22 August 2025

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Federated Mountain Clubs of New Zealand Inc.

Submission on the Government's National Conservation Policy Statement Proposals

Tēnā koe,

Summary of our Submission

1. Thank you for the opportunity to submit on the above.
2. As you will be aware, Part 5 of the November 2024 "Modernising Conservation Discussion Document" (*Discussion Document*) covered the same issues as are under consideration in this consultation. On reading the materials for this consultation, it appears that our Discussion Document submission has been overlooked in its entirety, including as to our comments on Ministerial decision-making over the proposed National Conservation Policy Statement (*NCPS*).
3. The Federated Mountain Clubs of New Zealand (*FMC*) has played a responsible part in public discussion on the administration of public conservation land since 1938. With our long organisational memory, we can confirm that these proposals are not merely "regulatory" issues as described. Instead they would alter New Zealand's cultural and political settlement for public conservation land, and act as a de-facto alteration of the purpose of protected areas legislation.
4. We trust that these pivotal issues, and our comments on them, will be accorded the consideration they deserve. We stand ready to play a responsible part in a public dialogue on these issues, including putting forward or commenting on the many alternatives available for NCPS decision-making.

Introduction

5. FMC was founded in 1931 and advocates for the backcountry and outdoor recreation on behalf of over 22,000 members comprising 93 clubs and associations, and over 1,000 individual supporters. FMC also speaks for the many other New Zealanders who enjoy our

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backcountry. Our people explore New Zealand by foot, bike, paraglider, canoe and kayak, seeking beauty, spiritual enjoyment, challenges and friendship.

6. Our involvement in national conservation management arrangements goes back to 1938, when the FMC Executive drafted proposals that became the National Parks Act 1952, the country's first overarching legislation of its kind, and whose principles substantially apply even today.

7. In February 2025 we commented extensively on the Discussion Document, Part 5 of which forms the precursor to the National Conservation Policy Statement proposals document (*NCPS Proposals Document*), the key subject of this proposal. A copy of our Discussion Document submission is **attached**.

Our Review of Consultation Materials

8. We have read and reviewed the NCPS Proposals Document, sent to us on 2 August 2025. We have also reviewed the extensive proactive release of cabinet materials issued on 18 August 2025, though we regret that the submissions timeframe has not allowed us to review these as carefully as we would have liked. We have not fully reviewed the Summary of Submissions on Discussion Documents of November 2024.

The Proposals Reflect Concerning Inertia

9. The NCPS Proposals Document contains 10 questions in three narrow areas. We comment in response to these questions below.

10. However, we are disappointed to find that the scope of these areas are narrow, and do not address higher level policy positions such as those raised in our Discussion Document submission. While it is open to governments to choose and advance policies, when calling for views it is incumbent upon decision-makers to listen and take into account the views of submitters. Yet submissions on the November 2024 Discussion Document appear to have made little or no material change to the overall shape of the proposals, nor even generated policy alternatives: DOC seems not to have listened to submitters at all.

11. This apparent lack of interest in submitters' views severely risks undermining confidence in both the November 2024 consultation process and this one. It calls into question whether this has been, and is, a genuine consultation, or whether it is mere window dressing for predetermined outcomes. While cost of living issues dominate the national discussion for now, we suggest that courting a loss of confidence on these issues will prove to be untenable.

Better alternatives to Ministerial Decision-making are available

12. The proposals would shift to a model of sole Ministerial decision-making on the NCPS and area plans (area plans being "directed" by the NCPS).

13. FMC was among many others, including the Parliamentary Commissioner for the Environment[1] (*PCE*), questioning this change to a 'top down' directive approach to conservation management. Current arrangements give key conservation management planning decision-making powers to the New Zealand Conservation Authority (*Authority*)

[1] PCE 2025 *Submission on Modernising Conservation Land Management discussion document* Parliamentary Commissioner for the Environment https://pce.parliament.nz/publications/submission-on-modernising-conservation-land-management-discussion-document/ Downloaded 19 August 2025

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and conservation boards (*Boards*). FMC currently has a statutory power to nominate to the Authority.

14. The proposed arrangement for Ministerial decision-making paves the way to equating or even prioritising the interests of "users" (i.e. primarily commercial interests) with or over those of protecting the whenua and wai for their intrinsic value. It also diminishes the public and Māori voices in key parts of conservation land decision-making. We agree with the PCE's observation that *"..When an estate as large and significant as DOC's is being managed, not just on behalf of today's citizens but future generations of New Zealanders, it may well be prudent to fetter the decision-making power of someone who is, by definition, a temporary holder of the office subject to the political exigencies of the moment."*[2]

15. In all of these ways and others, the proposal for Ministerial decision-making on the NCPS is a major change to New Zealand's cultural and political settlement for public conservation land. It will also indirectly alter the purpose of protected areas legislation. Legislative purposes of conservation would now be subject to the political exigencies of the government of the day as well as limitations on available Ministerial time. The proposals would operate very differently from government to government. They would risk ad-hoc environmental disasters, chronic environmental decline, while failing to generate the certainty they seek for concessionaires.

16. We agree that concessionaires should have more certainty. It is legitimate for governments to propose changes to generate such outcomes, when being open about them and their full range of implications. Yet only in a belated proactive release does one find the NCPS proposals described as being about mere "regulatory" issues. We disagree. The role of the NCPS is to provide guidance and clarity about the long-term sustainable management of the conservation estate.

17. It is also legitimate for governments to broker fundamental changes to parts of the New Zealand social contract, such as our relationship with our conservation land, but only after a real dialogue with the New Zealand public. We reiterate that the consultation process so far has been nowhere near a real dialogue with the public, or even with targeted groups like FMC. Whatever one thinks of the policy goals, proceeding on a bare and rushed consultation diminishes their chance of becoming durable, yet another source for uncertainty working against their stated aims.

18. FMC is proud to have been a part of real dialogue about administering public land since 1938. That year, we drafted proposals that came substantially to underwrite the National Parks Act 1952. Much of the basic cultural and political settlement crystallised in that Act lives on today. Given our experience and memory as an organisation, we also know that a proposal for Ministerial decision-making power over key conservation planning instruments will be unprecedented, if enacted. In 1979 and 1980, very similar proposals to centralise decision making for conservation land arose amid national crises of economy and identity. Then like now, New Zealand faced economic issues and had a need for economic renewal. Then like now, the attitudes of one generation were giving way to another on questions of what it ought to mean to belong on these islands. FMC recognises the central importance and potential of conservation land in these matters. It could play a part in an economic renewal. It already is universally cherished, and widely regarded as part of New Zealanders' birthright. These are anything but "regulatory" issues and go to the core of what conservation land is for.

19. We stand ready to play a responsible part in a dialogue on these issues in 2025 and beyond, including putting forward or commenting on the many alternatives available for NCPS decision-making.

[2] Ibid pg 4

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20. One obvious but unexplored alternative, just as occurred in 1979/1980, is to adjust the Authority's composition instead of its powers. FMC would entertain this despite our current statutory position as a nominating body to the Authority. True kaitiakitanga and Manaaki to all New Zealanders is not about us or our interests, but about having conservation management decisions made by an appropriate and genuine cross section of the community for the long term sustainable management of public conservation land.

21. In the absence of a real dialogue on these issues, FMC will be compelled to vigorously oppose the NCPS proposals outright.

Recommendation

22. Proposals should retain the New Zealand Conservation Authority's decision-making over the NCPS or playing a much more significant role in overseeing the development of the NCPS than detailed materials suggest. It might decide the NCPS through a process requiring it to have particular regard to Ministerial views. FMC also suggests returning the Authority to a gravitas prior to its 1980 iteration by adjusting its composition. Options might include an Authority comprising senior public officials, not merely their nominees, strong tangata whenua representation, broad civil society representation appointed on the nomination of appropriate NGOs and cabinet approval, along with appropriate tourism representation.

DOC Conservation Operational Planning and Work

23. A key stated goal of the NCPS is to give better predictability to concessionaires - generally commercial users - of public conservation land. We agree that this is a desirable goal, and that there is not currently enough. But without more fundamental legal change, this goal cannot be advanced in isolation to, or placed above, the conservation needs of the whenua. Legally conservation needs come first and recreation (not tourism or other commercial activity) second, making this another view on the issues discussed above.

24. The NCPS and area plans, then, can make no sense without DOC operational planning and work being linked into the area plans and NCPS. To give an apocryphal example, there is no point in allowing open slather drone operation and walking tours in a place where DOC is pouring money into whio protection.

Recommendation

25. FMC believes that there should be a single integrated planning and operational framework. The planning framework should not be limited to a mechanism for regulating concessions. The operational work plans should be contributing to the outcomes sought by the NCPS and area plans.

Undermining of public and private trust

26. Many of the current management planning processes are hopelessly behind time. But this is not solely due to their structure and content, and only in part due to the 1980s-style aspects to the legislated process like needs for newspaper advertisements. In the main, these delays have been down to two sources.

27. One has been under-resourcing of DOC's planning teams, making it difficult for DOC to "work on" rather than "in" its processing systems. A serious shortcoming in the NPCS proposal is that inadequate attention is paid to understanding the nuances of concessions and permits granted on Public Conservation Lands. We have observed over many years that

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management of any sort of land is complicated and fraught. We have observed that good quality planners able to work in either local or central government have been in short supply in New Zealand for many years. We understand DOC is addressing these issues at present, with or without these proposals.

28. Another issue has been difficulties in clarifying co-management issues, for example for the Westland-Tai Poutini and Aoraki Mount Cook National Park Management Plans. These proposals will exacerbate, rather than diminish, these issues by diminishing Māori voices when that is plainly untenable.

29. These proposals would undermine the public confidence in conservation management planning not only by denying them a voice about how their special places are managed now and into the future, but also in two other ways:

    a. By failing to address many of the core management planning issues, and by either worsening them or addressing them elsewhere, they invite the perception that the proposals are about something other than their stated aim, and

    b. By discarding public participation in the many past and ongoing processes, and appearing to all but ignore it in this process, they do nothing to invite constructive dialogue in future conservation issues, and if anything risk promoting uglier sentiments like contempt.

