

13 July 2026

Environment Committee
Parliament Buildings
Wellington
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Federated Mountain Clubs of New Zealand Incorporated

Submission on the Conservation Amendment Bill

Tēnā koutou Catherine and Committee members

1. Federated Mountain Clubs of New Zealand (*FMC*) thanks you for the opportunity to comment on the Conservation Amendment Bill (*Bill*).
2. We wish to be heard in support of our submission. We have said elsewhere that the Committee should hear submissions on this Bill near to the special places affected by it, and not in Wellington.
3. We therefore request to be heard at Christchurch or Queenstown if possible. Alternatively, we offer to be heard immediately after you hear a joint submission made by 10 leading recreation sector organisations, which we led.

Our Submission

4. Our submission is structured as follows:
 - i. First we give a brief introduction to FMC and our long history. Find this immediately below.
 - ii. Second we briefly outline what we are and are not submitting about. Find this on page **3**;
 - iii. Third we make two basic suggestions for the Committee to advance the issues responsibly in light of the ongoing discussion about core policy elements of the Bill. Both involve re-drafts on major issues. Find this on page **4**;
 - iv. Fourth we briefly outline the separate joint recreation sector submission, dated 3 July 2026, and mentioned above. The sector supports two aspects of the Bill and has concerns about three. Find this on page **5**.
 - v. Fifth we identify and discuss FMC's specific issues, which expand on the joint position. We comment on **nine** issues. Find this commentary from page **6**.

- vi. Finally, in **Annexure 1**, we set out how our proposals might be reflected in amended drafting. Find this from page **24**.

Who are we?

5. FMC was founded in 1931 and advocates for New Zealand's backcountry and outdoor recreation on behalf of over 23,000 active outdoors people across almost 100 outdoor clubs and individual supporters. Our community spans widely across outdoor disciplines. Our objectives are to promote and advocate for non-commercial outdoor recreation, the conservation and wise management of, and public access to, New Zealand's natural areas, mountains, lakes, rivers and coast. Visit www.fmc.org.nz.
6. FMC's community, and the broader recreation community, is made up of people from all sections of the New Zealand public. Some are urban, some are rural. Some are wealthy, some are poor. Many are somewhere in between. Some know no other home than here, some are newer New Zealanders. Some seek practical things like a feed of venison from conservation land, while others seek a connection with place and companions, to explore new parts of the country, or mastery of a difficult skill. We have people of all political, ethical, moral and religious convictions.
7. We should not be equated with pure environment NGOs, although we call them friends. Our community's concerns (and even our memberships) very often overlap with those of the environmental movement, though sometimes they don't.
8. We are not policy professionals, although we think policy discussion is not enough to talk properly about who and what conservation land is for, or who should decide. Emphatically, we are not about mere fun, and we are not elite. Recreation is not about a privileged few taking something from the land: our community gives countless hours back working as volunteers¹ into its stewardship and maintaining huts and tracks for future generations.
9. What unites our community, and the wider recreation community, is a shared love for getting into the outdoors. For many, enjoying outdoor recreational activities is viewed as a Kiwi birthright, it is part of our national identity, and a key part of what makes New Zealand a great place to live.
10. FMC has been involved in the management of public conservation land since 1938, when we proposed a detailed policy for National Park Management to the Department of Lands and Survey. Despite the interruption of the Second World War, this policy was substantially incorporated into the National Parks Act 1952. We were there in 1980 when the Muldoon government overhauled that Act. It wanted to centralise decision-making in the Minister, just like this Bill would today, and we played our part in helping achieve the more sensible distributed decision-making arrangement with the New Zealand Conservation Authority (NZCA) and Conservation Boards (*Boards*) that has existed broadly in the same form ever since. We established the concept of Wilderness Areas in the early

¹ In 2024 FMC volunteer members contributed over \$7 million to conservation work.

1960s and worked closely with the government on them in the 1980s, subsequent to a landmark Wilderness Conference we convened in 1980. We were there in 1987 when the Conservation Act was drafted and DOC formed. We began the modern movement of community organisations that now substantially look after the backcountry hut network. And we've been there for every major development of inputting substantially into many of today's plans, on many concessions, and on major initiatives like the Milford Opportunities Project.

What are we submitting about?

We're Submitting About Recreation

11. Our submission is about outdoor recreational issues.

We're Not Submitting About Conservation

12. We share the conservation-related concerns of many thousands of Kiwis and other organisations - the Royal Forest and Bird Protection Society of New Zealand leading among them. But those views are very well represented by others, and we leave detailed comments on those aspects to them.

We're Leaving Detailed Comments on Te Tiriti to Others

13. We are highly concerned with the manner in which the Bill deals with the Treaty of Waitangi/Te Tiriti o Waitangi, though others are better placed to make detailed comments on these matters. We say only that:
 - i. To the extent the Bill might compromise or unravel existing treaty settlements, it is very concerning. The Bill would do this by changing the powers of the NZCA and Boards, for example (see clauses [7](#) and [9](#) respectively), and by the 430 or so sections amending Treaty Settlement Acts (see clauses 168 - 599). The integrity of these settlements is a matter of the highest national importance.
 - ii. The Bill seems also to attempt to circumscribe or limit, and not only clarify, the relationship of mana whenua with conservation land in their rohe outside of settlements. It does this through proposed section 4A among others (see [clause 5](#) and others). To the extent the Bill's intention is to clarify, we welcome the idea and effort but take the view that rigid certainty is undesirable, and it will need to be progressed more delicately than it has been. To the extent that the intention of the Bill is to limit mana whenua involvement, section 14ZG (see part of clause 23), for example, straightforwardly reverses comments in a Supreme Court case that section 4 may imply a "reasonable degree of preference" in allocating concessions. Circumscribing a relationship of this kind using law is not possible or desirable, and it will not be durable and may lead unnecessarily to division.
14. While it is for others to comment on these issues, experience shows that much of the remainder of the Bill is trying to solve problems that have a root cause in unresolved section 4 issues.



