



Complex Conservation Act Recommendation and Decision Report

Applicant: Te Haerenga o Ngāi Tai ki Tāmaki Limited and Man O'War Vineyards Limited

Permission number: 122732-ATT

Application Type: Notified Lease and Licence

To: Rebecca Rush, Operations Manager Tāmaki Makaurau

From: Ben Fielding, Senior Permissions Treaty Advisor

Peer Reviewed by: Lisa Wheeler, Senior Permissions Advisor

Date sent: 9 April 2026

Executive Summary - Whakarāpopoto ā kaiwhakahaere

1. Te Haerenga o Ngāi Tai ki Tāmaki Limited and Man O'War Vineyards Limited (the Applicant) have applied to utilise existing historic structures, including gun emplacements, underground tunnels and a 'War Shelter' in Stony Batter Historic Reserve on Waiheke Island to operate a visitor centre and undertake guided tours of the site (the Application). The Applicant seeks exclusive occupation of the historic structures (a lease) and non-exclusive use of the wider reserve (a licence).
2. The Application was received following a closed Request for Proposals process where the Applicant and the current Stony Batter concession holder (the incumbent operator) were invited to submit proposals for the opportunity to be invited to apply for a concession for the exclusive opportunity to operate at the site. The Applicant's proposal was successfully chosen through this process, and they were invited to submit a substantive concession application.
3. This Application has been considered under the notified process, and a hearing of submissions was held. You have previously noted the submissions and objections summary report and sought further information from the Applicant as that report recommended. That information was provided by the Applicant to your satisfaction.
4. The Applicant seeks a term of 20 years (10 years plus a further 10-year right of renewal). The recommendation of this report is to grant a term of 10 years, though three options for the concession term are presented for your consideration.

5. The Auckland Inner Islands District did not have any concerns with the proposed activity, provided that the heritage values of the Stony Batter site could be appropriately managed. Special Conditions are recommended requiring appropriate site management plans to be developed and provided to the Department within 6 months of the concession commencement date to ensure this heritage protection can be achieved.
6. The District undertook consultation with Tāmaki iwi. No responses were received during the engagement process.
7. Te Haerenga o Ngāi Tai ki Tāmaki, are mana whenua whose rohe includes Waiheke Island where Stony Batter Historic Reserve is located. This Application represents an opportunity for them to exercise tino rangatiratanga and kaitiakitanga through the introduction of their cultural narrative and history into the site tours.
8. A decision to grant a concession, as well as the process that has been undertaken regarding this Application as described in this report, is consistent with section 4 of the Conservation Act 1987.
9. The Application is consistent with all relevant legislation and statutory documents.
10. Lease and Licence for your approval: *(reference removed for website version)*

I recommend that you..... (Ngā tohutohu)

	Concession under Part 3B of the Conservation Act 1987	Decision
a)	<p>With Respect to Term:</p> <p>1. Grant a Lease and Licence Concession for a Term of 5 years</p> <p>OR</p> <p>2. Grant a Lease and Licence Concession for a Term of 10 years [RECOMMENDED]</p> <p>OR</p> <p>3. Grant a Lease and Licence Concession for a Term of 20 years (10 years plus a 10-year right of renewal)</p>	<p>Agree/Disagree</p> <p>Agree/Disagree</p> <p>Agree/Disagree</p>

b)	Approve the Application. Subject to the standard concession contract and the special conditions identified in this report	Yes / No
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Decision Maker Rationale:

I agree with the recommendations set out in this report. I am satisfied the application meets the tests of Part 3B of the Conservation Act 1987 and that the assessment has been undertaken with full regard to Section 4 of the Conservation Act 1987.

My decision is to grant a term of 10 years. I have declined to grant a term of 5 years as a short term was not envisaged nor signalled in the Closed Tender process. If such a term was signalled, it may have led to a different range of proposals being lodged. I have also declined to grant the longer term of 20 years as while adequate information has been provided about the concession activity and how the effects of these activities will be suitably managed, there is still a need for the Applicants to provide further documentation to outline their maintenance programme and how it will protect the Land and its values. It is noted that the Applicants have not had the opportunity to have an in depth look over the site due to the existing concessionaire still being in place. It is also noted that the Applicants have been forthcoming and happy to work with DOC on requests for further information.

Fort Stony Batter is a historic site, of high interest to the public and the Department. There is additional interest in the site due to the incumbent concessionaire not being successful in the Closed Tender. I have requested the addition of a clause requiring the concession activity to commence no later than 1 July 2026 (unless there is a valid reason for it not to). This is to address the risk of the tunnel complex sitting empty with the exit of the incumbent concessionaire. As the site is not actively managed by the Department, the complex will be far better managed and maintained with a Concessionaire in place.



Date: 13 April 2026

Rebecca Rush, Operations Manager Tāmaki Makaurau

Pursuant to a written delegation from the Director-General of Conservation

Purpose - Te aronga

11. The purpose of this report is to bring together the relevant information and recommendations to support you to make a statutory decision.

Context - Te horopaki

Site and Background

12. Stony Batter is an historic defence installation site located in Stony Batter Historic Reserve (The Reserve) on the north-eastern side of Waiheke Island. The site features underground tunnels, concrete gun emplacements and war shelters and is listed by Heritage New Zealand Pouhere Taonga as a Category 1 Historic Place¹. The wider reserve is predominantly open pasture, with pockets of native vegetation and karstic basalt boulders.
13. The underground tunnels, gun pits and war shelters were open to the public until 2015, when they were closed by the Department due to safety concerns about unregulated access. The rest of the reserve remained open to the public.
14. The opportunity to manage and undertake guided tours of the historic site is now managed by the Department as an exclusive concession opportunity.
15. In 2020, Fort Stony Batter Heritage Park Limited were granted a concession in the form of a lease and licence for the exclusive use of the underground tunnels and to run associated guided tours over the Reserve (both within the underground tunnels and aboveground). This concession expired on 4 June 2025, and a short-term extension was granted through to 19 April 2026 to allow for continued operation while a Request for Proposals process and further concession application was considered by the Department.

