documents do not prevent the granting of the concessions. The terms and conditions imposed shall ensure consistency with the Conservation General Policy.

Section 17Z: Exceptional circumstances

176. The applicants have applied for a term of 60 years, on the basis that a lease may be granted for a term of longer than 30 years, where there are exceptional circumstances, as per s 17((1) of the Conservation Act 1987. The Minister must be satisfied that the

circumstances are truly exceptional when considering the term (and subsequently, the interpretation of statutory planning documents).

177. The applicants, in the application forms, describe how they had purchased the baches after 2008. This is post-Land Act lease renewal, where purchases were made on the presumption that the leases were perpetually renewable.
178. The applicants describe how they would not have progressed with the purchases if the Department had applied the legislation appropriately to the subject leases. The most important consideration the applicants state they had during their purchase was the lease conditions and the transfer of lease without variation to the terms, specifically perpetual renewal rights.
179. The applicants also note that the purchase price was inflated well beyond what it would be if no rights of renewal existed. The applicants describe how perpetual rights of renewal in leases have the effect in practice of uninterrupted private rights to access. It is a well-established plank in property law that leases are assets and have economic value and that perpetually renewable leases give rise to value equivalent to freehold title. The lease reviewed by the banks who offered the mortgage loan to the applicants was the Land Act lease, and the applicants describe how the banks would not have granted a mortgage without such lease conditions.
180. The applicants describe how the economic and emotional effects of the Department's omission are significant. They note that potential financial loss, if the concession is not granted, is much greater.

Submitter Comments

181. The submission in opposition from Mr Wards disagrees with the applicant's reasoning that exceptional circumstances apply. Mr Wards states that, in his view, exceptional circumstances generally involve factors that justify a longer term because:
 - a) The nature of the investment requires a longer amortization period (e.g. major infrastructure or high capital cost)
 - b) The activity provides long-term public benefit or strategic conservation outcomes
 - c) There are strong cultural or Treaty-related reasons for certainty over a longer term
 - d) The concession is linked to community continuity (e.g., historic baches or marae sites).
182. I do not agree with the position outlined by Mr Wards that the circumstances identified are exhaustive in determining where exceptional circumstances apply. While I accept

that the matters he has identified may constitute exceptional circumstances, they do not represent the only relevant considerations available to you.

Statutory Land Management Advice

183. Statutory Land Management advice to the Director LNI (2022) states the following reasons contribute to exceptional circumstances:
- a) *‘The crown land that contained the leases should have been allocated to Landcorp Investments (LINZ) for administration (not DOC).*
 - b) *DOC officials failed in their duty to inform the Select Committee headed by MP Chris Fletcher of the implications of the draft Part 3B Concessions regime on perpetually renewable leases.*
 - c) *DOC officials failed to advise leaseholders of the proposed Part 3B Concessions regime being introduced to the Select Committee.*
 - d) *The Conservation Amendment Act 1996 (Part 1) as legislated by Parliament confirms the Part 3B Concessions regime and imposes the regime on all lease renewals.*
 - e) *Conservation General Policy (2005), as approved by DOC, in section 10 (h) introduces the policy of phase-out of private occupation of public conservation land, thus affecting the Pourerere Beach leases.*
 - f) *In September 2021, DOC’s duty to its lessees in respect of lease renewals is belatedly communicated by the Permissions National Transaction Centre.’*
184. It must be noted that the Statutory Land Management advice was sought by the Director, LNI separately from this application process in 2022. The advice can be observed here: [DOC-7222187](#).
185. I agree with the advice from Statutory Land Management and with the applicant’s reasonings for the circumstances being exceptional. You can be satisfied that exceptional circumstances exist that enable you to grant a term longer than 30 years, and up to 60 years.

Applicant Feedback on Decision Document

186. The applicants reiterated that they believe a 60-year concession term is “the only outcome that is fair, evidence-based, and consistent with DOC’s statutory obligations.” They note that any term less than 60 years would fail to take proper account of the Department’s role in creating the present situation and would not reflect the long-term security that the leaseholders reasonably expected under the original perpetually renewable leases.

187. The applicants state that a shorter term would also be inconsistent with the Department's responsibility to act fairly and reasonably towards affected leaseholders. These reliance interests extend not only to the applicants themselves, but to the lending arrangements entered on the basis of the historic lease structure and the long-term continuity of those interests.
188. Multiple reduced term options have been provided in accordance with the National Principles for Private Accommodation on Public Conservation Land. A longer term would reduce the level of public benefit derived from the use of the public conservation land.
189. In addition, there is a recognised level of uncertainty regarding the potential cumulative and long-term environmental effects associated with the activity if authorised for a longer period. In this context, granting a shorter term may be considered an appropriate and proportionate response, ensuring alignment with policy expectations, maintaining an appropriate level of public benefit, and enabling future reassessment of environmental effects and management settings.
190. You have been provided term options that range between 20 years and 60 years.