30. This undermining of public confidence will add a further source of uncertainty arising from these proposals.

31. Finally the proposals promise certainty to concessionaires. But concessionaires will not fail to notice that the proposals fail to address the root causes of management planning delays. In this way, the proposals risk undermining the confidence of the various commercial sectors seeking certainty, in particular those who seek foreign capital.

Recommendation

32. A sensible range of available options should be added to the policy proposals, and the public given a chance to comment on them, to put public faith in the process beyond doubt, and therefore promote the long term certainty that the proposals are seeking.

Consultation Questions

Area Plans

33. In our 26 February 2025 submission on the Discussion Document, Questions 5 and 6, paragraphs 43-52, we have responded to these points. We suggest that the simplified proposals will only work effectively when stewardship land reclassifications are completed, and area plans are matched with operational plans.

34. More broadly, we suggest that these proposals be shelved until there is a reconsideration of the existing classifications themselves. What is needed is almost an entirely new set, to reflect what New Zealanders want for their conservation land in the 21st century and beyond.

35. Current classifications reflect the many and varied tools available to DOC's predecessor agencies. The situation was inherited upon the founding of DOC, but never properly addressed. Today, only some classifications (e.g. national park) have a meaningful effect on what can happen on the ground, but even then only on some disparate activities (e.g. barring mining and generally mountain biking, but powerless to deal with overtourism). Others, like conservation parks, have a far looser effect on what happens on the ground -

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with either DOC operations or with private concessions. Others like stewardship land are not understood, even at times by Ministers. Still others are not liked by key stakeholders. Hence the changes in management or even ownership arrangements for much North Island conservation land, and the Ngāi Tahu opposition to further South Island national parks. Hence also the quiet, un-enforced or even occasionally DOC-sanctioned breach of legal landing limits in Fiordland and elsewhere.

36. Area plans directed by something like an NCPS could make great sense - the better if core classifications issues are resolved first.

Recommendation

37. Stewardship land reviews should be completed as quickly as possible, accepting that this will take time and require an unimpeachable process to maintain public trust. In the meantime the linkage between NCPS and operational planning can be defined, again in order that long run certainty is promoted.

Question 1. What should be considered when determining the boundaries of places within an area plan?

38. Places, area plans, or other classifications, must be spatially defined with reference to conservation values, similar physical landscapes and alignment as far as possible with catchment boundaries. Like must be treated with like. But when it comes to unique environments, this will not be as straightforward as it sounds.

39. DOC already has published existing guidelines for assessing ecological values for areas. These can be adapted for use to delineate the boundaries, be they of "places" within area plans or the NCPS, or areas plan boundaries themselves. There is no need to substantially revisit them.

40. FMC fully expects that there will be proposals to delineate areas too quickly, without sufficient information, with what might be described as "instrumental" purposes, i.e. non-conservation purposes, or with all of these things at once.

41. There is no room for such missteps when undertaking this process. Assessment work will require resources and time. In our view, defining areas without a robust technical assessment of ecological and landscape values would court risk of litigation in relation to area plans (and other matters like disposal decisions). The only alternative is to alter the legislative purpose of the Conservation Act, de-prioritising the conservation purposes underlying categorising land. A comparable existing legal risk is that in the Western South Island stewardship review process arising from reclassifying 504 land parcels of vastly differing kind and scale, across 294 area recommendations, based on vastly differing quality and quantity of information. There, the risk that like will not be treated with like is real.

Recommendations

42. The boundaries of places in area plans should be spatially defined with reference to conservation values, similar physical landscapes and alignment as far as possible with catchment boundaries.

43. As noted above the stewardship land review process needs to be completed as quickly as can be accommodated with an unimpeachable public process, but no faster than can promote public confidence in the assessment process.

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Question 2. How should area plans describe values and objectives to ensure that they are informative, user-friendly and concise?

44. The objectives and values will need to reflect both national direction and also recognise the regional diversity of ecosystems, landscapes and natural values. They should be written succinctly, in clear plain English, defining the end point or outcome that DOC wants to achieve for the area. A useful test is to work back from the endpoint i.e. the monitoring of the NCPS and area plans, and then ask how you would measure whether the outcomes have been achieved. This would help frame the objectives. The objectives should not repeat the provisions of the Conservation Act, rephrase similar provisions in other parts of the planning documents or written in such a general way that they could apply anywhere.

Recommendation

45. The values and objectives of the area plans should be written in succinct, clear plain English, defining the end point or outcome that the DOC wants to achieve for the area.

Question 3. Do you have any feedback on the proposed visitor zones?

46. Proposed visitor zones are not needed. Fundamentally an activity, X, will be acceptable, conditionally acceptable, unacceptable, etc, based on its effects on ecological, natural or recreational values, and the ability to avoid, remedy or (in extreme cases) mitigate such effects. Activities can be easily slotted into the proposed activity classes as such, and adding another variable (in the form of visitor zones) will over-complicate.

47. Any other basic proposition is an alteration of the core position of conservation legislation. It goes beyond merely giving "users" more certainty, which is a priority the current legislation can accommodate. It moves into seeking "more yesses" for private interests looking for gains on public conservation land. If that is the proposal, it does not reflect the current law and needs an open public discussion for reasons we outlined above. With visitor zones being housed in secondary legislation, this may also be a source of legal risk for area plans.

48. FMC agrees there is room for a more limited zoning concept aimed especially at visitors. Such an idea is needed to deal with "hotspots" like Piopiotahi/Milford Sound or Aoraki Mount Cook. In part, that is because the legal definition of conservation includes recreation, but not tourism or other commercial activity. The recreational values for any given landscape do not necessarily fit well with other objectives – for instance, hunting in the immediate vicinity of a Great Walk would be fraught. Since the beginning of this century, DOC has adopted a modified Recreational Opportunities System (*ROS*) to manage recreational land use so that there is "something for everyone". The ROS has worked reasonably well in managing these tensions, although it would likely benefit from a review to confirm the settings in contemporary light. The challenge for planners is to balance and accommodate these varying uses in a way that is compatible and sympathetic to the biodiversity of the landscape and its low impact recreational use before accepting commercial use.

49. Currently, this idea is housed in the Conservation Act provisions for "amenities areas". We acknowledge that these provisions could be improved.

50. Several proposed visitor zones are likely to be situated in areas where there is a high risk of a natural hazard event[3]. The Whaakari/White Island tragedy highlights the need for national

[3] https://www.nzherald.co.nz/nz/milford-sound-tsunami-risk-could-surpass-whakaari-disaster-tim-davies/SSMEVBRZHNGRZD5UXM4R2QVM74/ Downloaded 19 August 2025.

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guidance and risk standards on the locating of visitor zones in these areas, rather than pretending that these potential disasters will never happen.

51. We commented extensively on appropriate tests for determining amenities areas at Q19, paras 84-89, in our 26 February 2025 submission.

Recommendation

52. FMC opposes the concept of visitor zones as it will complicate the proposed planning framework. Recreational visitors are catered through recreation being a part of the definition of conservation. Tourism values can be, and indeed need to be, accommodated in more limited areas, through a more limited zoning concept like Amenity Areas. Current amenity area provisions could use improvement.

53. The Recreational Opportunities System could benefit from a review to confirm the settings suitable for contemporary recreation activities.

Activities, Land Classifications and Visitor Zones

Question 4. Do you have any feedback on the proposed approach for standardising where activities can and cannot occur?

54. We gave detailed feedback on this in our 26 February 2025 submission paragraphs 45-52. We emphasise that limits will be essential components of this approach, and we are puzzled by the single reference to such limits in the proposals document. Have they been abandoned or de-prioritised, perhaps in some effort to promote raw "growth" of tourism numbers, rather than value?

55. Limits may be an anathema to many who are seeking concessions, and they may also be to the government if indeed it is seeking "more yesses" for concessionaires. However, limits clearly define what are the boundaries, protecting ecological values, natural quiet, cultural and recreational values. Importantly, they do this while driving scarcity, and therefore value, in tourism or other commercial operations on public conservation land.

Recommendation

56. We refer you to our submission of 26 February 2025 on Modernising Conservation Land Management paras 45 -52.

Question 5. Are there other activities that should be standardised by the NCPS?

57. There are very few activities that can be standardised in the NCPS. Even drone operation, filming, or "low impact day tours" are plainly not appropriate everywhere, always.

58. However, what FMC can say is that recreational activities do not generally need a concession now. This is fundamental both in the law, due to the effect of section 17O of the Conservation Act, and to our community. It would be ironic and disappointing if NCPS changes inadvertently tightened restrictions on such activities while liberalising tourism and other commercial activities that are in more frequent and pronounced tension with the conservation purpose of the legislation.

59. In this way "exempted" status for certain recreational activities seems appropriate. However, in another way, because recreational activity does not need a concession now, "exempt" framing weakens the current position, as if to suggest that they might have attracted the need for a concession, but for the exemption. If exempted, the position for these activities would also be formally weakened because an exemption may be withdrawn

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by simple alteration of the NCPS, but not of the Act. This is not appropriate and serves as another example of the purpose of the Act being changed indirectly.

60. We suggest that the NCPS process is a good opportunity to develop sensible permanent, or at least generation-long, non-concession arrangements as follows:

    a. Community agreements for hut maintenance by non-profit organisations, which should never take the form of a concession;

    b. Foot launches and landings of paragliders on conservation land. The issues in this area have been almost completely resolved in a global concession that remains un-finalised and would not deliver a permanent solution.

    c. Fixed safety anchors for climbing, canyoning, caving and the like, which are currently subject to a myriad of community agreements. Anchors give rise to delicate issues and much complexity. Some of the complexity is unnecessary and wasteful. A national arrangement responsibly stewarded by leaders in the relevant organisations and communities would help resolve these issues.

61. In the following two tables we comment on the lists of proposed pre-approved activities and proposed exempt activities, noting also that activities with an asterisk (*) are ones we recommend be added.