Request for Proposals process

16. During the term of the Forst Stony Batter Heritage Park Limited concession, the Department became aware that other parties were interested in the limited supply opportunity for a concession at the site. The Department decided to run a closed Request for Proposals ('RFP') process pursuant to section 17ZG(2)(a) of the Conservation Act to provide a transparent process to determine the most suitable proposal for the opportunity at Stony Batter. This process allowed the Minister to "*tender the right to make an application, invite applications, or carry out other actions that may encourage specific applications*".

¹ [Heritage New Zealand - Waiheke Battery](#)

17. The RFP was notified on 11 December 2024 and closed on 28 February 2025. Proposals were invited² from Fort Stony Batter Heritage Park Limited and a joint venture between Ngāi Tai ki Tāmaki and Man O' War Vineyards Limited (the Applicant). Proposals were received from both parties and considered by a panel.
18. The Applicant's proposal was ultimately chosen by the delegated decision-maker³, and they were invited to submit a substantive application for the activity.

Application

19. The Applicant has applied for lease of historic structures (including a 'visitor centre' in a modified 'War Bunker' and underground tunnels) and to undertake guided tours of the historic features of Stony Batter Historic Reserve on Waiheke Island.

20. The Application states:

The joint vision for the Visitor Centre includes educating visitors on the history of Auckland's coastal defence systems, the engineering and military history of the fortification, story of pūrākau Māori and its history of the area, as well as a general overview of the societal impact on local and nationwide communities relating to the national defence efforts. Scheduled guided tours will offer visitors the opportunity to explore the underground tunnels in detail, with comprehensive information on the various features. The tour itinerary is expected to last approximately one hour, with access to the tunnels restricted to guided tours only. Visitors who wish to explore only the above-ground features of the Reserve will be able to do so free of charge.

21. The Applicant proposes the following operating schedule for the visitor centre and associated tours:

Summer Peak Season:

- 9 am – 6 pm
- 7 days per week

Shoulder Seasons – Spring & Autumn & Winter

- 10 am – 4 pm
- 3-5 days per week

Public Holidays:

- Open (except Christmas Day)
- Hours based on the season.

22. Guided tours are proposed to have maximum group sizes of 20 people (including guides) and be less than 1 hour in duration.

² Request for Proposals Opportunity: [DOC-7768437](#)

³ Stony Batter Historic Reserve – Request for Proposal 2025 Recommendation Report: [DOC-10221975](#)

23. The Application further describes the proposal as:

As part of our proposal, we are committed to ensuring that all information provided to visitors is accurate and sensitive to all relevant parties. We will engage with all stakeholders to achieve this. We plan to display this information through various channels, including:

Informative displays in the Visitor Centre, specifically focusing on the Reserve's heritage.

- *A dedicated website page for information on the reserve and its history (which will also lead to the online booking service for the guided tours).*
- *Improved dual-language (te reo) signage throughout the Reserve, including access tracks.*
- *Detailed maps of the Reserve highlighting the locations of various heritage features.*
- *Well-trained staff who can provide visitors with information on the site's history and features.*
- *Enhanced storytelling and replicas of historical features within the Reserve and during guided tours.*

24. The proposed location is listed below. Maps and photos of the Stony Batter features are included in Appendix 2

Activity	Conservation Area	Land category/status
Lease of existing historic structures (underground tunnels, visitor centre) totalling approximately 0.4 ha	Stony Batter Historic Reserve	Historic Reserve under Section 17 of the Reserves Act 1977
Guided tours of underground tunnels and gun emplacements and across wider reserve		

25. The Applicant is seeking a term of 10 years plus a further 10 year right of renewal – a total term of 20 years. This term is sought to realise what the Applicant describes as a “long-term commitment” to the site and undertaking tours. The term would justify their initial investment in the activity.

26. The Applicant has not previously held outstanding or existing compliance issues.

27. Key concerns with the Application include ensuring enough information was available to be able to comprehensively understand the extent of the activity applied for and how it will be carried out, and ensuring that the heritage values of the Stony Batter site can be protected through the proposed new guiding operation. These concerns were addressed by seeking further information from the Applicant regarding how they intend to manage heritage effects and carry out the activity. This information as provided, with the Applicant confirming they are working with relevant heritage experts to develop plans for the activity and site.
28. A copy of the final application can be found here: [DOC-10453837](#)
29. A copy of further information provided can be found here: [DOC-10793861](#)

Treaty Partner Relationships

30. The table below summarises our engagement with Treaty partners on this application:

Treaty partner	Summary of Treaty partner engagement	Mitigations proposed by Treaty partner
Ngāi Tai ki Tāmaki (applicant)	Initial email sent 29/10 – via Kat Lane - DOC-10506366	None
Ngāti Tamaoho	Initial email sent 29/10 – DOC-10506363 Reminder email sent 20/11/25 - DOC-10534644	None
Ngāti Maru	Initial email sent 29/10 – DOC-10506359 Reminder email sent 20/11/25 - DOC-10534645	None
Te Patukirikiri	Initial email sent 29/10 – DOC-10506356 Reminder email sent 20/11/25 - DOC-10534646	None
Ngāti Paoa	Initial email sent 29/10 – DOC-10506349 and then included in weekly report - DOC-10377124	None
Ngāti Tamatera	Initial email sent 29/10 – DOC-10506355 Reminder email sent 20/11/25 - DOC-10534647	None
Ngāti Whanaunga	Initial email sent 29/10 – DOC-10506354 Reminder email sent 20/11/25 - DOC-10534648	None

Ngāti Te Ata	Initial email sent 29/10 – DOC-10506351 Reminder email sent 20/11/25 - DOC-10534649	None
Iwi Collectives	Initial email sent 3/11/25 via weekly report - DOC-10373672 (version 14)	None