We're Submitting on the Bill in its current form

15. Finally, we are submitting on the Bill in its original form, even though the Minister has confirmed the disposal and exchange aspects will change, and even though the Bill's economic imperatives are clearly also under active negotiation both within government and with stakeholders. At the time of submitting we have no idea exactly what the Minister is promising, nor what clauses are affected or not affected.
16. We consider this situation is highly regrettable for a Government Bill. The public are unable to submit "on a Bill" in the usual sense. There are no guarantees of future public opportunities to respond to future government proposals on these very important issues. It may be that a future government feels it has a "mandate" to change the law whether or not the public are heard further on this conservation reform (especially immediately after the coming election, whose result will reflect many other issues). This problem is made worse by encouraging people to submit in detail now. What is needed is a public discussion on who and what conservation land is for, moving at the speed of trust.

We support parts of the Bill but call for an immediate re-draft of others

17. Like the wider outdoor recreational sector, FMC would like to see progress in areas of conservation law that are, or are close to, breaking point. The key areas we support are reworking planning and concessions regimes. (Amendments to Part 3A, management planning, are in [clauses 15 - 22](#) of the Bill, and a replacement of Part 3B, concessions, is in parts of [clause 23](#)).
18. In the circumstances our view is that the Committee has two options.
19. One is to **recommend immediate redrafting of the whole of the Bill**. The proposed amendments to Part 3A and new Part 3B could be directly recycled with appropriate changes to cross-references.
20. The second option is for this Committee to **identify and recommend the continuation of uncontroversial elements of the Bill like Part 3A and Part 3B with amendments, and immediate redrafting of the remainder**. Again, it might for example proceed with the proposed amendments to Part 3A, and replace Part 3B, but no other aspect.
21. Either way, a more careful and durable consideration of fundamentals can occur, while still progressing the likes of concessions and planning issues relatively quickly.
22. In either case, and for the reasons above, the Committee should communicate to the House the view that it ought to **scrutinise future government conservation Bills in a process including extensive public participation** including an exposure draft bill before then. Joint Outdoor Recreation Sector Engagement & Submission.



Joint Recreation Sector Submission

23. This submission follows earlier work by FMC, New Zealand Deerstalkers' Association (NZDA) and other organisations on the policy work that has led to the Bill.
24. This submission also complements the joint submission on the Bill made by FMC and NZDA on behalf of ten leading outdoor recreational organisations, **representing many tens of thousands of people** directly and indirectly. That submission identified two areas of broad support and three core concerns with the Bill. It provides reasons and suggests limited drafting solutions. We briefly summarise the sector's joint position here.
25. The outdoor recreation sector generally supports the Bill's overhaul of the concessions provisions, and the simplification of the conservation management planning process. It has three areas of concern. These are:
 - i. **First**, the Bill's disposal and exchange proposals. The scope of the Minister's withdrawal is unclear, and our concerns are about protecting public access in any replacement provisions.
 - ii. **Second**, the way the Bill compromises the place of conservation and outdoor recreation in the conservation legal system. For many tens of thousands of New Zealanders, outdoor recreation is viewed as a birthright, and a key part of what makes New Zealand a great place to live. Diminishing its status is unacceptable to the sector.
 - iii. **Finally**, about centralising decision-making with the Minister in relation to key conservation planning decisions.
26. The sector's key recommendations are:
 - i. **First**, ensuring that any exchange and disposal mechanism, whether it is based on present tests or not, includes a mandatory public process, and includes the mandatory protection of recreation access where a disposal or exchange would compromise such access. Where a "bit or bob", a gravel pit or the like, is already identified for sale, and sale is without recreation access implications, it might simply be scheduled and allowed through a truncated sale process.
 - ii. **Second**, the proposed section 6(ea) and related provisions, including those relating to the purpose of the NCPS and Area Plans, need to be withdrawn for a re-think and re-draft. A great deal of economic activity on conservation land is enabled by the current law. Enabling more is a matter for proper national discussion. Elevating such considerations above the birthright of the average New Zealander to enjoy their special places for recreation, by contrast, is not something our community feels is up for discussion.
 - iii. **Finally**, we acknowledge that some have frustrations with current conservation decision-making processes which are not entirely under the control of the Government. Concentrating decision-making in the Minister is not the solution.



FMC's specific issues

27. FMC has specific comments on the Bill in relation to:
- i. Proposed section 6(ea) and the Bill's basic stance towards conservation and recreation;
 - ii. Amendments to Part 3A, management planning;
 - iii. A replacement of Part 3B, concessions;
 - iv. Centralising decision-making power, and the place of the NZCA and Boards;
 - v. Comments on exchanges and disposals;
 - vi. Visitor Amenity area provisions;
 - vii. Wilderness Areas;
 - viii. Free Outdoor Access; and
 - ix. Access Levies.
28. We comment on each area below.
29. We begin with the observation that this Bill contains proposals to add a proposed section 14ZZG. This proposal is the last in clause 23 (new part 3B), itself a single clause introducing about 60 proposed provisions, among 599 other clauses plus six schedules. In any Bill so numbered, something has somewhere gone awry. In FMC's view the Act will be made more usable if it is fully renumbered. The present situation will create public confusion, likely inefficiency for New Zealand taxpayers through confusion at DOC, and will only serve expensive consultants well.