List of proposed pre-approved activities:

	Description of activity	**FMC Comments**
Guiding (Includes transport to and from the location)	Commercial guided day walks. Walking on formed tracks, within an 8- hour period, with no need for overnight accommodation.	Need to ensure these day walks contribute to the cost of providing services e.g. toilet facilities at Mueller Hut
	Commercial guided overnight or multi-day walks on formed tracks. Includes staying in accommodation on PCL (whether a tent, hut etc).	Backcountry huts are provided for the use of NZers. Will commercial groups have exclusive use of huts ? Huts, e.g. Kirtle Burn could be booked out for a whole season. Commercial groups should not be allowed to take up more than half the bunk space in a hut
	*Commercial guided overnight multiday off track walks in the backcountry	Similar to club tramping trips. Low key operations are probably not a large market. Commercial groups should not be allowed to take up more than half the bunk space in a hut.
	*Commercial guided training courses – e.g outdoor skills, bushcraft instruction, avalanche awareness	
	Commercial biking/mountain bike trips on tracks where biking is already allowed recreationally. Includes e-bikes (i.e. bikes with a maximum power output not exceeding 300-watts) on tracks where e-biking is allowed recreationally.	E-bikes are an issue in terms of compliance. Most e-bikes are now more powerful than 300W (in fact, it's hard to find e-MTBs that are 300W or less. Most have a peak power of around 500-600W). How do DOC propose enforcing the 300W max?
	Guided vehicle trips (including 4WD trips) on roads where this is allowed recreationally	
	Commercial horse-trek guiding in areas where horse-trekking is allowed recreationally	

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	Rock climbing (commercial guides) in designated areas already set up for this purpose - i.e. with fixed bolts already in place. Includes rope climbing and bouldering.	
	Commercial guiding in non-powered boats (e.g. kayaking, canoeing, white-water rafting).	
	Commercial ski touring in areas where ski touring is allowed recreationally.	
Transport	Commercial transport to and from public conservation land on formed roads and using formed carparks.	How will DOC enforce compliance and prevent 'informal' commercial operations or ensure that areas don't become oversupplied or overcrowded with too many operators?
	Commercial boat activities using powered boats (e.g. water taxis, charter boat trips, scheduled boat trips)	These need to be managed in the same way as helicopter landings. Otherwise increasing numbers of boat landings will detract from the natural peace and quiet of an area.
Drones	Drone use.	Drone use could be managed by default provisions to manage nuisance effects, protect peoples privacy, and to ensure safety e.g no drones in high visitor areas where there are aircraft movements etc. But exemptions need to be considered for specific purposes, such as research, search and rescue, and firefighting.
Research and Collection	Limited collection of rocks for scientific research purposes. May also include collection for cultural purposes	
	Limited collection of soil for scientific research purposes. May also include collection for cultural purposes	
	Limited collection of non-protected wildlife (e.g., most insects, pest species not covered under Wildlife Act 1953) for scientific research purposes. May also include collection for cultural purposes.	
	Limited collection of non-protected flora /plants / fungi for scientific research purposes. May also include collection for cultural purposes.	
Events	Small scale commercial events on formed tracks or in established visitor areas.	These events need to be clearly defined. e.g. what does small scale and large scale mean? 10, 20 or 100 people?
	Larger scale events on formed tracks or in established visitor areas	
Filming/ Photography	Small scale commercial filming or photography on formed tracks or in established visitor areas.	
	Larger scale filming or photography on formed tracks or in established visitor areas.	

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Proposed exempt activities:

	Description of activity	FMC Comments
***Community agreements**	*Tramping or other clubs agree to maintain a hut and/or tracks, including the occasional installation of recreation-related signage.	These activities should not attract the need for a concession. Community agreements support the efforts of volunteer groups to maintain huts and/or tracks. Standard criteria could be used e.g. the group is an Incorporated Society etc. Community agreements (not Concessions) should apply where a not for profit entity (such as a tramping club) owns a facility on public land that is available for public use.
***Hang gliding and paragliding**	*NZHGPA members, i.e. licenced hang-gliders and paragliders, or reciprocally licenced members, foot launch or land un-motorised hang gliders or paragliders aircraft on public conservation land.	The Conservation Act only allows for restrictions on motorised aircraft. As such, CMS and NCPS restrictions on non-motorised, recreational and foot-launched or landed hang-gliders and paragliders would not be consistent with the Act. For that reason, the NCPS should allow such activities. In addition, such restrictions would not be sensible: these activities have effects indistinguishable from tramping.
***Fixed safety anchors**	*Installation and maintenance of fixed safety anchors at established rock climbing and canyoning and caving areas.	Aotearoa Climbing Access Trust, New Zealand Alpine Club, New Zealand Canyoning Association and New Zealand Speliological Society and others could readily agree with DOC a global framework for national direction that appropriately balanced the various considerations. This framework could include a set of guidelines, conditions and protocols and consultation requirements, and is preferable to large numbers of community agreements but has an equivalent function. Our community has a wealth of expertise in these matters and stands ready to propose a workable regime.
Research and Collection	Collection of air for scientific research purposes. May also include collection for cultural purposes.	
	Limited collection of water for scientific research purposes. May also include collection for cultural purposes.	

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Filming/ Photography	Small scale recreational filming or photography on formed tracks or in established visitor areas.	The rationale for including this activity is unclear. It's a non commercial low impact activity undertaken by recreational users. It should be deleted or allowed on all public conservation land.
	News media reporting on formed tracks or in established visitor areas.	
Events	Small-scale recreational events on formed tracks or in established visitor areas.	This activity needs to be clearly defined. Clubs or other individuals may run an event. Some groups appear to be getting around the term 'commercial event' by offering a 'free event' where participants are asked to provide 'koha' or a 'donation' or a commercial entity sponsors the event.

Question 6. Do you consider any of the proposed activities to be consistent or inconsistent with any land classifications or proposed visitor zones?

62. As above.

Exempt and pre-approved activities

Question 7. Do you have any feedback on the proposed exempt and pre-approved activities?

63. As above.

Question 8. Are there other activities we should consider for pre-approval or exemption, including cultural activities to support Māori access to conservation land?

64. As above.

Question 9. Do you have any comments on when it would be appropriate for an area plan to disapply categorisations and / or conditions?

65. As above.

Question 10. Do you have any other comments on the provision for exempt, pre-approved and prohibited activities?

66. The proposals do not set out actual areas over which we might consider an activity, or the various options for its "activity status". Here is one unknown. They do have solid criteria for defining such areas. There is another unknown. They then seek detailed comments, in the abstract, about the effects of activities. But activities have effects on places. In this way, commenting on activities in the manner sought is like chasing shadows, or solving an equation with one too many unknown variables.

67. In FMC's view, these ideas have very good potential to create certainty for concessionaires as well as to protect conservation values efficiently. The time to discuss activities, however, is once higher-order issues are resolved.

68. Finally and separately, even exempt activities need to be made subject to some general duty equivalent to the duty to avoid, remedy or mitigate effects in section 17 of the Resource

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Management Act (*RMA*). The policy case for this kind of duty is much stronger even than in the RMA: for conservation land is always public whereas the RMA deals with private land where one ought to be much closer to being able to "doing what one likes". Accordingly the Conservation Act duty should be stronger - i.e. require more in every case than mere mitigation - and it should be readily actionable with meaningful penalties - i.e. lack the equivalent of section 17(2) of the RMA.

69. As the requirement in section 17O(2) and corresponding offence in section 39 of the Conservation Act are to activities requiring concessions currently, so too this duty would be to exempt activities in future. It would be much preferable to include such a duty rather than relying on detailed standards for exempt activities, which will not be widely understood and will not attract sufficient resources to be properly monitored.

Ngā mihi,

Megan Dimozantos
President
Federated Mountain Clubs of NZ

Enclosed:

- FMC Submission to DOC on the DOC Discussion document 'Modernising Conservation Land Management' dated 26 February 2025

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26 February 2025

Attention: Modernising land management consultation submissions

Department of Conservation
18-32 Manners Street
PO Box 10420,
Wellington 6143
sent by email to: landlegislation@doc.govt.nz

Federated Mountain Clubs of New Zealand Inc. Submission on the DOC Discussion document 'Modernising conservation land management'

Tēnā koe,

Introduction

1. Thank you for the opportunity to submit on the proposals to reform the conservation planning system. This submission complements our submission on 'Exploring charging for access to some public conservation land'.
2. We would welcome the opportunity to attend any meetings on both proposals.
3. Federated Mountain Clubs of New Zealand Inc. (FMC) was founded in 1931 to, amongst other things, promote free public access to our outdoors and to preserve our backcountry for non-commercial outdoor recreation. We continue to advocate for New Zealand's backcountry and outdoor recreation on behalf of over 22,000 New Zealanders in 96 member clubs, and speak for the large number of New Zealanders who enjoy entering our backcountry each year. FMC's efforts, with other NGO's, for over 90 years have been responsible for creating the modern public conservation lands.

Summary of our key points

4. FMC believes that the following principles should underlie the conservation land management reforms:
    - New Zealand's conservation lands belong to all New Zealanders. They are a taonga and a national asset that should be protected and managed for both present and future generations, and not treated as a commercial asset for present day extraction.
    - The hierarchy in the present conservation statues is a fundamental political settlement for public conservation land. This hierarchy is generations old, and it is clear: firstly, natural values, ecosystems and other special features are to be safeguarded. Second, subject to the first requirement, to grow and develop ("foster") recreation, and only thirdly, after the first and second, to "allow" tourism. Private gains are "concessions" to

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these public priorities and can only be contemplated where they are consistent with them. Overseas visitors are welcome to share and enjoy the conservation land, but not to exclude or diminish New Zealanders' rights to visit these areas.

- The management of public conservation lands requires a multigenerational perspective and a focus on long-term outcomes. Therefore, it is essential there is a degree of independent oversight in the conservation planning processes by external bodies representing the public interest - or else the "public" in "public conservation land" is lost. The New Zealand Conservation Authority (NZCA) and conservation boards fulfil this role. They represent commercial, scientific, recreation, and iwi interests and can draw on a wide range of knowledge and expertise. They must continue to play a major role in overseeing the development of the NCPS and any national standards.