31. A copy of the application was sent to all 8 relevant Iwi including the Applicant (for information purposes) and Paul Majurey as representative of the 3 Auckland Iwi Collectives.
32. No comments were received in relation to the proposed activity.
33. Paul Majurey has requested that all applications circulated to both collectives are tagged with the following comment “Opposed in relation to any Treaty redress areas/sites”. Stony Batter Historic Reserve is not subject to any commercial or cultural redress.
34. Waiheke Island is within the area covered by the Ngā Mana Whenua o Tāmaki Makaurau Collective Redress Act 2014, Ngāti Tamaoho Claims Settlement Act 2018 and Ngāi Tai ki Tāmaki Claims Settlement Act 2018.
35. Stony Batter Historic Reserve is identified as a Deed of Recognition site and is subject to a statutory acknowledgement under the Ngāi Tai ki Tāmaki Claims Settlement Act 2018. There are no post-settlement implementation obligations which relate to the site or the proposed activity.
36. Ngāti Pāoa and the Marutūāhu Collective are yet to fully settle.

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

37. Four principles have been identified as most relevant to the work of Te Papa Atawhai: Partnership, Informed Decision-Making, Active Protection, and Redress and Reconciliation.
38. **Partnership and Informed Decision-Making:** The Department has sought input from iwi who have an interest in activities on Waiheke Island. Engagement was undertaken in the agreed manner and Treaty partners were provided with information about the Application and invited to provide feedback. No feedback was received in this instance. Ngāi Tai ki Tāmaki, as the co-Applicant, were advised that engagement was occurring to ensure their awareness that the process was commencing.
39. The Department has ensured relevant treaty partners have had an appropriate opportunity in input into decision-making by providing a copy of the Application and inviting them to provide feedback. While no specific feedback was received from Treaty

partners on this Application through this process, the Department will ensure any final decision is communicated to all Treaty partners.

40. **Active Protection:** Ngāi Tai ki Tāmaki, as Applicant and as iwi with a strong interest in Waiheke Island, would benefit from a concession being granted. As articulated in the Application and reiterated at the hearing by a Ngāi Tai member, obtaining a concession for a commercial operation in Waiheke would allow Ngāi Tai to share their stories and history at place, bring prosperity to their members, and exercise tino rangatiratanga and mana motuhake at place.
41. **Redress and Reconciliation:** The Department's engagement reflects an ongoing commitment to reconciliation by recognising historical grievances and ensuring iwi voices are part of current and future conservation decisions. This Application represents an opportunity for Ngāi Tai ki Tāmaki to have direct input into the conservation story at Stony Batter through, and to benefit both commercially and culturally through their partnership to operate tours at the site.
42. It is considered that effect has been given to the principles of the Treaty throughout this Application process and that granting a concession to Ngāi Tai ki Tāmaki would align strongly with these principles.

Contributions

Advice from District Operations – Auckland Inner Islands

43. The District was generally supportive of the proposed activity. They noted that Stony Batter forms part of the Coastal Defence Historic Reserves Place and is specifically identified in the Auckland CMS. They noted that access to the site is via private land (Man O'War Farm) which has the same ownership as Man O'War Vineyards Limited, so arranging vehicle access to the site will not be problematic. Public walking access is generally allowed over this private land to access the site, and Man O'War Vineyards Limited have confirmed there is no intention to limit this public access in future.
44. The District identified that there would need to be careful consideration of heritage values and managing them during the life of any concession, and sought technical advice from a Senior Heritage Advisor, which has informed the drafting of concession conditions.
45. The District, through the Operations Manager, identified that the conditions of the incumbent concession had led to some lack of clarity about responsibilities between the concessionaire and the Department. It was recommended that any conditions included in a new concession, if granted, clearly articulated the scope of approved activity and what could be undertaken without further consent required from the

Department outside of the main approved site plan. This is to ensure a more comprehensive concession arrangement and clarified expectations for both parties. The conditions of the draft concession that is recommended for approval have been reviewed by the District to ensure they would be practical and workable from a monitoring, compliance and management view.

Auckland Conservation Board

46. The Application also met the criteria for consultation with the Auckland Conservation Board, and the application was provided to the Board for their comment. The Board support the application and recommended that a concession be granted in the form of a lease. They supported the proposed timeframe and were confident that all significant effects had been identified by parties, and there were appropriate measures to avoid or mitigate those effects. They were satisfied that a lease was required to ensure public safety and security of buildings, tunnels and machinery at site, and that appropriate steps could be put in place to protect the unique site and to share its cultural heritage.

Summary of public notification process

47. The Application was publicly notified on 30 October 2025 in the *New Zealand Herald* and *Waiheke Gulf News* newspapers, and on the Department of Conservation website. The notification period closed on 27 November 2025.
48. 24 submissions were received, 18 in support and six opposed. Three submitters asked to be heard, with one of those submitters ultimately withdrawing this request due to scheduling conflicts with the hearing date. A hearing was held for the one submission in support and one submission in opposition who sought to be heard.
49. A report summarising the submissions received, and the extent to which they should be accepted was noted by you on 18 March 2026 and is linked in Appendix 1. This report recommended that further information be sought from the Applicant before a decision was made on the Application. You agreed with this recommendation, and a request pursuant to section 17SD(1) of the Conservation Act 1987 was sent to the applicant seeking additional information regarding:
- The equipment that is proposed to be introduced to the site to facilitate the guided tours, including (but not limited to) lighting, signage and access assistance, and how this equipment will be installed and managed/maintained for the term of the concession.
 - Information and/or plans detailing how the heritage values of the Stony Batter site will be protected and maintained during the carrying out of the concession activity, including how any equipment to be installed will be done in a manner that does not adversely impact those values.