Statutory Analysis – Conservation Amendment Act 1996

191. Section 7(2) of the Conservation Amendment Act 1996 (CAA) provides that any person lawfully occupying a conservation area at the commencement of the CAA, based on rights granted on or before 1 April 1987, may be granted a concession for the same area, but only to the extent of the activities previously authorised, notwithstanding sections 17U or 17W of the Act.

Consistency with Departmental operational policy

192. Departmental operational policy assessed:

National Principles for Private Accommodation on PCL

Is the activity consistent with relevant operational policy documents? **With Conditions**

193. If you approve the applications, ongoing concessions to lease land for private accommodation cannot be granted. You must phase out the private use of the accommodation facilities in accordance with the National Principles for Private Accommodation on Public Conservation Land.
194. The three recommendations provided by the Management Planning Team are as follows:
- a) Phase in public use

- b) Building removal
 - c) Disposal of the Land (Not a matter for consideration in the application process)
195. I consider the phase-in of public use is the most suitable option for the applicants' circumstances. The management planning advice recommended that you consider including the following conditions to meet the requirements for phasing in public use:
- a) Mechanisms are included to enable public use, including fair and reasonable pricing, and accessibility.
 - b) A term is set that demonstrably reduces the time for private accommodation and associated facilities to remain at the site.
 - c) Due to climate change risks, no hard coastal structures such as sea walls etc should be allowed.
 - d) Private accommodation buildings or facilities damaged or destroyed by fire, natural hazards or disrepair should not be able to be replaced; and
 - e) The building footprint cannot be enlarged.
196. I proposed the phase-in of public use includes the requirement for the baches to be made available for booking platforms after a specific date, managed by the Concessionaire (e.g. AirBnB, Bookabach).
197. The National Principles have been used to form the Statutory Planning advice, thus the preparation of this report and the proposed lease conditions. There is no guidance for phase-in timeframes that must be adhered to, which is why there are multiple options for the decision-maker to consider.

Other Matters for Consideration – Changes to Legislation, Planning Documents and Land Management

198. The Conservation Act (Land Management) Amendment Bill is underway and is expected to become law by mid-2026. Additionally, as identified in the Management Planning advice, the potential disposal of the stewardship land may be considered by the Department in the future.

Changes to Legislation and Planning Documents

199. It must be noted that changes to legislation must not be a primary factor in the decision made, as an application is assessed against in the context of current legislation and statutory documents. However, you may determine the appropriateness of conditions and the term considering these potential changes.

200. A special condition is included to account for the current review of the Hawke's Bay Conservation Management Strategy, and how changes that occur to this Strategy may impact the concession.
201. The standard condition also identifies to the concessionaires that they must comply with any policy statement and any conservation management strategy or plan, together with any amendment or review to the policies, strategies and plans.
202. A standard condition identifies to the concessionaire that they must comply with any other statute, ordinance, regulation, bylaw, or other enactment (collectively the "Legislation") affecting or relating to the Land or affecting or relating to the Concession Activity.

Changes to Land Management

203. A special condition is included that reiterates that the Concessionaire acknowledges that the Land may be subject to disposal, exchange, or any other change of status undertaken in accordance with the Conservation Act 1987 or any other applicable legislation.

Submitter Comments

204. The submission in opposition from Mr Wards recommends that if the applications are approved, that a maximum term of 10 years be granted due to the significant changes that are anticipated for the concessions system. They state that the granting of a 60-year term would be '*unreasonable, illogical and unjust*' considering these changes.
205. The above-mentioned conditions ensure the anticipated changes do not adversely affect the administration of the land and the leases for both the Department and the applicants.