5. FMC broadly agrees with the issues identified in the Discussion document but believes the following should also be added:
   - *Improving the quality of DOC's information datasets so that work at the regional level can be linked back to the department's goals and outcomes.*
   - *Ensuring DOC's operational plans are tied to, and complement, the department's conservation planning documents.*
   - *Managing the adverse effects of increasing numbers of international tourists on parts of public conservation land.*
   - *Increasing DOC's compliance and enforcement efforts to monitor concessionaires.*
   - *Planning for, and responding to, major natural events on backcountry infrastructure.*
6. FMC broadly supports the proposed simplified planning framework for public conservation land. The current dual planning system is an anachronism and needs to be replaced. The proposed planning framework would be improved by:
   - Completing the stewardship land reviews and reclassifying the land to new categories, before the new planning systems are implemented.
   - Not limiting the NCPS and area plans to managing concessions. Operational work plans should work in tandem with the area plans management of conservation land, covering both day to day activities and long term outcomes.
   - Develop national standards or guidelines to manage particular activities, e.g. rock bolting, hang-gliding
   - Ensuring that the New Zealand Conservation Authority and conservation boards continue to play a key role in providing an impartial oversight of the new planning process and are not relegated to being another stakeholder.
7. The proposed class approach to managing activities is sensible, and it could be modelled on the RMA consent categories. All non-commercial, non-motorised recreational activities, including paraglider and hang glider take offs and landings should be exempted or permitted. FMC wishes to be consulted on any proposed policies and rules.
8. However, activities requiring DOC's approval range from low impact activities, e.g. guiding, to activities that may exclusively use conservation land for decades need to be assessed

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differently. Different notification requirements and plan limits are one possible way of doing so.

9. FMC supports giving effect to the Treaty principles. How these will be applied will be up to iwi and hapū to determine in line with the principles of kaitiakitanga and tino rangatiratanga, in particular. DOC must meet the Crown's commitment of active protection, and both partners aspire to whakawhanaungatanga.

10. FMC supports the proposed changes to triage applications and to allow the procedural timelines to run concurrently, and prompt notification to applicants that their submission will be declined appear sensible (6.1). A significant issue is to constrain 'project creep' whereby applicants request more than minor and technical variations to their concessions. In FMC's experience, prospective concessionaires often apply for small projects, then gradually increase them in scope and scale over time using a small stepwise variations process.

11. We recommend that the criteria for declining applications could be amended:

    - *The applicant does not have the financial means to execute the concession or undertake remediation of the site or land.*
    - *The applicant has demonstrated previous non-compliance with concessions, a criminal record, or record of financial malpractice.*
    - *The proposed activity will breach any limits, policies or standards set by an area plan or the National Conservation Policy Statement.*

12. Statutory time frames for processing concession applications would provide concession applicants with greater certainty. However, the time frames will only be met if the DOC administrative processes are appropriate and well resourced. The time frames should not compromise any assessment of the conservation values that might be affected by the activity.

13. FMC opposes the proposal to only notify an application if the intent is to grant a concession. Apart from the obvious issues of predetermination, public conservation land belongs to all New Zealanders, and the public should be consulted on its future - including whether or not things should happen - especially where concessions involve exclusive use of public land. A commercial operation on public conservation land is a privilege, not a right. Public notification is a useful way for highlighting any issues or problems with the proposal. A better approach is to tailor the public notification requirements to reflect the scale and size of the proposed activity.

14. FMC supports the proposed changes to the reconsideration process to rectify a serious deficiency with Section 17ZJ of the Conservation Act 1987. Another equally important, but related change is to constrain the ability for applicants to request more than minor and technical variations to their concessions (refer to s17ZC(2)). In FMC's experience, concessionaires often apply for small projects, then gradually increase them in scope and scale over time using a small stepwise variations process. One solution to these "stepwise variations" problem is the mandatory notification of a proposed variation where a

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concession has not been implemented by the physical start of an activity, but has not yet lapsed.

15. FMC supports the criteria (Section 7.1.2) for competitively allocating concessions. A competitive tender process should only be used where there is a potential market and/or where the demand for concessions exceeds or is likely to exceed limits set by statutory planning documents that have been subjected to wide public input, NZCA and Board oversight. In short, limit-setting is for everyone, or else again the "public" in "public conservation land" is lost. In these circumstances, tendering, auctioning etc would remove barriers and create opportunities for new entrants. It should ensure a better financial return to the Crown from the use of conservation land. Care will need to be taken that such regimes do not result in long-term monopolies, in particular if concessionaires are overseas-controlled.

16. A significant problem, both for conservation and value-generation from concessions, is the loss of the natural quiet on conservation land from scenic overflights by aircraft operators based outside of DOC managed areas. These flights are not subject to any concession or conservation planning requirements. DOC and the Civil Aviation Authority need to use the provisions of the Civil Aviation Act 2023 to minimise the adverse effects of aircraft noise.

17. FMC agrees that standard criteria should be used to competitively allocate concessions. The proposed criteria (Table 7.1.3) are quite subjective. FMC recommends changes to these criteria. It is also not clear how they will be weighted against each other. Any allocation process or valuation of private assets needs to be done in a fair and transparent manner. We recommend that DOC (if they have not done so already) look at other examples of competitive tendering and run a few pilot tenders to test and refine the process.

18. FMC supports updating the contractual management of concessions and getting a better economic return to the Crown from the concessions. Standard terms and conditions should be used for small or low impact activities. For larger activities, more comprehensive conditions will be required and tailored to the requirements of the activity. The financial requirements should cover the entire lifecycle of the concession where they involve structures or disturbance of the land. DOC needs to consider all the potential costs and returns to the New Zealand public across the entire life of the operation, including clean up and rehabilitation costs. Bonds or any other financial instruments need to be inflation indexed to ensure that they adequately cover costs when the concession ceases.

19. FMC strongly opposes extending term lengths of concessions beyond 30 years. The practical effect would be to confer private ownership or perpetuate a monopoly over the area of public conservation land. There is no obligation on DOC under the Conservation Act 1987 to promote commercial activities on conservation land.

20. FMC supports a fair equitable process for reviewing concession fees and financial instruments, e.g. bonds, to ensure that they are broadly in line with inflation.

21. FMC opposes the proposals for land swaps and exchanges. To the extent that any swap may be justifiable, which they are not in our view, they ought to be able to access the possibility through the Fast-track Approvals Act anyway. The criteria are highly questionable, very

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subjective, and open to misuse. They impose an economic focus on valuing the conservation land implying money could be part of the exchange[1] or other measures could be used to offset the effects of a proposed activity. FMC's view is that there needs to be far more rigorous tests if public conservation land is to be considered for exchange or swaps. Policy 6, Conservation General Policy 2005 already sets out comprehensive requirements for land swaps and exchanges. These criteria should be expanded to manage the effects of global warming on public conservation land and assets.

Background

Public conservation lands are a national taonga

22. The Department of Conservation (DOC) manages about 1/3 of New Zealand's land area. Public conservation land is highly valued by New Zealanders, and an increasing number of international visitors, for its cultural, economic, environmental and social benefits. The wide range of ecosystem services provided by public conservation land is conservatively estimated to have an indicative net value of nearly $11 billion per year[2]. However, the intrinsic (non use) value of public conservation land to New Zealanders is immeasurable.

23. New Zealand's conservation lands belong to all New Zealanders. They are a taonga and a national asset that should be protected and managed for both present and future generations, and not treated as a commercial asset. Conservation areas are places for people to enjoy, reconnect with their culture and history[3], and to challenge themselves. Access to greenspaces and experiencing the outdoors confers a wide range of benefits to people's wellbeing[4].

24. The statutory hierarchy is clear: firstly, the natural values, ecosystems and other special features are to be safeguarded. Second, subject to the first requirement, to grow and develop ("foster") recreation, and only thirdly, after the first and second, to "allow" tourism. Overseas visitors are welcome to share and enjoy the conservation land, but not to exclude or diminish New Zealanders' rights to visit these areas.

25. There is legislative support for this approach in the Reserves Act 1977, National Parks Act 1980, and the Conservation Act 1987. Entry to the country's national parks is

> *"... subject to the provisions of this Act and to the imposition of such conditions and restrictions as may be necessary for the preservation of the native plants and animals or for the welfare in general of the parks, the public shall have freedom of entry and access to the parks, so that they may receive in full measure the inspiration, enjoyment, recreation, and*

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[1] Schedule 6(29)(2) Fast-track Approvals Act 2024

[2] https://www.doc.govt.nz/about-us/our-role/managing-conservation/assessing-the-value-of-public-conservation-land/ Downloaded 22 January 2025

[3] For example: Ka Huru Manu Ngai Tahu's Cultural Mapping Project https://kahurumanu.co.nz/cultural-mapping-story/the-ngai-tahu-atlas/ Downloaded 23 January 2025

[4] Pg 34 https://environment.govt.nz/assets/publications/Environmental-Reporting/environment-aotearoa-2022.pdf Downloaded 23 January 2025

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other benefits that may be derived from mountains, forests, sounds, seacoasts, lakes, rivers, and other natural features."[5]

26. The other statutes, which apply to other areas of conservation land, have similar provisions:

> " *...to the extent that the use of any natural or historic resource for recreation or tourism is not inconsistent with its conservation, to foster the use of natural and historic resources for recreation, and to allow their use for tourism:"*[6]

and,

> *"... providing, for the preservation and management for the benefit and enjoyment of the public, areas of New Zealand possessing—*
>
> *(i) recreational use or potential, whether active or passive; or*
>
> *(ii) wildlife; or*
>
> *(iii) indigenous flora or fauna; or*
>
> *(iv) environmental and landscape amenity or interest; or*
>
> *(v) natural, scenic, historic, cultural, archaeological, biological, geological, scientific, educational, community, or other special features or value:*
>
> *(b) ensuring, as far as possible, the survival of all indigenous species of flora and fauna, both rare and commonplace, in their natural communities and habitats, and the preservation of representative samples of all classes of natural ecosystems and landscape which in the aggregate originally gave New Zealand its own recognisable character":*[7]

Infrastructure

27. The Department also looks after an extensive visitor network of facilities throughout the country, comprising more than 2,000 buildings and huts, over 2,000 toilets, 300 campsites, 13,000 structures and approximately 14,600km of track[8].