- Information and/or plans detailing how any maintenance, repairs or proposed modifications will be undertaken within the Stony Batter complex, and how the heritage fabric and values will be protected and maintained during this work.
 - Information and/or plans detailing how the heritage values of the Stony Batter complex will be interpreted through the operation of the visitor centre and during the proposed guided tours.
50. The Applicant responded to this request on 2 April 2026, providing the information sought.
51. The response notes that the Applicant has not had full access to the Stony Batter site due to the ongoing operations of the incumbent at the site and so have been unable to develop detailed plans for how they will undertake the activity if a concession is granted. The further information clarifies their intention to develop both a Conservation Plan and an Implementation Plan to be developed by suitable qualified heritage specialists, and for these plans to be approved by DOC before implementation. This wording has been incorporated into the special conditions of the draft concession.

Statutory Analysis

Section 17S: Contents of Application

Does the Application include all required information as per s17S?	Yes
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52. Discussion: The Application was considered to contain all information required under s.17S of the Act. Following the public notification process, further information was requested from the Applicant pursuant to section 17SD(1) of the Conservation Act to enable a decision to be made, and this was provided by the Applicant to the decision maker's satisfaction.

Section 17SC: Public Notification

Is public notification required?	Yes
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53. Discussion: The Applicant is applying for a lease over the existing underground tunnels and associated structures in Stony Batter Historic Reserve. Public notification of the Application is therefore required, and the Application was notified on 30 October 2025 for a period of 20 working days. The public notification process is summarised above in this report.

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

Is the activity consistent with s17U(1) and (2)	Yes
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54. Discussion: The Applicant has included an environmental impact assessment identifying potential adverse effects of the proposed activity as well as methods to mitigate those effects. The assessment of effects is considered in the context of this Application, which has arisen following a request for proposals process in which the Department has identified the lease/licence of this site for the purpose of operating guided tours is appropriate for the site.
55. The proposed activity consists of two broad aspects: the leasing of historic structures, including tunnels, buildings and gun emplacements for the purpose of operating a visitor centre and base for which to operate tours; and the undertaking of guided tours predominantly within those features, but also on the wider Stony Batter Historic Reserve. The leasing of the structures includes the maintenance of said structures to an acceptable level, in light of their heritage status, and the authority to make the structures suitable for public tours through the installation of lighting, safety features, signage and other features appropriate for the site.
56. During the public notification and hearing process, some submitters considered that the application was insufficiently detailed regarding the exact activities that were proposed, and how heritage effects would be managed. Further information was requested from the Applicant to assist the assessment of effects and ensure that the full scope of activity could be considered.

Heritage

57. The Applicant identifies potential damage to the historic Stony Batter features through their proposed guiding activities and lease of the structures. Prior to undertaking substantive activity at the site, the Applicant proposes to develop a 'Conservation Plan' and an 'Implementation Plan' in consultation with heritage experts (a heritage architect and an archaeologist) as well as relevant authorities (Heritage New Zealand Pouhere Taonga, Ngāi Tai ki Tāmaki, Auckland Council and DOC) to develop a 'current state' assessment of the Stony Batter site as well as a plan for managing heritage values throughout the concession term.
58. This approach is supported by the District and special conditions are recommended requiring the 'Conservation Plan' and 'Implementation Plan' to be included in a DOC-specific 'Site Plan' which is to be provided to DOC for approval within 6 months of the concession commencing, and before the guided tours commence. It is acknowledged that the Applicant has not been able to fully access the site during the processing of their application due to the ongoing operations of the incumbent operator, which has

limited their ability to develop specific plans for the site (such as lighting plans, signage plans etc). Having this work undertaken subsequent to a concession being granted is considered appropriate in this case, as the Applicant has confirmed they are working with appropriate heritage experts on an ongoing basis.

59. The Applicant also proposes to mitigate these risks through enhanced signage advising visitors to stick to existing formed accessways, limiting group numbers during guided tours, installing barriers or display cases as required to restrict proximity to displayed objects and to undertake a bi-annual archaeologist review of the site to confirm no avoidable damage or deterioration is occurring due to site activities.

Vegetation, landscape and wildlife

60. The Applicant has identified potential disturbance of vegetation, damage to wildlife and habitats, and introduction of weeds or pests. They propose to mitigate these effects through ongoing education of staff and visitors via their website and onsite instructions to encourage appropriate behaviour on site and avoiding disturbance of vegetation and natural areas. They note that their activity is similar to that currently being undertaken at the site, and further adverse impacts are not expected. They do not propose any new development or earthworks on site, which will keep these potential effects to a minimum.
61. The Applicant notes that the site is already modified with parking, paths, walking tracks and the historic buildings, gun emplacements and tunnels. No new development is proposed. Given this existing modification, and that the activity will predominantly be confined to the historic structures, there is low risk to natural features of the reserve.
62. It is considered that the Applicant's assessment of the likely effects on vegetation, landscape and wildlife matters is fair, and that their proposed methods to mitigate potential adverse effects are sufficient. Conditions are proposed to ensure that the concessionaire and visitors do not feed, touch or harass native wildlife, and that domestic pets (except for registered guide-dogs) are not brought onto the land. Conditions will require rubbish to be managed and allow for the Department to monitor the activity.
63. **Conclusion**
64. It is considered that any adverse effects of the proposed activity can be adequately avoided, mitigated and remedied through the conditions in the draft concession.

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

Is the activity consistent with s17U(3) of the Conservation Act? (that is, not contrary to the purpose for which the land is held).	Yes
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The following types of conservation areas are included in the application:

Title	Section	Considerations
Historic Reserve	Section 18 Reserves Act 1977	Protecting and preserving in perpetuity such places, objects, and natural features, and such things thereon or therein contained as are of historic, archaeological, cultural, educational, and other special interest.

65. Discussion: A concession shall not be granted if the proposed activity is contrary to the purpose for which the land is held. In this case, the proposed activity is the leasing of historic tunnels and structures for the purpose of establishing a visitor centre and undertaking guided tours of the Stony Batter Historic Reserve, including of the historic underground tunnels and gun emplacements.
66. No structural modifications to historical buildings or features are proposed.
67. The proposed guided tours will include historical and cultural information about the reserve.
68. While the exclusive lease of the underground tunnels will restrict the public’s general right of entry to these historic features, this is considered appropriate due to the safety risks associated with the public having unfettered access to underground tunnels. Aboveground features will remain open to the public free of charge.
69. Providing guided tours of these historic features is consistent with the purpose for which the land is held and will encourage the public’s appreciation of the heritage values of the Land.
70. With careful management through the imposition of conditions, it is anticipated that any adverse effects on the historic values and structures can be adequately avoided, remedied or mitigated.
71. It is considered that the proposed activities are not contrary to the purpose for which the land is held.