Comment on our Recommendations

Proposed section 6(ea) and the Bill's basic stance towards conservation and recreation

30. The recreation sector has jointly commented on proposed section 6(ea) (see clause 6). The sector commented that any changes to DOC functions must protect the status of recreation. It set out a drafting suggestion placing consistency with outdoor recreation as a limiting condition on economic development.

Drafting Suggestions

31. FMC comments that if the Committee pursues that form of drafting, then for our organisation, consistency with conservation should also form limiting conditions on economic development. In this way, DOC would be asked to:
- i. Foster recreation that is consistent with conservation;
 - ii. Facilitate whatever economic imperative might form the basis of a political settlement on that matter, provided that is consistent with conservation and recreation.



32. We note that this proposal is very similar to that of Recreation Aotearoa, who represent commercial adventure activity operators. The sector, then, is speaking with a virtually unified voice calling for protection of recreation by limiting commercial exploitation.
33. For FMC, a more nuanced alternative re-drafting would take the following form:
- i. Conservation as DOC's overriding function;
 - ii. Fostering recreation, as now in section 6(e) and proposed section 6(e);
 - iii. Enabling appropriate economic use of conservation land, provided it is consistent with conservation and recreation;
 - iv. Allowing appropriate economic development of conservation land, provided it is consistent with conservation and recreation.

What Would Our Suggestions Aim at and Achieve?

34. This formulation would:
- i. Set out something similar to the "hierarchy" for DOC functions now understood to be law. It would place economic use and development subject to a need for consistency with conservation and recreation. This need not and does not currently mean "none".
 - ii. Distinguish economic use and development. In this way it would acknowledge that it will often be appropriate to encourage concessions for the likes of tourism uses, but less commonly to encourage the likes of "development" like large scale infrastructure, forestry, farming or mining on conservation land. Hence use of the verb "allow" towards "development".
 - iii. Importantly delete present proposals to use the words "to the greatest extent practicable under this Act and other enactments" which are at once vague but practically obliging DOC to become an economic development-focussed agency.
35. We have three comments on detail:
- i. Either formulation can and ought to be reflected in proposed sections (s 13D) and (s 13H). These carry the economic imperative of proposed section 6(ea) into the National Conservation Policy Statement (NCPS) and Area Plans respectively.
 - ii. We anticipate that officials may find technical reasons to object that a test for consistency with recreation is not required alongside a test for conservation, perhaps because the definition of conservation includes a recreational component. Our sector is united and emphatic that this is not reassurance enough to guard recreation's place at the heart of what New Zealanders want from their public conservation land. Our joint submission provides further comment in this area.
 - iii. To assist in creating certainty for all, our proposals may be improved by providing non-exhaustive definitions in section 2 for "economic use" and "economic development" (see clause [4](#)).

36. How would our proposal actually change the situation on the ground? We anticipate that it:
- i. Would help create a more permissive atmosphere for economic uses that are generally agreed to be appropriate within limits, like tourism and filming and perhaps even extensive pastoral grazing in places. Like now, and as is really the only way possible, questions of appropriateness would be addressed in relation to actual proposals in actual places.
 - ii. Would make little practical difference in terms of possibilities like more mines on conservation land - miners can bypass conservation laws in most areas anyway using the Fast Track Approvals Act. But the change would make those processes more predictable for all, less susceptible to legal challenge, and more evidentially robust (all of which may also mean more politically durable). This consequence would arise because DOC would have a free hand to continue submitting diligently on many Fast Track projects in a way that brings conservation and recreational evidence before Panels whether or not it is always convenient to applicants. The proposed section 6(ea) currently on the table would shear DOC of this ability and in this way have the effect of destabilising Fast Track processes.

International Law Dimensions of Section 6 Changes

37. Finally, we note that altering the DOC functions in a way that significantly weakens its conservation function relative to economic development inconsistent with conservation may constitute New Zealand's failure to honour international obligations both general and specific.
38. Most obviously, such a change seems highly likely to compromise the rationale for which Te Wāhipounamu was inscribed by the United Nations Educational, Scientific and Cultural Organization (UNESCO). This was the ["strong protective measures taken by the New Zealand authorities"](#). It may also compromise the possibility for any future inscriptions of a similar kind. New Zealand may effectively be foreclosing the possibility of future international recognition for our environmental initiative.
39. Similarly they may constitute failures to honour New Zealand's international obligations under:
- i. The World Heritage Convention;
 - ii. The 2003 International Council on Mining and Metals (ICMM) "No-go Commitment" and 2013 World Heritage Committee Decision 37 COM 7 (Part III).
40. FMC fully recognises the range of views about international obligations in the current Parliament, as well as the shifting international environment. We say that if New Zealand benefits from a rules based international order in relation to the likes of trade and the exclusive economic zone, its position is almost totally undermined for a disregard of conservation-related obligations.