Conservation planning

28. Public conservation land is managed under a hierarchy of planning instruments. The Conservation Act 1987, National Parks Act 1980, and the Reserves Act 1977 set the statutory framework. Under these statutes, a combination of national policies, regional conservation management strategies and local management plans are used to direct DOC's management.[9] Each management tier is subordinate to the higher level planning instruments.[10] Other legislation, e.g. Treaty settlements, Wildlife Act 1953, Marine Mammals Protection Act 1987 are largely concerned with specific matters or areas. Under the conservation legislation, a concession may be granted to carry out an activity on public conservation land provided the activity is consistent with legislation and the planning documents for the area[11].

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[5] s. 4(2) (e) National Parks Act 1980
[6] s. (6) (e) Conservation Act 1987
[7] s.(3)(1)(a)& (b) Reserves Act 1977
[8] Section 2.3' *Exploring charging for access to some public conservation lan*d' November 2024.
[9] There are two sets of general policies, 17 conservation management strategies, 13 national park management plans, 11 conservation management plans.
[10] Section 2.1, *Modernising conservation land management, a discussion document*. November 2024.
[11] Section 2.2 Ibid

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29. Following the Supreme Court's Ngai Tai ki Tamaki decision in December 2018, work on some planning documents was paused, while the Government began a partial review of the Conservation General Policy and General Policy for National Parks to determine how DOC could give effect to the principles of the Tiriti o Waitangi/ Treaty of Waitangi (the Treaty)[12]

30. In 2021, the Government began a process to reclassify stewardship land, which makes up a significant proportion of conservation land in the South Island. This work has halted[13].

The proposal

31. In November 2024, the Government released a discussion document[14] seeking public submissions on proposed changes to streamline the concession process, the conservation planning system and to clarify how DOC will give effect to its Treaty obligations[15].

Our submission

Question 1. Do you agree with the issues?

32. The discussion document identifies the following problems[16] with the conservation planning and management process:

- The planning and policy framework is too complicated, often overlapping, sometimes with contradictory policy guidance, and the planning documents have not kept up to date with changing economic activities and emerging issues.
- Decisions on concession applications take too long, and there is uncertainty and delays over how to give effect to Treaty principles.
- Concessions are granted on a 'first come-first served approach', but with increasing demand for commercial activities on public conservation land, there is a need for a competitive allocation process to manage concessions and to ensure that the Government gets a fair return from these activities.
- The Government has limited flexibility to manage amenity areas and exchange or dispose of conservation land.

Overall, we broadly agree with the issues and the need to reform and update the conservation statutes, with the exception of land swaps and exchanges.

Question 2. Have any issues been missed?

33. Yes, there are several other issues that should be added to the list, described below in paragraphs 34 to 39 inclusive.

[12] PCE (2021) Box 4.6. *Not 100% - but four steps closer to sustainable tourism* Parliamentary Commissioner for the Environment
[13] Section 2.4 *Modernising conservation land management, a discussion document*. Department of Conservation, November 2024.
[14] Section 1.2 Ibid.
[15] DOC 2024 *Modernising conservation land management, a discussion document*. Department of Conservation, November 2024.
[16] Ibid, Section 3

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34. As we noted in our accompanying submission on public access charging[17], public sector organisations need to collect better information and devise better ways of measuring their performance[18]. A point made repeatedly by the Parliamentary Commissioner for the Environment (PCE) and the Auditor General. This also applies to DOC's information and data systems. These need to be improved to track operations and implementation of planning documents at a regional scale[19]. A point made by the PCE, who used a biodiversity example to illustrate the link between environmental issues, outcomes and expenditure[20]. FMC has also commented frequently on inaccuracies in DOC's datasets, and that costings are often presented as accurate data rather than rough best-guess estimates. As a first step, we believe that DOC needs to improve its internal datasets to be able demonstrate that public funds are being used effectively and to assess regularly the performance of the department's work and other initiatives.

35. DOC operational practices and decision making appear to be separate to the conservation planning documents[21]. Under the statutory framework, the plans and policy documents should set the framework and direction for decision making on concessions and DOC's work programme. For example, where the planning documents set limits or restricts commercial activities, they are not being taken into account by decision makers, such as helicopter landings on the Ngapunatoru Plateau, Fiordland [22] and in the Paparoa National Park[23].

36. Many areas of public conservation land are being visited by increasing numbers of international visitors, overwhelming local infrastructure and degrading the natural environment[24]. Commercial activities benefit directly from concessions or indirectly by offering services to international visitors. Despite the pressure on the conservation land, conservation statutes and policy documents generally offer little guidance or direction on managing tourism and their effects on the environment[25]. There needs to be greater clarity about the relationship between economic activities and other conservation values (see

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[17] See paras 23 & 33, Submission on the DOC Discussion Document 'Exploring charging for access to some public conservation land'. FMC 25 February 2025.

[18] PCE 2022 *Environmental reporting, research and investment: do we know if we're making a difference?* Parliamentary Commissioner for the Environment. October 2022 and https://oag.parliament.nz/2023/performance-measures Downloaded 23 January 2025. See also: *Civil service, show us the money*, says Auditor- General. The New Zealand Herald 24 January 2025.

[19] EDS (2024) , Section 10.1.4 *Restoring Nature: Reform of the Conservation Management System* Environment Defence Society August 2024

[20] PCE 2022 Table 3.1

[21] s. 17 A Conservation Act 1987. See also EDS (2024) Section 10.1.43 *Restoring Nature: Reform of the Conservation Management System,* Environment Defence Society August 2024

[22] https://www.ombudsman.parliament.nz/sites/default/files/2019-03/final_opinion_448904_doc_0.pdf Downloaded 15 February 2025

[23] https://www.stuff.co.nz/national/politics/local-democracy-reporting/300324230/court-rules-against-allowing-recreational-helicopter-trips-in-west-coast-park Downloaded 15 February 2025

[24] PCE (2021) *Not 100% - but four steps closer to sustainable tourism.* Parliamentary Commissioners for the Environment February 2021

[25] EDS (2024) Section 7, *Restoring Nature: Reform of the Conservation Management System*, Section 10.1.4 Environment Defence Society August 2024

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above paragraphs 22-26), and a better alignment between concessions and conservation outcomes[26].

37. Any changes of the conservation planning system must be supported by better compliance and enforcement. The concessions system, like the taxation system, needs to operate in a fair and even handed manner, and prompt enforcement action taken against those who do not comply. Once people start to ignore or flout the system, it will fall into disrepute, as good operators are watching others 'getting away with it', with the consequential loss of revenue to DOC. FMC is aware of many anecdotal instances where there have been breaches and no or weak enforcement action by DOC. For example, illegal helicopter landings in the Olivine Wilderness Area, and unauthorised helicopter flights in the Kaweka Ranges. We are also aware of informal shuttle services or tour companies[27] operating without concessions in national parks without any checks.

38. The consequences of global warming need to be built into the conservation planning framework. The signs are already evident. Recent severe storms severely affected backcountry infrastructure and indigenous biodiversity. As global temperatures rise, these events are likely to increase in their extent and severity. New Zealand's permanent snow and ice cover is also rapidly disappearing[28]. Many of DOC's planning documents say nothing about global warming or how the department should respond to these events. It is ironic that in the face of widespread loss of snow and ice cover and glacial retreat that greenhouse emissions from aircraft landings on glaciers and overflights or other concession activities are not being measured or considered when companies apply for concessions[29].

39. A significant omission in the discussion document is the failure of the conservation planning framework to acknowledge New Zealand's active tectonic environment. Volcanic eruptions and earthquakes occur regularly. In the next 50 years, there is 50% chance that Taranaki Maunga will erupt again[30] and a 75% chance there will be a magnitude 8+ earthquake on the Alpine Fault with severe consequences for much of the South Island[31]. Other areas, such as the Tongariro Crossing where there are large numbers of people on the track there is a risk of localised eruptions. Backcountry recreational users accept and live with the challenges posed by New Zealand's physical environment, such as floods and landslides. Conservation planning needs to take into account the risk posed by natural events, and subsequent changes to the landscape when assessing proposals for major infrastructure, e.g. dams, and to develop operations plans to set out DOC's immediate response to such events.

40. We recommend adding the following issues:

    - *Improving the quality of DOC's information datasets so that work at the regional level can be linked back to the department's goals and outcomes.*

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[26] Ibid Section 7. 3

[27] In one case we have heard of at least 8 companies operating without a permit.

[28] https://www.rnz.co.nz/news/national/542425/new-zealand-s-glaciers-have-shrunk-by-29-percent-since-2000 Downloaded 20 February 2025

[29] Ibid 'Spotlight on emissions and aircraft concessions' pg 68.

[30] https://volcanicfutures.co.nz/mount-taranaki-research/ Downloaded 15 February 2025

[31] https://af8.org.nz/ Downloaded 15 February 2025

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- *Ensuring DOC's operational plans are tied to, and complement, the department's conservation planning documents.*
- *Managing the adverse effects of increasing numbers of international tourists on parts of the public conservation land.*
- *Increasing DOC's compliance and enforcement efforts to monitor concessionaires.*
- *Planning for, and responding to, major natural events on backcountry infrastructure.*

Question 3. Do you have any examples or data that demonstrate your view on the issues?

41. See our comments above (paragraphs 32-39).

Question 4. As you read the proposals in this document:

a. Do you think any measures are needed to ensure conservation outcomes, whether in addition to or alongside the proposals?

b. Do the proposals allow the Government to strike the right balance between achieving conservation outcomes and other outcomes?

42. See our responses to the questions below.

Question 5. Simplifying the management structure

a. Do you agree with the issues and how they have been presented?

b. Do you agree with the proposed changes to simplify the management planning framework?

c. How could this proposal be improved?

43. Yes, we broadly support the proposed simplified planning framework for public conservation land. The current dual planning system, based on whether land lies inside or outside a national park, is an artificial distinction, often applying to essentially the same type of backcountry landscape. The failings of the current policy and planning framework are well documented[32]. In other submissions, FMC has also commented on the poor drafting and repetitive language used in these documents.

44. FMC's view is that the proposal could be improved in several areas:
    - As a matter of urgency, completing the stewardship land reviews and reclassifying the land into new categories, before the new planning systems are implemented.
    - Not limiting the NCPS and area plans to managing concessions. Operational work plans should work in tandem with the area plans management of conservation land, covering both day to day activities and long term outcomes.