Recommended Operating Conditions

206. Term: The decision-maker must consider the appropriate terms based on the information provided in this report.
207. I recommend granting, at a minimum, a 20-year term. This would go some way to reduce the material disadvantages arising from the transition from Conservation Act leases to Land Act leases, noting that the conditions of Concessions under the Conservation Act impose additional limitations on rights currently held by the applicants. Proposed terms, and the reasoning behind them, are discussed below:

Term	Reasoning
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20 years – 30 years	A term within this range is appropriate if the decision-maker considers exceptional circumstances are not met. However, even if you do agree that exceptional circumstances apply, that does not prohibit a shorter term being granted based on other advice within this report. A reduced term may be appropriate to align with Management Planning advice, the assessment of potential climate change effects and considers the objections for a 60-year term, which includes Mātua Kenrick of the Pourerere Hapū Trust.
30 years – 60 years	60 years is the term applied for by applicants. A term over 30 years is only appropriate if the decision-maker considers exceptional circumstances are met. We recommend that there is nothing within this decision report that prevents a term between 30-60 years from being granted. However, it does not align with the Management Planning advice, assessment of potential climate change effects and the objections for a 60-year term, which includes Mātua Kenrick. Phasing in of public use of previously private accommodation is not well tested in the Department and methods for public use may change over the next 30-60 years. A review of how well public phase is working may be required sooner.

208. **Standard and Special Conditions:** Special conditions are required for the implementation of the public use phase-in. As there is no guidance set within the CMS, the decision-maker must determine what phase-out conditions are appropriate in this instance. Proposed special conditions can be observed in Appendix 5 of this report. It is recommended that a special condition be included that allows for an agreed framework for public use to be agreed to by both parties one year prior to the scheduled public use phase-in:

‘At least twelve (12) months prior to the date on which public use of the buildings and lease area is required under this Lease, the Department and the Concessionaire must agree on the terms and arrangements for implementing that public use.

Any agreed terms must be recorded in writing and signed by both parties as a variation to this Lease. If the parties have not reached agreement within a reasonable period

after commencing discussions, they must escalate the matter in accordance with the dispute resolution provisions of this Lease.’

209. This special condition enables the Department and the applicants to agree on appropriate operational arrangements to support safe public use at the time it is required. It is difficult to foresee the future condition or ownership of the baches when public use is required to commence. These arrangements will vary between structures and applicants, reflecting differences in infrastructure, available resources, and safety requirements.

210. Below are some phase-in options for the decision-maker to consider:

Option 1: Public use required after six (6) years	You may consider that it is more appropriate to allow the applicants six years where public use is not required. This aligns with any proposed term, the second scheduled fee review and provides the applicants with reasonable time to adjust to the new concession conditions.
Option 2: Public use required after nine (9) years.	This phase-in option is better suited if the concession will be granted for longer than 20 years and aligns with the third scheduled fee review. This option provides less benefit to the public as it inhibits them from using the public conservation land; however, you may consider this the most appropriate option given the circumstances.
Option 3: Public use after the expiry date of the Land Act leases (recommended)	This phase in option was requested by the applicants in their comment/submission on this decision report. This option provides the least benefit to the public as it inhibits them from using the public conservation land for a longer duration; however, is considered reasonable as this option reflects the rights the applicants currently hold under their Land Act lease (which DOC have advised remain enforceable). The applicants also note that a phase in of public use before this date would compound the economic loss held by the applicants by the Departments administrative error.

Applicant Feedback on Lease Conditions

Assignment

211. The applicants, in their feedback of the draft decision report, requested that the concession conditions provide clear and workable assignment provisions, including that DOC's consent will not be unreasonably withheld or delayed and that this assignment does not trigger any automatic resetting of concession term, fees or operational conditions.
212. On request by the Department, the Applicants provided some additional conditions on 9 June 2026 to resolve their concerns regarding the assignment process. The Department has no concerns, and they have been added in as special conditions to compliment or supersede the standard conditions in Schedule 2, clause 8.

Right to Rebuild

213. The applicants have also requested that special condition 1.4 be re-drafted to allow the applicants to rebuild the bach if it is damaged or destroyed. They state that the requirement of the rebuild being of 'significant public good' is an inappropriate threshold for longstanding, authorised structures that the Department has already accepted as suitable for continued occupation.
214. The applicants request, explicitly, that the draft condition be amended to allow the rebuilding of the structures where it remains within the existing or substantially similar footprint, where effects are no greater than those of the existing building, and all required statutory approvals are obtained. I recommend the special condition reads as follows:

'If the house and/or associated infrastructure described in Item 2 of Schedule 1 are substantially damaged to be uninhabitable or destroyed, the Concessionaire must not repair or replace them without the prior written approval of the Grantor. Any approved repair or replacement must comply with all applicable statutory requirements and must not exceed the authorised lease land footprint area'.