Amendments to Part 3A, management planning

41. The outdoor recreation sector has jointly commented on its broad support for the changes to the structure of planning documents. We **strongly oppose** the proposal that the planning documents be approved solely by the Minister for reasons we set out in comments on the NZCA and Boards (see below at paragraphs **79** to **87**).
42. FMC comments that:
- i. We **support** replacing the Conservation General Policy and the General Policy for National Parks with a single NCPS.
 - ii. We **support** empowering the NCPS to exempt activities from requiring a concession and to pre-approve activities in advance, allowing a concession to be obtained easily after paying a fee and agreeing to certain pre-determined conditions. However unless the NCPS contains concomitant limits to protect conservation values, and is enforced, this is a recipe for runaway tourism that will cheapen the New Zealand experience and lose social licence.
 - iii. We **support** empowering the NCPS to provide additional information on how consistent an activity is with the purposes for which land is held or managed (for example, where certain types of structures might be acceptable). The “devil will be in the detail” and we will submit on the first NCPS on these issues.
 - iv. We **support** replacing the hierarchy of conservation management strategies, conservation management plans, and national park management plans with a single layer of non-overlapping area plans. We have many reservations about area plans that we comment on below.
 - v. We **do not support** the proposed process for making the NCPS. Its ministerial decision-making is not appropriate. Conservation land is an inheritance across generations and it is ours. It does not belong to any Minister of the day or any government. Its management requires a multigenerational perspective and a focus on long-term outcomes. Given that the NCPS will set the framework for area plans, its development needs to draw upon a wide range of knowledge and skills both inside and outside of DOC.
43. We **do not support** the proposed process for making the area plans without first completing a formal review of the stewardship lands. They include large areas of land with significant natural and recreational values that could be added to existing wilderness areas, reserves or national parks. Without knowing the natural and recreational values of these areas and their conservation, the area plans will have no factual basis for establishing management zones and or managing concessions. We turn now to our suggestions for addressing these problems.



The Overall Orientation of the NCPS

44. In relation to the NCPS, FMC says that to prevent runaway tourism, a cheapened New Zealand experience, national loss of social licence for tourism and further unsustainable loss in some tourist hotspots, the answer will involve at least four things:
- i. One. Again that proposed sections 13D(2)(b) and 13H(2)(b) and likely others require alignment with whatever position is reached on economic imperatives in section 6.
 - ii. Two. Careful reconsideration of the threshold for NCPS classification of exempt or pre-approved activities set out in proposed section 13E(1), and subs (1)(c) in particular (see clause 15). Plainly, almost every exempt or pre-approved activity - taking photographs for commercial purposes included - raises the spectre of “cumulative effects” (on what?) that cannot be “avoided, remedied, or mitigated”. While a very open-ended suspension mechanism like that in proposed section 13F and 13G could alleviate the actual effects of any categorisation that emerges as a “mistake” (see clause 15), potentially indefinitely, this is a poor way to make law. It too will lead to unacceptable uncertainty for everyone including commercial operators - consider the “green minded” Minister who simply stopped such activity by giving notice of suspension with indefinite renewals.
 - iii. Three. Mandatory allocation, as proposed in Part 3 Subpart 3, being sections 14ZF - 14ZH (part of clause 23), and not merely enabling it. If this engages complex section 4-related issues, so be it. We comment on this further below.
 - iv. Four. Ensuring that the NCPS is not limited to, or primarily viewed as a tool to, manage concessions, but also guides the management of public conservation land and waters. While sections 13D-13G and Schedule 2 are relatively open-textured on the contents of area plans, their tenor seems almost solely directed at making managing concessions into managing private interests on public land. Just sections 13D(2)(a) and (3)(a) refer to other matters like stewarding ecology, and even so in the general way of “setting policy relating to” a number of enactments. This might be said to be similar to the current section 17B of the Act, but even a cursory review of the current [Conservation General Policy](#) or General Policy for National Parks confirms that they have a much wider function, offering “guidance for the administration and management of all lands and waters and all natural and historic resources”.

Making the First NCPS

45. The Bill’s explanatory note provides only that this will be done “through a separate process determined by the Minister”. The transitional provisions in clause 44 and Schedule 1 provide for a number of important matters in relation to the NCPS. But unless we are mistaken, none appear to give any legal foundation for the first NCPS itself. Given that the NCPS is said to be secondary legislation (see clause 45 and new Schedule 2), holding out the NCPS as secondary legislation in these circumstances may constitute a breach of the Bill of Rights 1688. Some thought to amending the transitional provisions may be necessary, and if indeed we are correct, some reflection on what this omission really says about the speed and care in this process may also be worthwhile.



46. FMC will submit on the present process for making the first NCPS. We will do so constructively. We merely comment that rushing it and not taking the community along is bound to attract challenge.

Making and Amending later NCPSs

47. Civil society, and in particular conservation and recreation NGOs including FMC, have always had a strong interest in commenting on draft plans like the NCPS at the highest levels. The process for making and amending the NCPS set out in proposed Schedule 2 (see [Schedule 2 to the Bill](#)) does not recognise or respect this. NGOs are generally helpful and act with the utmost discretion, and even where involvement becomes more confrontational, it at least flushes out issues. Even the short process to add, remove, or amend activities as exempt activities or pre-approved activities could be highly controversial depending on the activity.
48. Unwillingness or even failure to talk with the community is bound to cause issues, as the process with the Bill itself demonstrates. It may raise legal risks in relation to the NCPS, and in this way reduce certainty, effectiveness and efficiency for the process overall.
49. The civil society interest in the NCPS cannot be wished away or changed by fiat. An amendment to proposed Schedule 2, clause 3(1) is required to ensure that its longstanding practice of constructive involvement continues. It might even be that the NZCA could hear public submissions alongside DOC officials and prepare a report, in preparation for joint approval with the Minister, which subject we comment on elsewhere. A total re-think of the “short process” in Schedule 2, clauses 8 - 13 is also necessary: its impetus is understandable but its drafting unequal to the task.