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

Is the activity consistent with s17U(4) of the Conservation Act? (that is, the activity cannot reasonably be undertaken at another	Yes
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location or in an existing structure?)	
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72. Discussion: A concession to build or extend a structure or facility shall not be granted if the activity could reasonably be undertaken in another location that is outside conservation land or in another conservation area where the potential adverse effects would be significantly less, or if the activity could reasonably be undertaken in an existing structure.
73. In this case, the proposed activity includes the adaptive use of existing historical structures, including underground tunnels and gun emplacements, and guiding of clients through them. The activity is inherently tied to this location as explaining the historical features is the purpose of the tours. It is not possible to locate the activity elsewhere.

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

Is the activity consistent with s17U(6) and (7) of the Conservation Act? (That is, exclusive possession is necessary)?	Yes
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74. Discussion: No lease may be granted unless the Minister is satisfied that exclusive possession is necessary for the protection of public safety, the protection of physical security of the activity concerned or the competent operation of the activity concerned. Section 17U(7) clarifies the competent operation includes the necessity for the activity to achieve adequate investment and maintenance.
75. The Applicant has stated that exclusive possession of the visitor centre and underground tunnels is necessary so that these facilities can be locked outside of operational hours and protect both the public’s safety and the physical security of the tunnels (e.g. to reduce the risk of vandalism or damage to the facilities).
76. The Department has previously considered that having a single concessionaire manage the historic site is the most appropriate way of mitigating risks (both health and safety, or from vandalism or damage) of unfettered access while allowing the site to be accessed in an appropriate manner. The alternative would likely be for the underground tunnels to be closed to the public entirely. It would also not be feasible for more than one concessionaire to hold a concession for the use and maintenance of the site.
77. Accordingly, it is considered that exclusive possession by the Applicant is necessary, and that a concession, if granted, may be in the form of a lease over the historic buildings and tunnels. Exclusive use is not required for the wider use of Stony Batter Historic Reserve, where further guided tours may occur or ancillary activities, and

therefore the footprint of the lease should be confined to that of the historic structures. A licence concession would be sufficient to authorise those other activities.

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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78. Discussion: A concession shall not be granted unless the proposed activity is consistent with any established conservation management strategy or plan. Stony Batter Historic Reserve is within the area covered by the Auckland Conservation Management Strategy 2014. The Conservation General Policy 2005 also applies and is assessed for completeness.

Conservation General Policy 2005 (CGP)

Policy 5 – Historical and Cultural Heritage

79. The gun emplacements and tunnels in Stony Batter Historic Reserve are identified as a category 1 historic place (list no. 7472⁴) by Heritage New Zealand *Pouhere Taonga*. Policy 5 is therefore relevant to this application.
80. Granting a concession that includes conditions requiring ongoing maintenance and allows for public appreciation of the site is consistent with Policy 5(b) and (e) which consider active management of sited with high significance and the use of historic buildings and structures in ways that enable their preservation, are in keeping with their assessed significant and provide opportunities for the public to appreciate them.
81. Policy 11 in the CGP covers activities requiring specific authorisation and includes requirements for concession applications and processing.
82. The Application is consistent with policies 11.1(a)-(d) which covers standard requirements for effects to be managed; activities to be consistent with objectives of the act and conservation management strategy; for the Department to monitor effects; and for concession holders to be responsible for health and safety.
83. The more specific activities outlined in Policy 11.2 – 11. 6 are not relevant to this application.
84. The Application is consistent with the CGP.

Auckland Conservation Management Strategy 2014 (CMS)

⁴ [Heritage New Zealand - Waiheke Battery](#)

85. Waiheke Island is located within the Hauraki Gulf Marine Park, and consideration of the relevant Hauraki Gulf Marine Park Act 2000, as required by the CMS, is detailed below in this report.
86. Part Two of the CMS covers identified Places. Stony Batter Historic Reserve is located within the Coastal Defence Historic Reserves Place which is covered in section 22 of the CMS. The outcome statement for Stony Batter states that it is a valued community treasure for Waiheke Islanders and the wider Auckland community. While the outcome states that tunnel complex can be “explored independently or by taking a guided walking tour”, the Department has more recently determined that independent exploration of the site is not appropriate for health and safety reasons, and that guided tours operated by a single concessionaire holding a lease for the site is the preferred management approach. This approach is consistent with policy 22.2.2.3, as it focusses on providing a safe and quality visitor experience.
87. The proposed activity is consistent with the specific policies for Stony Batter (22.2.2.10) which state that the Department will work with the community and concession holders to achieve sustainable and quality visitor services and facilities at Stony Batter. This Application arose following a request for proposals process between two invited proposals for an exclusive concession at the site. The Applicant’s proposal was chosen as the preferred option, and they were invited to apply for the activity. Through the public notification process, feedback was received from the local community as discussed in the summary of public notification process section of this report.
88. Part Three of the CMS covers specific policy requirements for Auckland. The proposed lease of historic features at Stony Batter, and operation of guided tours, is consistent with the relevant policies for authorisations – 24.2.1.1 – 5.
89. Policy 14.2.1.5 considers applications for the adaptive use of structures on public conservation land. The proposed activity has above been considered consistent with the purpose for which the land is held (24.2.1.5(a)), the outcomes and policies for Place (24.2.1.5(b)) and effects of the activity have been considered (24.2.1.5(e)).
90. The proposed use of the existing structures to undertake guided tours with up to 20 people is consistent with providing some level of public use and is consistent with the rural visitor management zone as described in Appendix 11, and the preferred group sizes of up to 50. It is noted that the enclosed nature and limited entryways and exits of the underground tunnels will limit group size, and it may not be practical or safe for 20 people to undertake a tour at one time. The Department’s Senior Heritage Advisor has recommended that the group sizes of 20 per tour that the Applicant has sought may also be larger than is practical or safe within the tunnels, and that groups of 10-15 are

likely to be more appropriate. It is recommended that the 20 pax per tour applied for is approved, to allow the Applicant flexibility to undertake aboveground tours of larger groups, but that a condition requiring underground tours to be limited to smaller groups if the Applicant's audited health and safety plan requires that.