[32] For example EDS (2024) Section 10. *Restoring Nature: Reform of the Conservation Management System,* Environment Defence Society August 2024. See also (DOC 2024) Section 5, *Modernising conservation land management, a discussion document*. Department of Conservation, November 2024

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- Develop national standards or guidelines to manage particular activities, e.g. rock bolting, hang-gliding.
- Ensuring that the New Zealand Conservation Authority and conservation boards continue to play key roles representing the interests of the New Zealand public by providing an impartial oversight of the new planning process and are not relegated to being another stakeholder. (See also paragraphs 53 - 56).

Question 6. Enabling class approaches to concessions.

a. Do you agree with the proposal to introduce classes of exempt activities, prohibited activities and permitting activities in advance through the National Conservation Policy Statement and area plans?

b. How could this proposal be improved?

c. What types of activities are best suited to taking a class approach, and which activities would a class approach not be appropriate for?

45. The proposed class approach to granting concessions is similar to the well-established consents process under the Resource Management Act 1991.

46. FMC supports the approach, but we wish to be consulted on any proposed policies and rules. It should help streamline the concession approval process by setting specific standards for activities with low or limited adverse effects, and clearly identifying where and which types of activities are prohibited. The difficulty will be ensuring that a fair, pragmatic balance is struck between managing those activities that could have significant and/or long-term effects of the conservation and not catching activities that have minimal or no effects on public conservation land.

47. Under the proposed categories (Table 4) for managing activities, two categories are permitted (exempted & permitted in advance), prohibited activities. The two 'permitted' categories are confusing. It would be simpler if DOC adopted the RMA consent categories which people are probably more familiar with. Clear standards will be needed to differentiate between them, and to ensure that low impact recreational activities are not inadvertently caught by statutes or planning documents.

48. For example, hang-gliding and paragliding are silent portable aircraft. Under the definition of 'aircraft[33], a person may break the law if they take off or land in conservation land. This is nonsense as their impact is little different to walking, hunting, fishing, or climbing. It is also out of step with the purpose of the Conservation Act, which includes fostering recreation. Unfortunately, the position of the Reserves Act 1977 on paraglider and hang-glider take offs and landings is far less obvious, both in that Act itself and in various and almost-forgotten bylaws. The obvious solution would be to exempt paragliders and hang-gliders from the definition of 'aircraft' within the Conservation Act. To the extent necessary, it may also be possible for the New Zealand Hang-gliding and Paragliding Association to liaise with the Civil Aviation Authority and DOC to develop guidelines or standards that cover air safety and the

[33] Conservation Act 1987, See also Civil Aviation Act 1909 and Civil Aviation Act 2023.

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use of these aircraft on conservation lands. The standards/guidelines could be referenced in the planning document's rules.

49. Not specified in the Discussion document is the very broad category of activities requiring the Minister's approval. This category captures a wide range of activities ranging from:
    - low impact activities, e.g. guiding, to
    - 'semi-permanent' activities that might grant a concessionaire exclusive use of the land for a particular activity and/or the installation of structures, such as a hydroelectric dam, or ski fields.

50. The decision making requirements and level of assessments for both these categories are quite different, and the proposed tier structure should clearly distinguish between the two of them. The notification requirements and plan limits are one possible way of separating these two categories. For example, for 'low impact' activities, e.g. guiding, these would be notified but limited to the DOC region where the activity is occurring and comply with plan limits, e.g. noise, traffic limits etc. 'High impact' activities would be notified nationally and be required to meet higher standards e.g. plan limits, financial sureties to restore the land etc.

51. FMC suggests that the class approach be developed, for example as shown in the following table:

FMC proposed classes	DOC proposed classes	Link to policies in NCPS & area plans & national standards	Public Notification	Fixed terms	RMA equivalent consent category
Permitted	Exempt	NCPS/area plans set thresholds for the effects of these activities	No	No	Permitted
Controlled	Permitted in advance	Area plan sets limits on these activities. National standards might apply to activities.	No	Yes	Controlled
Discretionary	Not stated	Area plan sets limits on activities	Limited notification	Yes	Discretionary
Discretionary	Not stated	NCPS/area plans policies provide clear guidance on these concessions	Public notification	Yes	Discretionary
Prohibited	Prohibited	NCPS/area plans policies clearly state which activities are not allowed.	N/A	N/A	Prohibited

52. The NCPS and area plans should clearly state policy framework for these activities, such as the limits for the different classes of activities, e.g. number of shuttle services, noise limits for aircraft landings etc. A key role for these plans is to ensure that they clearly state how

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the cumulative effects of activities will be managed, such as setting noise limits for aircraft flights. The operational work plans would work in tandem and state how these activities will be monitored to ensure compliance, especially exempt/ permitted activities and commercial operators visiting the conservation areas.

Question 7. Proposed process for making statutory planning documents

a. Do you agree with the proposed processes for making, reviewing and updating the National Conservation Policy Statement?

b. Do you agree with the proposed processes for making, reviewing and updating area plans?

c. How do you think these processes could be improved?

53. FMC does not agree with the proposed NCPS processes. Under this proposal, the functions of the NZCA and regional conservation boards are diminished to the point where they are just another stakeholder, and the key elements of the NCPS process are transferred to the Minister of Conservation. Public conservation lands belong to all New Zealanders, requiring a multigenerational perspective and a focus on long-term outcomes. The NCPS will set the framework for all the area plans. Therefore, its development needs to draw upon a wide range of knowledge and skills both inside and outside of DOC. The public submissions process is another important step in 'testing' the quality of these policy documents as the public may highlight issues or problems that were overlooked during their development.

54. Ministers are subject to the three year electoral cycle, political pressures and they will take time to become familiar with their portfolios. Therefore, it is essential there is a degree of independent oversight in the conservation planning processes by an external body, as unlike the RMA where there is recourse to the Environment Court, under these proposals, there is no opportunity for an impartial assessment of the planning documents.

55. The NZCA already fulfils this role and its members are very familiar with the conservation planning process. It represents commercial, scientific, recreation, and iwi interests and can draw on a wide range of knowledge and expertise. The NZCA must continue to represent the New Zealand public's interest in the management of conservation land, and play a major role in overseeing the development of the NCPS and any national standards (paragraph 44). Therefore, the following key elements of the current process must be retained in the new approval process.

- The Director–General prepares the draft NCPS or national standards in consultation with the NZCA.
- The draft NCPS or national standards are publicly notified, and there is adequate time for people to make a submission.
- The Director-General summarises the submissions and the revised draft NCPS or national standards are sent to the NZCA for their comments.
- Based on the NZCA response, the Director-General amends the draft NCPS or national standard. Once the NZCA has approved the final version, the Director-General sends it to the Minister for final approval. If the Minister requests any revisions, they must clearly state their reasons for doing so.

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56. FMC supports the proposed process for developing area plans, provided:

- the conservation boards and iwi are involved in the drafting of the plans before they are released for public comment.
- there is adequate time allowed for public submissions.
- the conservation boards, iwi and NZCA review the summary of submissions and any recommended changes to the draft area plan.
- the conservation boards and NZCA provide the Minister with their written recommendations before the area plans are approved.

Question 8. Giving effect to Treaty principles when making statutory planning documents

a. Do you think the proposals are appropriate to give effect to the principles of Te Tiriti o Waitangi / the Treaty of Waitangi?

b. What else should the Government consider to uphold existing Treaty settlement redress?

57. FMC supports giving effect to the Treaty principles. How these will be applied will be up to iwi and hapū to determine in line with the principles of kaitiakitanga and tino rangatiratanga, in particular. DOC must meet the Crown's commitment of active protection, and both partners aspire to whakawhanaungatanga. The large number of existing Treaty settlements between iwi and the Crown, many of which have implications for public conservation land, will need to be incorporated into the statutory planning process or sit alongside the statutory process as appropriate.

58. As to changes to Section 4 itself, we note that work is currently underway by the Hon. Paul Goldsmith on the "Review of legislation including reference to the principles of the Treaty of Waitangi"[34]. We suggest that DOC procedures and policies, and potentially its approach to management planning and concession arrangements, should be informed by this work. Finally, we note that in proposals on "giving effect" to Treaty principles, Hon Tony Randerson KC's report[35] on the development of a replacement resource management system contains useful comments.

Question 9. Improving the triage of applications

a. Do you agree with the issues in concessions processing and how they are presented?

b. Do you agree with how the Government proposes to improve triaging of concession applications?

[34] https://newsroom.co.nz/2024/10/14/govt-to-change-or-remove-treaty-of-waitangi-provisions-in-28-laws/ Downloaded 26 February 2026

[35] https://environment.govt.nz/publications/new-directions-for-resource-management-in-new-zealand-report-of-the-resource-management-review-panel-summary-and-key-recommendations/ Downloaded 26 February 2025

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c. How can this proposal be improved?

d. What should DOC consider when assessing whether an applicant may not have the financial means to execute a concession?

59. FMC largely supports the proposed changes to allow the procedural timelines to run concurrently, and to promptly inform applicants if their submission will be declined (Section 6.1).

60. The proposed financial criteria for declining an application could be improved by broadening their scope to cover the entire lifecycle of the concession where they involve structures or disturbance of the land. When assessing whether an applicant has the financial means to implement a concession, DOC needs to consider all the potential costs and returns to the New Zealand public across the entire life of the operation, including clean up and rehabilitation costs. Bonds or any other financial instruments need to be inflation indexed to ensure that they adequately cover costs when the concession ceases. Private commercial operations on public conservation land enjoy a privilege, and the public is entitled to receive a fair market price for the right to operate on public conservation land. Similarly, operations should be expected to meet high environmental performance standards.