Area Plans

50. In relation to making area plans, the idea again is good in principle but the problems of detail are similar.
51. Making area plans in 270 days is unrealistic without first addressing section 4 or DOC resourcing issues (see Schedule 3, clause 4). Schedule 3, clause 7(1) carries exactly the same issues for public participation as discussed in relation to the NCPS. And again it might even be that Boards could hear public submissions alongside DOC officials and prepare a report, in preparation for joint approval with the Minister.
52. The criteria for the spatial extent of an area plan set out across proposed sections 13H(2)(a) and 13I are totally unclear (see clause 15). Would an area plan relate to Southland, Southland and Rakiura, or just the Takitimu Mountains? What if different Ministers at different times have different views on what is best in this regard? As perhaps with local authority boundaries, is it possible the Wellington area obtains a disproportionate number of plans owing to the prevalence of policy professionals in the area, or historical cultural differences like across the Waitaki make for inappropriate area plan boundaries? The result seems certain to be a hodge-podge of approaches. This too will reduce certainty and workability, particularly for anyone or any company with a national interest.

53. In this regard, FMC has a long history. We say that the answer is probably requiring area plans with boundaries equating to current Conservation Management Strategies. At least we suggest amending proposed section 13H to set out criteria for defining the extent of area plans and planning zones or local plans is necessary, and requiring DOC's Director-General to consult with the NZCA and Boards, iwi recreational users and other local knowledge on the boundaries of the area plans, management zones or local plans.
54. Just as with the NCPS, area plans cannot be not limited to, or primarily viewed as a tool to, manage concessions. While sections 13H-13I and Schedule 3 are relatively open-textured on the contents of area plans, and while for example the current section 17B might bear resemblance in this regard, again a cursory review of a Conservation Management Strategy (for example the [2016 Canterbury Waitaha CMS](#)) shows that it does far more than manage concessions.

A replacement of Part 3B, concessions

55. The outdoor recreation sector has jointly commented on its broad support for these changes.
56. FMC comments that a key purported thrust of the Bill is to streamline concessions. We observe that the real bottlenecks that DOC officials currently experience with granting concessions in a timely manner have had as much to do with section 4-related uncertainty and resourcing as it does with legal issues.
57. In this light, we congratulate DOC and the Minister on their recent work cutting down the concessions waiting list. Maintaining this situation is not realistic if DOC is required to totally rebuild its planning document framework - mistakes will be made to the detriment of conservation and recreation. Additionally, it will only become clear in the fullness of time whether the rush to work through the concessions backlog has been resolved with appropriate, enforceable, and actually enforced conditions - again it seems likely mistakes will have been made to the detriment of conservation and recreation.
58. To improve the Bill's concessions processes, FMC comments in **nine** areas. All these changes reflect that while smoother concessions processes are desirable, concessions are just that - concessions of part of an enduring public inheritance to temporary private interests. In this light, alignment with the look, feel, language, and process of Resource Management Act 1991 (*RMA*) resource consent arrangements has its benefits, but equally these arrangements cannot be uncritically applied to the Conservation Act.

Volunteers

59. In the years since 1987, it has become readily apparent that DOC needs help to manage the conservation estate, one third of New Zealand. Volunteers want to help, and do in their thousands, and their countless hours. We therefore support amending section 14A (part of clause 23) to allow people to engage in conservation activities alone or in groups without gain or reward. Inevitably this would require some qualification, for example to allow people to maintain a trap line but not attempt a takahe breeding programme without proper supervision. If this change is not made, exempt activities ought to include



specified volunteer conservation activities. While the overwhelming majority of DOC staff welcome the help, the weeder of wilding pines needs to know that they are engaging in lawful activity and safe from the unusually officious ranger.

Allocation

60. We call for the amendment of section 14B and Part 3 Subpart 3, being sections 14ZF - 14ZH (all part of clause 23) so that competitive allocation must be used for at least some classes of pre-approved activities. It will not be possible to manage cumulative effects from pre-approved activities in any other way. This may mean it is necessary to include renewal conditions in pre-approved concession consents allowing variation or requiring surrender when cumulative thresholds are reached.

Monitoring Pre-Approved and Exempt Activities

61. We support pre-approvals and exemptions but there does not appear to be any concomitant requirement to monitor them, nor any requirement to set a limit on the number of pre-approved concessions. This will not end well. A commitment to monitoring is essential from the outset.
62. These issues are well demonstrated by example:
 - i. Consider if guided day walks in the Hooker Valley at Aoraki/Mount Cook, including to Mueller Hut, were made pre-approved. Consider Cathedral Cave in the Cromandel. Even allowing that some of these walks might be otherwise regulated, for example through the Adventure Activities Regulations; and might be otherwise rationed, for example through a continuation of nearby paid car parking, the spectre of many tens of thousands of unorganised visitors - perhaps daily on peak summer days - is not remote. This seems sure to result in unacceptable environmental damage around tracks, raise safety issues for example with parties venturing out in common northwest conditions, and will be exceedingly difficult for DOC to manage or to capture any value from. In turn a peak New Zealand experience will become cheapened. Very similar problems occur for example in cities like Rome and Florence where local authorities struggle to capture even a fraction of the fees due to them by law by generally unregulated ticket on-sellers.
 - ii. Similarly exempt activities could risk becoming similar to “conditions” in permitted activity rules under the RMA. While being essentially “unrealised law” - often being practically meaningless for want of any enforcement or because they do not command respect or are simply not understood - they can become a very large drain on administrative time and attention for precisely no effect on the real world. Only monitoring - realisation - can change this.

Maintenance of practical public access across public land

63. Practical public access across public land must be at the centre of any consideration of concessions of public inheritance to private interests. It is not merely a consideration: as



far as possible it ought to be guaranteed. We comment elsewhere on sections 14K and 14ZB, which are central to these issues.