215. It must be noted inclusion of this special condition departs from a 'should' recommended condition within the National Principles for Private Accommodation on PCL ('As part of the phase out nationally, any concession granted for private accommodation and/or associated facilities may include conditions about... Private accommodation buildings or facilities damaged or destroyed by fire, natural hazards or disrepair should not be able to be replaced'. However, the principle of imposing suitable conditions is ultimately at your discretion as the decision-maker.

216. You can observe the proposed special conditions in Appendix 5 of this report.

217. **Fees:**

Processing Fee: est. \$16,720.00 plus GST

Management Fee: \$550 plus GST

This is comprised of:

- the base rate (managing invoices and follow up): \$150.00 + GST
- rent/fee review (covers the annual portion of the three yearly rent reviews): \$100.00 + GST
- Collection and calculation of annual activity returns: \$150.00 (<90 mins) to \$200.00 (>90 mins) + GST
- Rates recovery: \$150.00 + GST

Activity Fee: A fee assessment has been provided (signed by the Director, Regulatory Systems Performance) for these applications ([DOC-10744989](#)). Based on the fee assessment, the activity fees for the applications are as follows:

Application Number	Applicant	Activity Fee plus GST per annum
120079-ACC	Horsfall Family Trust	\$6,960.00
120080-ACC	Richard and Anne Loan	\$7,200.00
120081-ACC	Hewitt Family Trust	\$7,080.00
120082-ACC	The Alvar and Aalto Trusts	\$7,080.00
120083-ACC	Robertson Trust	\$8,160.00
120085-ACC	PH and LD Stewart Family Trust	\$7,080.00
120086-ACC	The Vondervoort Family Trust	\$7,080.00

218. The activity fees are currently being re-assessed in response to the applicant comment on the draft decision report. The final decision will be made by the Director, Regulatory Systems Performance and will be updated in the draft lease documents before execution.

Appendices

Appendix 1 – Contributions document register:

	Contributor name (District and role)	Document description	DOC link
District Office	Kev Carter, Statutory Advisor	Request for Comments	DOC-10488187
Management Planner	Lizzie Hallsworth, Senior Management Planning Advisor	Management Planning Advice	DOC-10551161
Commercial Advisor	Peter Thompson, Commercial Analyst	Fee Assessment	DOC-10744989

Applicants comment on Draft Decision

<https://doccm.doc.govt.nz/cwxv4/wcc/faces/wccdoc?dDocName=DOC-10934578>

Appendix 2 – Treaty Partner Engagement

Links to emails sent to Tamatea Pōkai Whenua:

DocCM - Tamatea Pokai Whenua - Upcoming Notification to Pourerere Bach Owners - unable to comment due to resourcing

DocCM - Tamatea Pokai Whenua - Upcoming Notification to Pourerere Bach Owners

Appendix 3 – Map

Pourerere Conservation Area



Appendix 4 – Land Status History of Pourerere Conservation Area

Year	Gazette reference	Description
1850's		The Crown purchases two coastal native reserves (Tuingara and Pourerere) from Maori chiefs Te Hapuku and Morena Hawea. Te Hapuku had just prior sold the Waipukurau Block (279,000 acres) to the Crown 4 November 1851
1888	NZG 1888 page 43	Crown land (sec 32 Blk XII Pourerere SD, 28 acres) permanently reserved -landing place. Extends in south from Tuingara Point to Pourerere Stream.
1927	NZG 1927 page 3235 & Proc 1207 NZG 1927 page 3685	Portion (22 acres) of landing place reserve set apart as a Recreation Ground. Recreation Ground brought under Reserves Act, made a Domain known as Pourerere Domain; Domain Board appointed; 23 sections for leasing set out on SO 1609. Sections of reserve were leased under Miscell and Res licenses.
1969	NZG 1969 page 909	Reserve status revoked within Part Section 32 over the 23 leased sections on SO 1609
1974		Commissioner of Crown Lands issues perpetually renewable leases [sec. 67 Land Act 1948] to each of the 23 lessees. Each lease has a rent review every 11 years, based on formula 4.5% of Land Value, clause says no right to freehold.
1987	Crown Land allocation	The Crown land is allocated to DOC, put into effect by section 62 of the Conservation Act 1987 (states: any land that was crown land before the Act shall be managed as if it was a stewardship area). Section 64 of the Act-the stewardship land is subject to existing encumbrances (i.e. the 23 leases)
1996	Conservation Amendment Act 1996	introduces Part 3B Concessions; also section 47 Transitional provisions for existing leases, states every lease renewal shall be subject to Part 3B.