91. The Rural visitor management zone states that Concessionaire client activities should not be advantaged or disadvantages compared with those for non-concessionaire visitors, unless there is a specified reason for different management. In this case, guided tours of the underground tunnel network and features will be restricted to paying visitors, meaning the concessionaire's client activities would be advantaged compared to non-concessionaire visitors. It is considered that the regulating of visitors into the tunnel system is appropriate in this instance for health and safety reasons, and to allow a concessionaire, as sole lease holder, to be able to operate an effective business and tour experience at the site. This allows the site to remain open and usable by the public for a fee, while otherwise the Department would likely close the site to any access as there are no alternative plans for the Department to manage the site for public use.

Consideration of Hauraki Gulf Marine Park Act 2000

92. When assessing if any activity is consistent with the relevant legislation and statutory plans, the Auckland CMS requires consideration be given to the Hauraki Gulf Marine Park Act 2000. Waiheke Island falls within the Hauraki Gulf Marine Park Act 2000 ('the Act'). The CMS states:

"Implement sections 7 and 8 of the Hauraki Gulf Marine Park Act 2000 (which have the same effect as a statement of general policy by virtue of section 11 of the same Act), insofar as implementing the sections does not derogate from the provisions of the Conservation Act 1987" (Section 7.5.1.1)

93. Section 7 of the Act recognises the national significance of the Hauraki Gulf and its islands. Section 7(2)(b) encourages the use of the Gulf's resources (including historic sites) for economic activities and recreation. This Application is to manage and maintain a historic site within the Gulf for commercial recreational purposes and is not inconsistent with section 7 of the Act.
94. Section 8 states the objectives of the management of the Hauraki Gulf, its islands, and catchments. The Application is consistent with this section. Natural, historic and physical resources will be protected and enhanced through the ongoing management and maintenance of the Stony Batter site (s8(b)), and the proposal will enhance the cultural association of Ngāi Tai ki Tāmaki to those natural, historic and physical

resources (s8(d)). More generally, the continued use of the site to facilitate guided tours will enhance the public's enjoyment and appreciation of the site, which is consistent with the section overall.

Conclusion:

95. It is considered that the Application is consistent with the Auckland Conservation Management Strategy 2014, including the relevant policies identified in the Hauraki Gulf Marine Park Act 2000.

Recommended Operating Conditions

96. **Term:** The Applicant has applied for a term of 10 years with a further 10 year right of renewal – a total term of 20 years.
97. Section 17Z(1) of the Conservation Act 1987 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 60 years in exceptional circumstances). The application for 20 years is therefore consistent with what may be granted under the Act. However, it is ultimately for the decision-maker, as Minister's delegate, to determine the term granted when deciding to approve a concession application.
98. The previous concession granted to the incumbent operator Stony Batter was granted a concession for a term of 5 years. Through the public submission and hearing process, the incumbent operator opposed the 20-year term sought and recommended that any term should be limited to 5 years followed by a renewed competitive renewal process. The submission argued that this is the established precedent, however this is not accepted – a 5-year term was approved for the previous concession based on the particular circumstances of that application, and the relevant considerations under Part 3B of the Conservation Act. That decision does not form a precedent for future decisions on concession term for the activity.
99. It should be recognised that this Application followed a Request for Proposals process, in which the Applicant's proposal was considered against a proposal from the incumbent operator. While this process did not contain any indication as to the term that would be considered by the Department, it allowed the Department to consider the merits of the two proposals for the operation of the site in a fair and consistent manner.
100. There is no internal policy guiding decision-makers as to the appropriateness of term or whether rights of renewal should be granted. However, in recent years the Department has utilised rights of renewal less frequently, and they are generally now only applied for cases where specific management is required, or certain milestones are

to be met during the course of a concession term. Such a right of renewal is not recommended in this instance, but rather a determination as to whether a 20-year term or a shorter term is appropriate.

101. In considering the term, it is relevant to acknowledge that submissions were received both in favour and opposed to the Application and is clear from those submissions that there is clear interest from the public (including Waiheke Island locals) in the management and operation of the Stony Batter site.
102. The Auckland Statutory Manager has indicated support for a 10-year term to provide a reasonable opportunity for the Applicant to justify their investment in their operation and that limiting a term to 5 years in this case would be unreasonable given the Request for Proposals process and that no concerns have been raised with the ability of the Applicant to undertake the activity.
103. This recommendation for a 10-year term is adopted in this report, however all three options discussed above – 5, 10, and 20 years – have been included as tiered options for your consideration in the Recommendations section of this Report.
104. **Standard and Special Conditions:** Additional Special Conditions are proposed to be included in this Notified Concession, see Appendix 3.
105. **Fees:** *(Section removed for website version)*

Appendices

Appendix 1 – Contributions document register (*Register removed for website version*)