Concession Terms

64. Concessions involve giving up a small part of a multi-generation public inheritance to private interests of a temporary nature. We might agree that a concession has its benefits. We might agree that businesses need certainty. But in principle if any concession tends towards permanence, or all of them do, then the law is simply creating *de facto* private property rights on public land, or transferring public rights into private hands.
65. For these reasons, section 17Z of the Conservation Act provides term limits for concessions. Leases and licences may be granted for a term not exceeding 30 years including all renewals. A term up to 60 years including renewals is possible where the Minister is satisfied that there are “exceptional circumstances”. Permits - for activities - cannot exceed 10 years. There is no concept of “renewal” despite its commonplace usage.
66. Proposed section 17ZY of the Act (part of clause 23) would extend the ability to obtain a 60 year concession in two areas:
 - i. If “the useful life of any fixed asset or structure of the activity is likely to be longer than 30 years”. In practice this means all infrastructure will be able to access 60 year concessions. FMC says that this is not appropriate for the reasons above.
 - ii. If “the activity provides critical infrastructure.” While we feel that tighter drafting would be beneficial, for example referring to definitions in the Utilities Access Act 2010, FMC agrees this is appropriate.

Necessity for Fixed Infrastructure

67. Here again the starting point is the concession of part of an intergenerational public inheritance to more temporary private interests. FMC says that proposed section 14Z should be amended by adding a mandatory ground to decline in a new subsection (3).
68. Applications to build or extend structures or facilities must be declined where the activity could reasonably be undertaken in another location outside conservation land, or on other parts of conservation land where potential adverse effects would be significantly less. The sole exception may be where there is a public utility benefit, and in this case legislative definitions from the Utilities Access Act 2010 would suffice. Similar provisions are currently in section 14U(4) of the Conservation Act, which applies to National Parks through section 49 of the National Parks Act 1980.

Finality - Reconsideration

69. New Zealand is said by some to have a problem with saying “yes” enough. So too does New Zealand sometimes have a problem with the idea that “no means no”. The Fast Track Approvals Act’s well-known “zombie projects” are one species of this issue known to environmental law. Another is reconsideration of concession applications, which are currently governed by section 17J of the Act. That provision allows parties to return to

DOC again and again with the very same application, never accepting that “no” sometimes means “no”. FMC is aware of, but will not name, many parties who have done this.

70. The very same structure is repeated in proposed sections 14ZA, 14ZD and 14ZE (part of clause 23), which require amendment. Parties who face a substantive decline and wish to bring the same application for consideration must be barred for 10 years - to bring efficiency to DOC and certainty to themselves and others. Their alternative must be appeal to the Environment Court within a reasonable timeframe, judicial review, or to enter into a competitive allocation process.
71. The change in proposed sections 14ZD(3) and (5) to one reconsideration only is welcome, but it is not enough. Nowhere else in the law is the right to a “second-first-instance” decision so central. To the extent this may reflect a lack of faith in DOC staff to apply the law correctly, the better remedy is access to the general courts. To the extent it reflects a sense of private entitlement to benefit from a public inheritance it is plainly inappropriate.

Finality - Variations

72. Another species of rejecting the idea that “no means no” known to environmental law is the repeated application for small variations, taking one from approval for “not much” to approval for “a lot” by slicing up adverse effects into chunks a decision-maker will swallow. FMC is again aware of, but will not name, many parties who have done this too.
73. We consider that this tactic might be acceptable where one is dealing with a consent in relation to one’s own property, but it is not in relation to concessions. Again these are about conceding something of an intergenerational public inheritance to a temporary private interest.
74. This tactic is currently allowed - perhaps pandered to - through section 17ZC(2) of the Act, with the thinking underpinning it appearing to have been uncritically adopted from the RMA (a context dealing often with consents about people’s own property). It is directly repeated in proposed section 14ZV(2) of the Act.
75. FMC says that the Minister ought to be able to decline any application for a variation where in their absolute discretion they consider that a party is abusing the Act’s processes to seek a commercial gain.

Public Notification and Submitters’ Rights to Be Heard

76. Once more the starting point is that concessions involve giving up - conceding - part of an intergenerational public inheritance to temporary private interests. As a starting point, then, it is only right that the public have a right to comment on concessions. RMA analogies, which often involve private property, are again inappropriate.
77. Section 17SC(1) Conservation Act currently provides for public notification of every lease or licence, which allows occupation of and potential exclusion from their inheritance. This is right. The position with respect to permits for activities is set out in section 17SC(3) and is looser: required only at the Minister’s discretion. This is not strong enough to ensure a public voice is heard about their inheritance.

78. Proposed sections 14R and 14S go precisely the wrong way and require amendment. These provisions will attract uncertainty for applicants, will attract legal challenge and possible political unrest, and encourage undesirable step-wise variations (see below). We provide more appropriate settings reflecting the context in detailed drafting suggestions.

Centralising decision-making power, and the place of the New Zealand Conservation Authority and Conservation Boards

79. The recreation sector has jointly commented on the place given to the NZCA and Boards in the Bill. FMC comments that we recognise our own comments in the area might be seen as self-interested given that we have the opportunity to nominate to the Authority pursuant to section 6D(1)(f) of the Act.
80. We support the Parliamentary Commissioner for the Environment's (PCE) comments on these issues [during part of the recent consultations leading to the Bill](#).
81. Having addressed the framing of current arrangements as a "fetter" on Ministerial decision-making, he said:

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.