    We suggest rewording the criteria to read:

    - *does not have the financial means to execute the concession or undertake remediation of the site or land.*

61. The grounds for declining potential applicants on the grounds of previous non-compliance with concessions is too narrow. It presupposes that DOC is checking large numbers of concession holders, and more importantly it excludes any parties with a previous criminal record or a history of financial malpractice. We suggest rewording criteria to read:

    - *has demonstrated previous non-compliance with concessions, a criminal record, or record of financial malpractice.*

62. One of the functions of the statutory planning documents is to set limits or prohibit activities to protect the natural values of an area, avoid congestion etc. Some activities will jeopardise the natural values of a conservation area and if there are no practical ways of avoiding, remedying or mitigating the adverse effects of the activity, than the application should be declined[36] These limits need to apply to concessions so that we do not have a repeat of past breaches of limits or plan rules. Where the number of concessions will exceed the planning limits a competitive allocation process could be used. A new criteria for declining a concession application should be added:

    - *if the proposed activity will breach any limits, policies or standards set by an area plan or the National Conservation Policy Statement.*

[36] s. 17U(2)(b) Conservation Act 1987

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Question 10. Clarifying Treaty partner engagement requirements

How can the Government best enable Treaty partner views on concession applications (e.g. whether Iwi are engaged on all or some applications)?

63. See our comments above (paragraphs 57 -58).

Question 11. Creating statutory time frames for some steps

Do you agree that additional statutory time frames should be introduced, including for applicants (to provide further information) and Treaty partners?

64. In principle this seems like a sensible approach as it provides concession applicants with greater certainty. However, certainty for private applicants is not the purpose for holding public conservation land. As such, any time frames should not compromise assessments of conservation values that might be affected by a concession activity. This compromise will happen if timeframes are adhered to and DOC administrative processes are appropriately and well resourced.

Question 12. Amending when public notification must happen

a. Would it be more beneficial if DOC notified only eligible applications where the intention is to grant a concession?

b. Do you think any other changes to public notification should be considered?

65. FMC opposes this approach. Public notification should not be seen as a barrier or an administrative impediment, rather it is an opportunity to draw on the public's knowledge and expertise when reviewing an application, and to incorporate this information into the decision making process.

66. Public conservation land belongs to all New Zealanders, and the public should be consulted on its future especially where concessions involve exclusive use of public land. A commercial operation on public conservation land is a privilege, not a right. There is also a risk of a 'regulatory capture' culture developing. Once DOC has decided to grant an application it creates an institutional, or possibly a political, momentum, to predetermine the outcome of the process and there will be strong reluctance to reverse the decision. Other dissenting viewpoints or conflicting information are unlikely to be considered impartially or considered properly in any review of the preliminary decision.

67. A better approach is to tailor the public notification requirements to reflect the scale and size of the proposed activity. For example, a local activity, such as grazing leases, an easement for a new community water supply, or commercial shuttle service, notification could be limited to the DOC region. (See also paragraphs 45 -52).

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Question 13. Clarifying the reconsideration process and variations

a. Do you agree with setting time frames and limits on reconsiderations?

b. How can this proposal be improved?

68. FMC supports the proposed changes to the reconsideration process to rectify a serious deficiency with Section 17ZJ of the Conservation Act 1987. Applications for concessions concern private commercial activities on public conservation land. The ability to keep coming back and 'churning' an application by reconsiderations or stepwise variations is not appropriate for activities on public land. The administrative process needs to set clear boundaries to any review of an application and say when 'enough is enough'.

69. Another equally important, and related change is to constrain the ability for applicants to request more than minor and technical variations[37] to their concessions. This is dealt with in section 17ZC of the Act. In FMC's experience, prospective concessionaires often apply for small projects, then gradually increase them in scope and scale over time using a small stepwise variations process. In some cases, the concessionaires clearly intended to operate a larger activity and went this way in order to avoid notification. Those who use a stepwise variation process due to genuine chopping and changing in their intentions arguably show their inappropriateness to hold concessions in the first place, giving another reason to make this change.

70. One solution to the "stepwise variations" problem may be the mandatory notification of a proposed variation where a concession has not been implemented by the physical start of an activity, but has not yet lapsed[38]. Concessionaires, seeking variations to avoid this notification requirement, will already have "put their money where their mouth is" by starting out, and would be correspondingly less likely to be 'gaming' the variations process.

Question 14. Enabling competitive allocation of concession opportunities

a. Do you agree with the issues and how they have been presented?

b. Do you agree with the proposed criteria to guide when concession opportunities are competitively allocated?

c. How can the proposed criteria be improved for when an opportunity should be competitively allocated?

d. Are there any situations in which competitive allocation should not occur, even if the criteria are satisfied?

e. Do you agree with the proposed criteria to guide how concession opportunities are allocated?

f. How can the proposed criteria be improved for how allocation decisions should be made?

[37] s. 17ZC(2) Conservation Act 1987

[38] s 17ZD Conservation Act 1987

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g. What are your views on ensuring a fair valuation of assets when transferring a concession?

h. How can the interests of existing operators and potential new operators both be fairly met in exclusive commercial opportunities?

71. The principle underlying all commercial operations on public conservation land should be that they are a 'privilege'. There is no automatic 'right' to acquire the land or 'de facto ownership' of resources on conservation land, except perhaps for mana whenua in certain circumstances. Even a long duration concession (<30 years) or one that allows exclusive use of the land does not transfer the ownership of the land to the concessionaire or entitle the concessionaire to the same rights as private ownership.

72. FMC supports the criteria (Section 7.1.2) for competitively allocating concessions. A competitive process, i.e. tendering, auctioning etc should only be used where there is a potential market and/or where the demand for concessions exceeds, or is likely to exceed, limits set by statutory planning documents. It would remove barriers created by incumbent concessionaires, and create opportunities for new entrants. It should ensure a better financial return to the Crown from the use of conservation land.

73. A significant problem is the loss of the natural quiet on conservation land from scenic overflights by aircraft operators based outside of DOC managed areas who are not subject to any concession or planning requirements. The Conservation General Policy is clear on this point. It states:

> *"9.1 (f) Recreational opportunities at places should be managed to avoid or otherwise minimise any adverse effects (including cumulative effects) on:*
>
> *i. natural resources and historical and cultural heritage where required by the relevant Act;*
>
> *ii. the qualities of peace and natural quiet, solitude, remoteness and wilderness, where present; and*
>
> *iii. the experiences of other people..."*[39]

Large numbers of aircraft fly to and from Piopiotahi Milford Sound or in around the Fox/Franz/Aoraki areas. From our experience, neither DOC or the Civil Aviation Authority (CAA) are dealing with associated noise issues. Under the Civil Aviation Act 2023, the Minister can set flight rules, flight paths, altitude restrictions, and operating procedures for the purposes of noise abatement[40]. Both agencies need to cooperate to set limits on flight numbers and operations[41]. Such arrangements could readily support a competitive allocation of aircraft operation rights, providing a source of revenue through value over volume while promoting conservation and recreational benefits.

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[39] DOC 2005 *Conservation General Policy* p36

[40] s. 58. Civil Aviation Act 2023

[41] PCE (2021) *Not 100% - but four steps closer to sustainable tourism.* Parliamentary Commissioners for the Environment February 2021 Section 4

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74. FMC agrees that there should be standard criteria to guide how to competitively allocate concessions. The proposed criteria (Table 7.1.3) are quite subjective and the Discussion document does not state how they will be weighted against each other. Any allocation process or valuation of private assets needs to be done in a fair and transparent manner. The benefits should accrue primarily to local communities, and not allow larger companies to own multiple concessions, creating monopolising large areas of conservation land.

75. We suggest DOC (if they have not done so already) look at other examples of competitive tendering and run a few pilot tenders to test and refine the process.

76. FMC recommends that the following changes be made to the standard criteria in Table 7.1.3:

Criteria	Performance	Comments
Performance	• Applicants' experience, history and general compliance record, • Readiness of the applicant to begin their operation • Financial sustainability and history of the applicant • Capability of meeting any environmental or cultural conditions • Response plan for a major natural event • Type of financial instrument or bonds for remediation or removal of structures	The applicants should demonstrate that they can operate sustainably and consider the 'life span' whole operation, including site remediation or removal of structures if necessary. The applicants' record should not limited to DOC concessions, but include other businesses, any criminal convictions etc There will be a high risk of a natural event occurring over the life of a concession and there should a plan to deal with it
~~Returns~~ Benefits to the conservation estate	• ~~Financial returns to the Crown~~ • In kind returns to indigenous biodiversity ~~conservation~~ (e.g. pest control) and outdoor recreation • Potential effects on the values and other users of conservation land • Contribution to conservation, scientific, and mātauranga research.	The protection of conservation values should be the main priority, and minimising the impact on other users of DOC land. A proportion of the concession revenue or in kind work could be used for conservation efforts and recreational opportunities, e.g. hut maintenance in the protected area.
Offerings to visitor	• The quality of the experience offered to customers. • Type and quality of the infrastructure if any • ~~Readiness of the applicant to begin their operation~~ • How it meets the vision and outcomes for the place.	
Economic consequences	• Financial returns to the Crown • Creation of potential monopolies and effect on other concessionaires and conservation users	Large operators could dominate the concessions business and create monopolies over parts of the conservation land, excluding other users e.g. Milford Track

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Benefits to the local areas	• Employment and training opportunities for local communities. • Enhance the cultural, historic or conservation narratives of the place. • Building authentic relationships with tangata whenua and communities	Small communities may rely heavily on concessions. Concessions should maximise the benefit to local communities e.g. employment, purchasing goods and services from local businesses. A purist' market driven allocation could have devastating social effects on local communities. Similarly a large foreign owned company could offer limited employment and remit most of its earnings overseas.
Recognising Treaty rights and interests	• Importance of taonga (resource or land) to the activity. • Utilises and enhances kaitiakitanga, connection to whenua, and customary practices (may include modern technology). • Promotes general awareness of tikanga and mātauranga Māori	
Greenhouse gas emissions	• Greenhouse gas emissions from the proposed activity. • Measures to reduce and monitor greenhouse gas emissions	Increasingly New Zealand will need to manage tourism's contribution to the country's greenhouse gas inventory

Question 15. Modernising contractual management of concessions

a. Do you agree that the proposed National Conservation Policy Statement could guide things like standardised terms and conditions, term lengths, and regulated concession fees?

b. What are your views on setting standard terms and conditions for concessions?

c. What circumstances and activities might justify longer or shorter term lengths?

d. What are your views on setting activity fees based on a fair return to the Crown rather than market value?

e. What are your views on setting standardised, regulated fees?

f. What are your views on changing the frequency of activity fee reviews?