Appendix 5 - Proposed Schedule 3 Special Conditions

1. Authorised Activity

- 1.1. For the avoidance of doubt, the building(s) and associated structures on the Land as described in Item 1 of Schedule 1 and shown in Schedule 4 are the responsibility of the Concessionaire. The Concessionaire is responsible for their maintenance.
- 1.2. The Concessionaire must ensure the style and character of the Concession Activity structures and facilities as described in Item 2 of Schedule 1 remain largely unmodified, must not exceed the authorised lease land footprint area and must also comply with all relevant local authority requirements.
- 1.3. Further to clause 11.1 of Schedule 2, and subject to clause 1.2 of this Schedule 3, the Concessionaire may undertake maintenance and repair works to the house, related facilities and improvements but the Concessionaire must not erect, alter or bring on to the Land any structure, or alter the Land in any way, without the prior written approval of the Grantor.
- 1.4. If the house and/or associated infrastructure described in Item 2 of Schedule 1 are substantially damaged to be uninhabitable or destroyed, the Concessionaire must not repair or replace them without the prior written approval of the Grantor. Any approved repair or replacement must comply with all applicable statutory requirements and must not exceed the authorised lease land footprint area.

2. Amend or review of any policy, strategy or plan

- 2.1. Further to Schedule 2, clause 15.1(a), the Concessionaire acknowledges that the Hawke's Bay Conservation Management Strategy 1994 is currently under review. This could result in a variation to the terms and conditions of this contract.

3. Local and Territorial Authority Approvals (Building Act 2004/Resource Management Act 1991)

- 3.1. Nothing in this Concession will be deemed to amount to endorsement by the Grantor of the standard of the house, associated structures or services for the purposes of compliance with the Building Act 2004, Resource Management Act 1991 or any other statutory requirements administered by the local or territorial authorities.
- 3.2. Further to clause 15.1(b) of Schedule 2, the Concessionaire must ensure that all structures whose construction or alterations commenced after 1 July 1992 comply with the Building Act 2004 and any relevant regulations (including the Building Code).
- 3.3. Without limitation to any other clause in this Concession, the Concessionaire must:
 - a) Ensure that all existing structures and any new structures or alterations are not dangerous or unsanitary in terms of Sections 121-130 of the Building Act 2004, as amended from time to time;
 - b) Comply with any notices issued in accordance with any of the provisions referred to above;
 - c) Indemnify the Grantor for any loss or damage caused or suffered as a result of breach of this condition, including without limitation, the cost of ensuring compliance with any notice issued pursuant to the provisions referred to above.

4. Building and structure integrity

- 4.1. The building must be weatherproof and in a reasonable state of repair. In particular:

- a) The building and its building elements (including walls, floor and roof) must have a low probability of rupturing, becoming unstable or collapsing during the term of the concession.
- b) The building and its building elements must not show signs of significant deterioration that would threaten its structural stability during the term of the concession.
- c) The building's wall, floor, roof, windows and doors must be in a condition that will ensure adequate resistance to penetration by, and the accumulation of, moisture from the outside during the term of the concession.
- d) The building must be in condition that prevents surface water from entering the building during the term of the concession.
- e) There must be no impediment (such as jammed doors or windows) to making a quick exit from the building in the case of fire or similar emergency.
- f) The building must be in a condition that would help prevent or minimise infestations of pests and vermin (such as fleas, bed bugs, rats and mice) inside the building.
- g) The building must have adequate passive ventilation to reduce moisture build up inside.

5. LPG use

- 5.1. The Concessionaire acknowledges that any gas cookers and LPG storage must be compliant with the LPG regulations.

6. Fires

- 6.1. Further to clause 9.1 of Schedule 2, where the Grantor has consented to the Concessionaire lighting a fire, the Concessionaire must be in attendance at all times during the course of the fire and must be present until the fire is fully extinguished. Where a permitted fire occurs, the Concessionaire must bring all firewood on to the site from outside of Public Conservation Land.
- 6.2. The Concessionaire must comply with the requirements of the Fire and Emergency New Zealand Act 2017 and Fire Safety and Evacuation of Buildings Regulations 2006 in respect to the building.

7. Vegetation clearance

- 7.1. Clearance of vegetation around the building as part of ongoing maintenance must be done in a way that minimises any negative effects on the environment surrounding the building and cut vegetation must be removed from view.

8. Rubbish

- 8.1. Further to clause 9.2 of Schedule 2, the Concessionaire must remove and dispose of any waste or rubbish in an approved manner off the Land at a Council approved site. Waste held on the Land prior to its removal must be stored in a manner so as to ensure it does not become a contaminant or is not blown by wind or presents a potential hazard to wildlife.