82. He also wondered how the Minister is "supposed to be across so many details and local issues." He said that "[g]reater thought needs to be given to subsidiarity; what decision is made at what level."
83. On all this, he was right. Centralising decision-making power will decrease certainty for all in both short and long term, and will raise risks of legal challenge to decisions by a public who may feel that the conservation estate has become a political football.
84. The 39th Parliament, sitting in 1980 during the Muldoon government, considered similar proposals to centralise decision-making power. It agreed this was a bad idea. Its proceedings on this matter are attached to our joint recreation sector submission.
85. In our view, and for the same reasons as the PCE, the **Authority must be consulted on and retain at least joint approval power over the National Conservation Policy Statement**. This can be effected by re-drafting proposed section 6B of the Act, in clause [7](#). Concurrent approval is known in the Fisheries Act 1996, RMA, and Conservation Act itself. We have commented above at paragraphs **47** to **49** on how the Authority might figure in public management planning processes.
86. The Authority's processes could be improved to get better public input. But its membership is broadly appropriate. We acknowledge the views of the hunting and fishing sector - with whom FMC often makes common recreation-related cause, but whose representative organisations were once but are not now FMC members - that a small number of additional seats on the Authority could represent their views. This would create a broad and fully representative recreational mandate on the Authority, which is

appropriate. We understand that a recent Member's Bill explored these possibilities but was withdrawn.

87. Boards' processes could also be improved. Our joint submission cited [the 2013 review on the place of Boards](#) by Nicky Wagner for then Conservation Minister, Hon Dr Nick Smith. Its recommendations should be implemented to improve their effectiveness. But like the Authority, **Boards must be consulted on and retain at least joint approval power over area plans**. This can be effected by re-drafting proposed section 6M of the Act, in clause [9](#). We have commented above at paragraphs **50** to **54** on how the Boards might figure in public management planning processes.

Comments on exchanges and disposals

88. The recreation sector has jointly commented on exchange and disposal provisions in the Bill. Broadly it says that whatever tests are arrived at, they must actually protect access to conservation land.
89. FMC comments in **four** areas.

Leave the Test Substantially Alone and Focus on Administrative Efficiencies

90. The test of low or no conservation value set out in the present Conservation General Policy is generally appropriate and will not bar the appropriate disposal of "bits or bobs". The bars to selling these areas have to do with administrative processes and costs - and could reasonably be lowered by effort in these areas. A 2022 DOC Discussion Document and consultation clearly appreciated this. We refer the Committee to a document named "*Stewardship Land in Aotearoa New Zealand – Options to Streamline processes for reclassification and disposal*", which [appears to have been removed from DOC's website](#). This Document helps pinpoint genuine administrative barriers to appropriate disposal proposals.
91. Because we oppose the disposal regime proposed in full, we do not need to detail a position on proposed section 15O, which should be withdrawn and re-thought.

International Obligations and Risks

92. Altering the test of low or no conservation value seems likely to compromise the rationale for which Te Wāhipounamu was inscribed by UNESCO.
93. As the recreation sector jointly identified, certain land might be explicitly put to the public for disposal: the "bits or bobs" - the Levin Borstal or the back of the Omakau Garage can be identified.
94. Similarly, for international reasons and because its conservation value has been identified as outstanding, certain land beyond the categories identified in proposed Schedule 5 (see clause 47) ought to be ruled out from disposal. See for example the very explicit reclassification and protection proposals in:
- i. Section 6.4.1 of the [Mount Aspiring National Park Management Plan – June 2011](#);

- ii. Section 4.5.1 (b) of the [Westland Tai Poutini National Park Management Plan 2001 – Amended 2014](#);
- iii. Section 4.13 of the [Fiordland National Park Management Plan 2007](#); and
- iv. The Minister’s [own decisions to protect 190,000 hectares of Westland Tai Poutini Stewardship Land in December 2025](#), which do not yet seem to have taken effect.

Exchanges

95. We do not support the current proposals for exchanges. We endorse the [PCE’s recent comments](#) about reservations with “Net conservation benefit” arrangements, relative to the present arrangement. He says that “if poorly conceived, there is a real risk that high-value public conservation land will be traded away for little or no corresponding long-term benefit”, and identifies three design considerations with matching recommendations:
 - i. That a precautionary approach is needed for land exchanges because comparing conservation values is difficult. He recommends introducing a “margin of error” and excluding a broad range of land from the regime;
 - ii. How net benefit is defined – and what is in scope – will be critical. He recommends that the test should relate to all land protected for conservation purposes in New Zealand including land protected by “QEII Covenants” – not just public conservation land.
 - iii. Care over the involvement of money in swaps. He says exchanges should be able to be facilitated by the inclusion of money, but the ratio of cash to land should be limited to a small fraction of the overall value of the transaction. Furthermore, any money should be ringfenced for two specific purposes: future land acquisitions and any permanent improvements required to immediately raise the conservation value of the land received in a swap.
96. To the extent a “net conservation benefit” exchange structure is progressed, then proposed sections 15A-15F should be re-drafted in accordance with these recommendations. FMC also says that:
 - i. The considerations in section 15C should explicitly include recreation values both on the land to be exchanged away and any conservation or private land practically accessed by that land; and
 - ii. The threshold test itself and conditions provisions, currently in proposed sections 15D should guarantee a net conservation benefit, not merely require publishing a decision with a finding on that matter, as well as guarantee practical recreational access across the “outgoing land”. It might be clarified in proposed section 15E that conditions must guarantee both.



Public Notification and Hearings

97. Any disposal and exchange regime will involve a permanent alienation of part of an intergenerational public inheritance. As a starting point, then, it is only right that the public have a right to comment and be heard. In this regard proposed sections 15B and 15M plainly require amendment.