77. FMC supports updating the contractual management of concessions and getting a better economic return to the Crown from the concessions.

78. Standard terms and conditions should be used for small or low impact activities, which is standard practice in many industries. For larger activities, such as ones that involve the exclusive use of land, installation of structures, use of heritage assets etc. more comprehensive conditions will be required and tailored to the requirements of the activity. These would address a wider range of matters, such as meeting stricter environmental standards, financial defaults, removal of structures, land remediation, greenhouse gas emissions etc.

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79. FMC strongly opposes extending term lengths of concessions beyond 30 years. The practical effect would be to confer a bundle of rights consistent with private ownership, or to practically perpetuate a monopoly over the area of public conservation land. There is no obligation on DOC, under the Conservation Act 1987, to promote commercial activities on conservation land or to accommodate the needs of businesses so that they have enough time to obtain a fair return on capital improvements. The purpose of the conservation statutes is to safeguard the values of public conservation land (paragraphs 22-26). By placing limits on the number of operations and being awarded a concession to use public conservation land, commercial operators are in the fortunate position of being able to generate economic rents, i.e. they can set their own prices to more than recoup their initial capital outlay and cover their operating costs. Shorter periods would underpin a competitive allocation process and allow new more innovative operators to enter the market. The only situation where a longer term might be acceptable is the provision of essential infrastructure for a community, such as flood protection works, community water supply, or telecommunications infrastructure.

80. FMC recognises that the Minister may need some flexibility when imposing conditions on a concession, the current criteria under the Conservation Act[42] for waiving conditions or reducing any financial payments are too vague and leave too much discretion to the Minister. For example, ".. any circumstances of the concession justify such waiver or reduction"[43] We recommend that these clauses be amended to make it clear that significant conservation benefits should be the principal reason for a waiver.

81. Given New Zealand's active tectonic environment and the rapid changes the landscape is undergoing as global warming accelerates, it would be prudent to ensure that DOC retains the flexibility to adapt to these changing circumstances and choose not to renew concessions if necessary.

82. It is highly likely that DOC is not obtaining the best returns from concession activities, nor even breaking even on cost recovery on the processing, administration and monitoring of concession activities. This is in part due to the lack of active enforcement by DOC (paragraph 37) and the lack of competitive allocation process. Any process e.g. auctioning, tendering etc would reveal the potential economic value an operator would obtain from the use of public conservation land rather than trying to estimate the 'market value' of an activity. Fees should also be considered to support costs of ongoing monitoring of concessions.

83. FMC supports a fair equitable process for reviewing concession fees and financial instruments, e.g bonds, to ensure that they are broadly in line with inflation.

[42] s. 17X(f) Conservation Act 1987

[43] s. 17X(f)(iii)

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Question 16. Do you agree with the issues relating to amenities areas and how they have been presented?

Question 17. Do you agree with the proposal to create a single amenities area tool?

Question 18. How can this proposal be improved?

Question 19. What should the main tests be to determine if an amenities area is appropriate?

84. Our responses to Questions 16, 17, 18, and 19 are below in paragraphs 86 to 90 inclusive.

85. The amenity proposals appear to represent the outcomes of the Milford Opportunities Project. FMC broadly supports the proposal in principle to allow for better spatial planning and management of visitors, but has concerns about what it will entail. The proposed concept is very broad and lacks detail and needs to be extensively reviewed.

86. The justification for the amenity areas is to ".. provide for public use and enjoyment over the longer term, to support a growing tourism industry and to protect conservation values. Guiding development can also enable and encourage regional economic growth in a sustainable way that benefits both the enjoyment of visitors and the local economy. [44]". This implies that 'amenity areas' are more than just local areas to manage visitors, rather they could be used as tourist hubs to facilitate commercial developments, e.g. shops, hotels, gondolas etc.

87. The congestion problems caused by large visitor numbers are merely a symptom of a national issue; the environmental and social costs of increasing numbers of international visitors to New Zealand. At present, we have a contradictory set of national policies where New Zealand is being promoted as an iconic destination and at the same time DOC and local authorities are dealing with the environmental costs of visitor numbers on a case by case basis. The amenity area proposal is a good illustration of the problem and of the failure to confront the issue nationally.

88. Other management tools should also be used in conjunction with amenity areas to deal with congestion (see FMC's submission on access charging[45]) such as limiting the number of car parks, use of park and ride systems, stricter compliance monitoring of commercial operators etc.

89. Some of the matters that need to be considered under a revised approach :

- Recognise the statutory hierarchy in the Conservation Act 1987: firstly, the natural values, ecosystems and other special features have primacy and are to be safeguarded. Second, subject to the first requirement, to grow and develop ("foster") recreation, and only thirdly, after the first and second, to "allow" tourism (paragraphs 22 -26).

[44] Section 8, pg 55 *Modernising conservation land management, a discussion document*. November 2024.

[45] Submission on the DOC Discussion Document 'Exploring charging for access to some public conservation land'. FMC 25 February 2025.

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- The term 'amenity area' needs to be carefully defined. It should exclude, or at least limit, the type of commercial activity that may be undertaken in an amenity area, and not facilitate tourist developments e.g. hotels, shopping hubs.
- 'Amenity areas should also be limited in size to constrain sprawl, and be required to meet strict environmental standards, e.g. pre-treatment of stormwater discharges, sympathetic landscape design, help protect conservation values of the surrounding area etc.
- Proposals to establish new amenity areas must be publicly notified, and ensure that the New Zealand Conservation Authority, iwi and the local conservation boards are consulted on draft proposals and the final design of an amenity area.

Question 20. Land exchanges

a. Do you agree with the issues and how they have been presented?

b. Do you agree with the proposal to enable more flexibility for exchanges where it makes sense for conservation?

c. How could this proposal be improved?

d. What should be included in the criteria for a net conservation benefit test for exchanges of public conservation land?

e. Are there criteria that should not be considered in a net conservation benefit test for disposal of public conservation land?

f. Should a net conservation benefit test for exchanges of public conservation land include meeting Iwi aspirations (for example, returning sites of significance to Iwi)?

90. FMC opposes the proposal to create more flexibility for land exchange. New Zealand's public conservation lands are a national treasure or taonga, belonging to all New Zealanders. They are not "open for business" inconsistent with that value. Past examples highlight some of the practical issues with land swaps such as questionable decision making over the Crystal Basin land swaps where "net benefit" considerations were opaque throughout, or the urgent need to complete the reassessment of conservation values of stewardship land e.g. Mōkihinui River hydroelectric dam proposal.

91. The current test restricts land exchange and disposals to land with no or very low conservation values. Under the Fast-track Approvals Act, the criteria for exchanging conservation land have been broadened and subject to a more subjective test: that the land exchange will enhance the conservation values of land managed by DOC[46].

92. FMC recognises the long held view of some in DOC that land swaps are beneficial. While we disagree in principle, the swap issue largely became irrelevant with the enactment of the Fast-track Approvals Act 2024. The Act will accommodate any project with national or significant regional benefit. It will also accommodate land swaps that might be associated with such benefits. Accordingly, any project seeking a land swap could probably justify it on the vague grounds of national or regional benefit. Consequently, there is no need for a swap process to be included in the Conservation Act.

[46] Schedule 6(29)(2) Fast-Track Approvals Act 2024

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Question 21. Land disposals

a. Do you agree with the issues and how they have been presented?

b. How could this proposal be improved?

c. Do you agree with the proposal to enable more flexibility for disposals where it makes sense for conservation?

d. When should the Crown have the ability to dispose of public conservation land and for what reason(s)?

e. What should be included in the criteria for a net conservation benefit test for disposals of public conservation land?

f. Are there criteria that should not be considered in a net conservation benefit test for disposal of public conservation land?

g. Should a net conservation benefit test for exchanges of public conservation land include meeting Iwi aspirations (for example, returning sites of significance to Iwi)?

93. The rationale for the land disposal and exchanges, e.g. 'Flexibility to achieve optimal conservation outcomes is important' or 'Liberalisation of exchange and disposal provisions could allow DOC to better and more strategically manage PCL[47]" all point to a desire to relax the land exchange and disposal provisions under the Conservation Act.

94. The terms '*net conservation benefit*' or '*is surplus to conservation needs*' are highly questionable, very subjective, and open to misuse. It imposes an economic focus on valuing the conservation land implying money could be part of the exchange[48] or other measures could be used to offset the effects of a proposed activity. Setting aside the practicalities of such an approach can be implemented, it also implies the ecological values of the land can be managed like a commodity. Conservation values are underpinned by complex ecological processes and interconnected systems, and intertwined with social and cultural history. In 2025, it is inconceivable that any significant area of public conservation land could have values so depleted as to be incapable of restoration, or of providing a buffer for species migration.

95. Faced with ongoing financial demands, DOC would be under strong pressure to sell off some of its assets to generate Crown revenue. But the actual revenue-generating potential of disposals is probably very low, with either existing or legally established or presumptive rights of first refusal to mana whenua, who should not be expected to pay market rates. Under these proposals any disposal revenue seems unlikely to be returned to DOC, as these proposals lack a Ministerial ability to direct revenue to DOC as was included in 2022 disposal proposals. If disposal proceeds are not to be put into conservation, the case for 'net conservation benefit' will diminish towards shibboleth status.

96. FMC's view is that there needs to be far more rigorous tests if public conservation land is to be considered for exchange or swaps. Policy 6, Conservation General Policy 2005 already

[47] Pg 60 *Modernising conservation land management, a discussion document*. November 2024.

[48] Schedule 6(29)(2) Fast-Track Approvals Act 2024

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sets out comprehensive requirements for land swaps and exchanges[49]. These criteria should be expanded to manage the effects of global warming on public conservation land and assets.

Thank you,once again, for the opportunity to submit on the proposals to reform the conservation planning system. This submission complements our submission on 'Exploring charging for access to some public conservation land'.

We would welcome the opportunity to attend any meetings on both proposals.

Yours faithfully,

Megan Dimozantos

President, Federated Mountain Clubs of New Zealand

[49] https://www.doc.govt.nz/about-us/our-policies-and-plans/conservation-general-policy/ Downloaded 20 February 2025

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