9. Weed Control

- 9.1. Further to clause 9.2 of Schedule 2, the Concessionaire must not plant any introduced species.

10. Storage of hazardous substances

- 10.1. Further to clause 9.3 of Schedule 2, the Concessionaire must ensure that any hazardous substances stored on the Land are held in approved containers according to Worksafe requirements. Storing greater than 50 litres of petrol will require approval from the Grantor.

11. Hazardous Spills

- 11.1. In the event of any hazardous spill, the Concessionaire must:
- a) Take all practicable measures to stop the flow of the substances and prevent further contamination onto the Lease Land or water;
 - b) Immediately contain, collect and remove the hazardous substances and any contaminated material, and dispose of all such material in an appropriate manner / authorised facility;
 - c) Notify the Grantor as soon as possible;
 - d) Undertaken any remedial action to restore any damage to the soil; and
 - e) Take all measures to prevent any reoccurrence.

12. Accidental Discovery Protocol

- 12.1. The Concessionaire must take all reasonable care to avoid any archaeological values on the Land which includes (but is not limited to) historic sites and protected New Zealand objects on the Land. In the event that archaeological sites or other features with heritage values are found during any approved earth disturbance work on the Land:
- a) Work must cease immediately until further notice and advice shall be sought from the Grantor;
 - b) If it is an archaeological site as defined by the Heritage New Zealand Pouhere Taonga Act 2014 then Heritage New Zealand must be contacted and their advice also sought;
 - c) If it is an archaeological site relating to Māori activity then Tamatea Pōkai Whenua must be contacted and their advice sought;
 - d) If it is an artefact as defined by the Protected Objects Act 1975 then the Ministry for Culture and Heritage must be notified within 28 days;
 - e) If it is human remains the New Zealand Police should also be notified;
 - f) In the event of cessation of approved work because of discovery of potential historical artefact or archaeological site the Concessionaire must not recommence work until permitted to do so by the Grantor.

13. Public Use

- 13.1. No later than the **XX Day of XXXX 20XX**, the Concessionaire must ensure the accommodation facility is available to be booked and used by the general public.

- 13.2. At least twelve months prior to the date on which public use of the buildings and lease area is required under this Lease, the Grantor and the Concessionaire must agree on the terms and arrangements for implementing that public use.
- 13.3. Any agreed terms must be recorded in writing and signed by both parties as a variation to this Lease. If the parties have not reached agreement within a reasonable period after commencing discussions, they must escalate the matter in accordance with the dispute resolution provisions of this Lease.

14. Coastal erosion, flooding and natural hazards

- 14.1. Further to clause 14.6 of Schedule 2 the Concessionaire acknowledges that the Land may be within a coastal erosion or other natural hazard zone and that any erosion or other hazard that occurs at any time will not affect the obligations of the Concessionaire.

15. Monitoring and Compliance

- 15.1. If the Grantor (or the Grantor's employees, agents and contractors) determines that compliance with the conditions of this Concession or the effects of Concession Activity should be monitored, the Concessionaire is to pay either:
 - a) the full cost of any monitoring programme that is implemented; or
 - b) if the Grantor determines that the costs should be apportioned among several concessionaires who use the same locations, part of the costs of the monitoring programme.
- 15.2. These costs will include, but are not limited to, the Department of Conservation's standard charge-out rates for staff time and the mileage rates for vehicle use associated with the monitoring programme.

16. Review of Conditions

- 16.1. In addition to the express opportunities the Grantor has to review conditions elsewhere in this Concession, the Grantor may, on each Concession Fee Review Date, and after consulting with the Concessionaire, delete, vary or add any condition to more effectively manage the Concession Activity.

17. Termination for Land Administration Purposes

- 17.1. The Concessionaire acknowledges that the Land may be subject to disposal, exchange, or any other change of status undertaken in accordance with the Conservation Act 1987 or any other applicable legislation.

18. Further to Schedule 2, clause 8, Assignment

- 18.1. The Grantor's consent to an assignment under of Schedule 2 clause 8, will not be unreasonably withheld.
- 18.2. Recognising the unique circumstances in which this Concession was granted, and the continuity expectations arising from those circumstances, the Grantor's discretion in considering an assignment request relates to the suitability of the proposed assignee to hold a concession and any material change in the Concession Activity.
- 18.3. The Grantor will not use an assignment request as an opportunity to renegotiate or vary the terms of this Concession.