Appendix 2 – Maps and plans

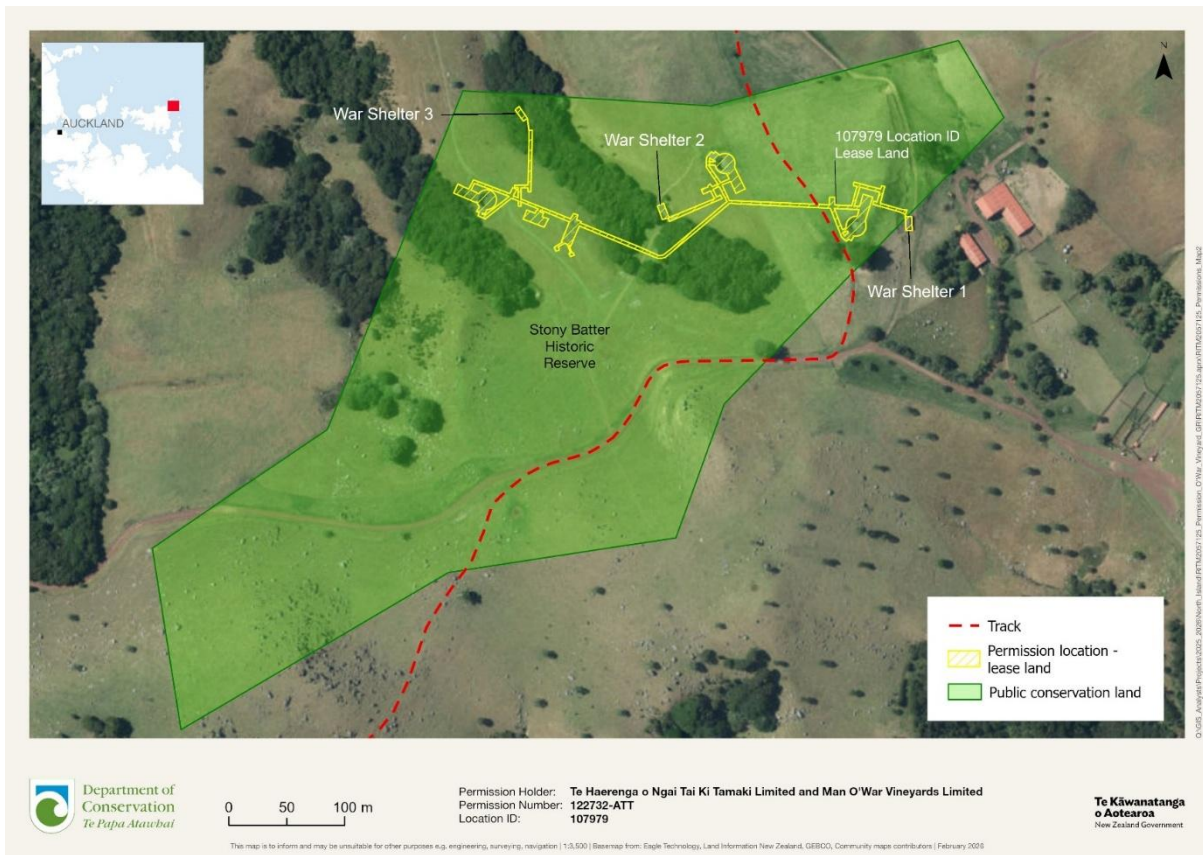


Figure 1: Concession Map of Lease Area

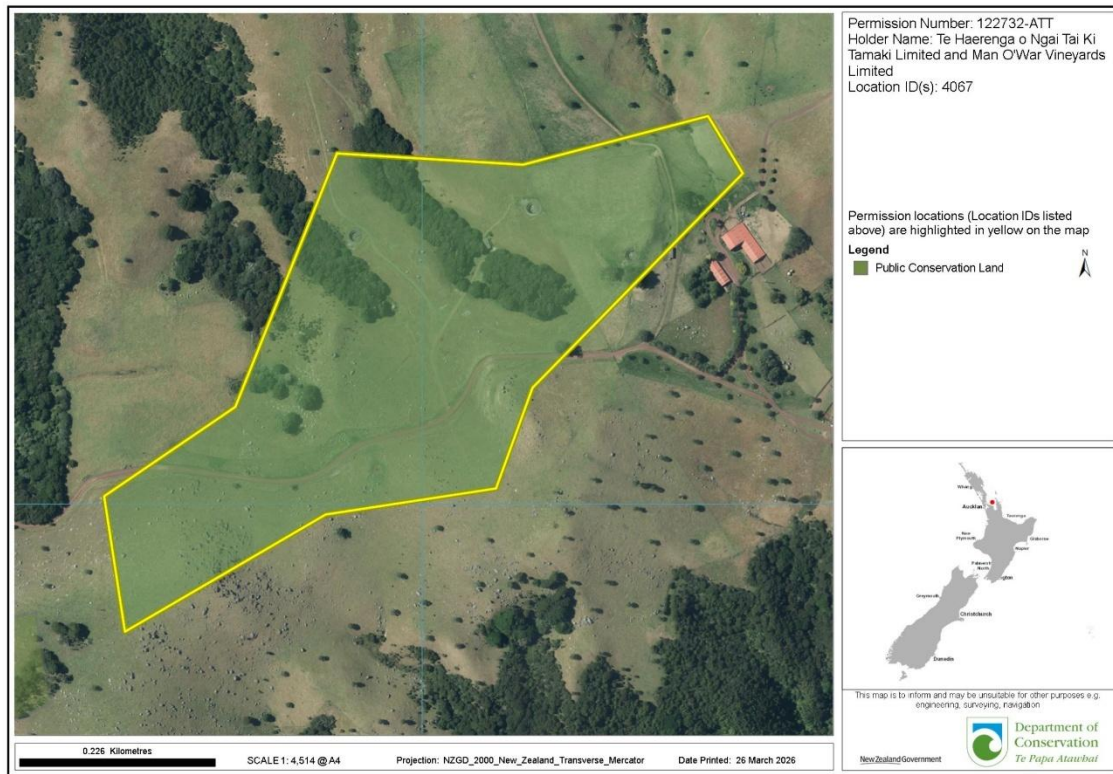


Figure 2: concession Map of Licence Area

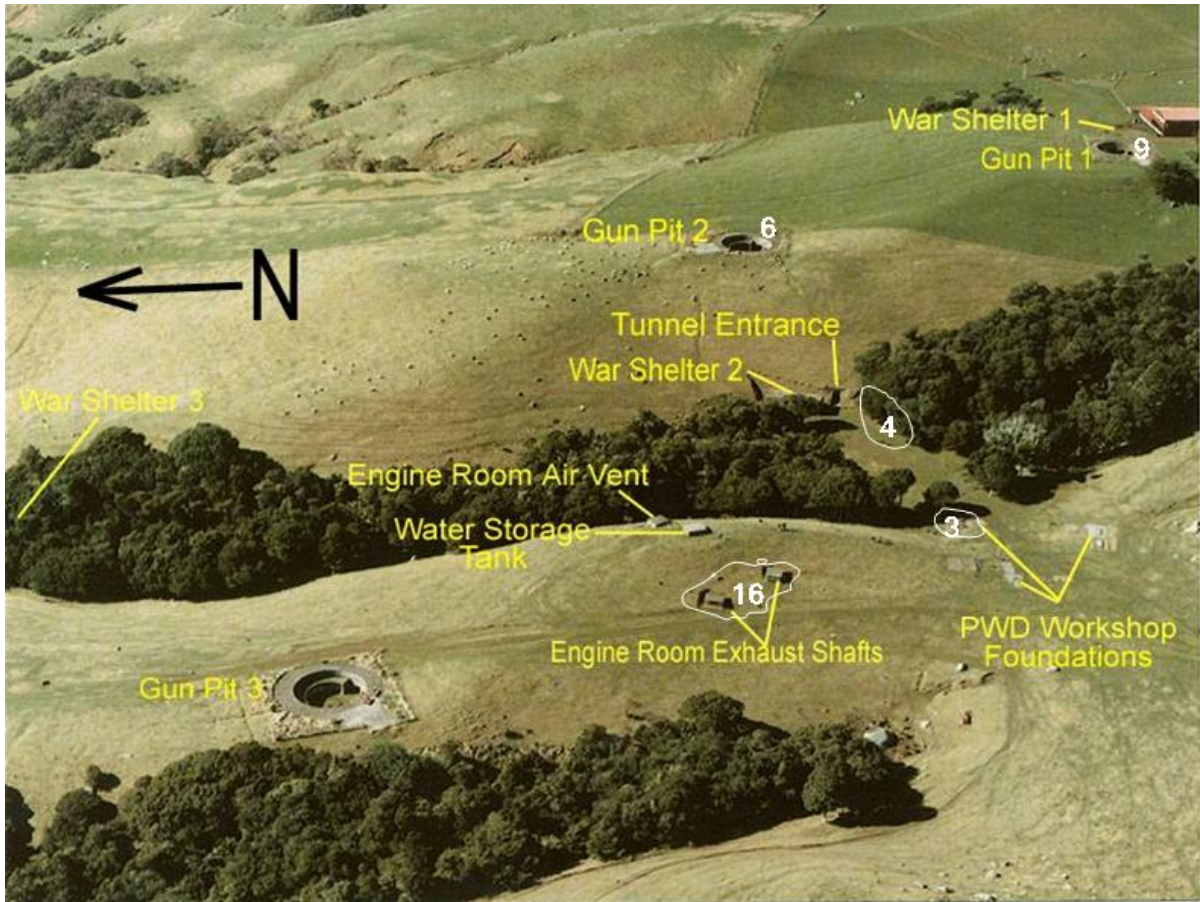
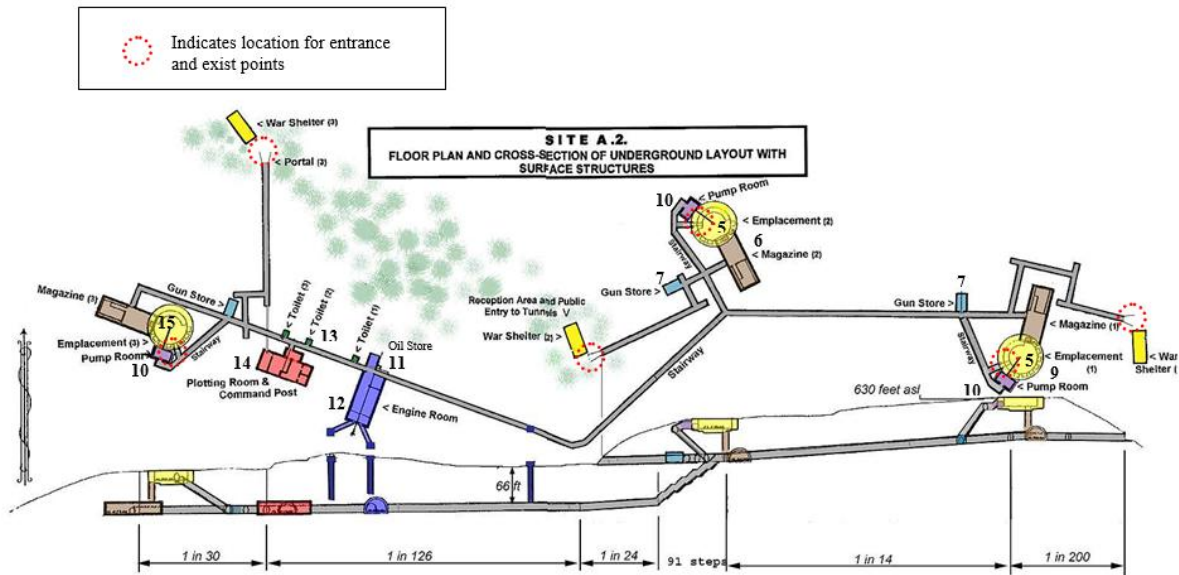


Figure 3: Photo showing Stony BAtter features



Colour-Enhanced original Defence Department Documentation for Site A2, Fort Stony Batter, showing Plan and Elevation

Figure 4: Schematic of Stony Batter historic tunnels and gun emplacements

Appendix 3 – Proposed Schedule 3 Special Conditions *(Section removed for website version)*