Visitor Amenity Area Provisions

98. FMC does not support the proposed approach to establishing Visitor Amenity Areas (VAAs) and we call for a total re-draft of proposed Part 3D (see part of clause [23](#)). It makes for de-factor privatisation of DOC land.
99. Amenity Areas are known in the present Act, but lack the title “Visitor.” In our view this label is about collapsing the distinction between “recreation” and “tourism”, which has been an inconvenience to DOC. We reject this definitional collapse: recreationists are not “visitors” to our own public conservation land. It is ours. Tourists are visitors. For this reason any proposal to continue with VAAs must start by calling them what they are: Tourist Amenity Areas.
100. Under the Bill, VAAs could be established on most types of public conservation land with a wide ranging brief to provide recreational and public amenities, including “.. other infrastructure that supports visitors and recreational activities”². Public consultation on these areas is limited, and largely at the discretion of the Minister of Conservation³. The NZCA can only comment if an area is being established in a national park⁴. The Minister can override the affected area plan and/or ignore the underlying conservation land classification⁵. Potentially, VAAs could be created anywhere on PCL, apart from nature reserves and wilderness areas.
101. Clearly, the intent behind the VAAs is to allow much more intensive commercial development and expansion of tourist infrastructure, such as hotels, gondolas etc, in popular tourist locations such as Piopiotahi/Milford Sound, Aoraki/Mt Cook, or Franz Josef Glacier. It is also to allow this with minimal input from the public, the NZCA, Boards and with little reference to the intrinsic natural values of the areas.^[5] It is easy to envisage situations where VAAs could restrict New Zealanders right to access conservation land. For example commercial operations might seek to:
- i. Obtain exclusive rights to operate over part of the conservation land e.g. a Great Walk.
 - ii. Restrict access to popular destinations like the Eglinton Valley or Piopiotahi/Milford Sound by limiting the number of people or access to certain times, hindering the right to visit other adjacent areas of conservation land.

² s. 16A(2)(a)(ii) Conservation Amendment Bill

³ s.16D CAB

⁴ s. 16C((2)(b)

⁵ s. 16E & 16G



- iii. Facilitate intensive development for tourism at road ends, such as Aoraki/Mt Cook, and the resulting congestion would preclude New Zealanders from turning up and heading into these areas.
102. All these kinds of things might be done in a way that does not exclude New Zealanders, or even just exclude less privileged New Zealanders. But if that is the intention, then as with land sale and exchange, the Bill allows far more. There is far more negative potential from the perspective of regular people and certainly regular recreationists.
103. Conservation lands were set aside for the primary purpose of conservation, not to facilitate economic development or create de facto private property rights over public conservation lands. They are primarily for nature and all New Zealanders, not primarily New Zealand businesspeople and foreign tourists. Giving the Minister the power over the establishment of VAAs will merely favour short term political or economic considerations, create the risk that governments might pander to commercial interests, and overlook other factors, such as the risk from natural events. There is no justification for excluding independent public oversight of the VAAs by the NZCA and the local knowledge of the Boards.
104. VAAs can play a positive role in managing tourist activity on public conservation land, particularly obvious “hot-spots”. In this way they can help New Zealand achieve the conservation, recreation, and economic objectives we have for our public conservation land as a whole, which objectives form the background discussion to this Bill. However the current proposals require a full re-draft. FMC recommends fully adopting the suggestions of the NZCA, and calling VAAs what they are: Tourist Amenity Areas.

Wilderness Areas

105. The recreation sector did not comment together on Wilderness Areas, which are provided for in section 20 of the current Act. Wilderness Areas are what they sound like - old growth forests, river flats, tussock tops, and rocky mountains with no buildings, no machinery, no livestock, vehicles, motorised vessels, roads, tracks, or trails. Designated Wilderness Areas are some of New Zealand’s last truly wild places.
106. Clause [57](#) of the Bill would amend section 14A of the Act, and this proposal may lead to the end of wilderness areas. When preparing new plans, DOC’s Director-General is obliged to consider “whether or not” an “area should continue to be a wilderness area” or “any boundary adjustments”.
107. There is no need for this clause. Section 14A is a hangover from the introduction of the Conservation Act 1987, when there was a need to clarify the boundaries of Wilderness Areas. This work has been long completed. Its intention was never to entertain the deletion of Wilderness Areas.
108. Wilderness areas are one of FMC’s crowning achievements, having been championed by outgoing FMC Patron Dr Leslie Francis “Les” Molloy, QSO. Les’s [Queen’s Birthday Honours 2022 citation](#) shows both his extensive background in wilderness policy as well as its



recent recognition at the highest levels. Walking away from this legacy so soon after such recognition is an affront to both wilderness and honours policy.

109. FMC recognises that in 2026, Wilderness Areas are apt to be criticised. When it is not well understood, wilderness policy is said to reflect a “glass jar” philosophy where virgin land is idealised, gazed upon but not touched, and made empty of people and stories. In this way wilderness policy is wide open to criticism as elitist and misanthropic. It is thought to be in particular tension with a Te Ao Maori worldview in which one is always in relation with the land - land which sustains and demands an effort to steward it in return.
110. For FMC the common and critical story told about wilderness areas has never been true. A true appreciation of wilderness policy appreciates that these places are full of people and stories, past, present and future. Their value is open to everyone of whatever background, whether or not they can or will ever go into these places.
111. We understand that DOC experiences pressure to commercialise Wilderness areas, for example the Pembroke Wilderness Area near Piopiotahi/Milford Sound. If this clause remains, we can expect the Departmental Planners to receive unmanageable pressure from the tourism industry for helicopter landings on Mt Pembroke and Mt Tutoko. We acknowledge that Wilderness Area designations make commercial exploitation of Wilderness Areas difficult. So be it. The entire Act is a limitation on exploitation of New Zealand's remaining natural areas which we know as “conservation land”. Wilderness areas are simply another (important) aspect of this same idea.
112. If a change needs to be made to Wilderness Areas to allow the likes of Mahinga kai, so be it. This change should be to section 20 of the Act.
113. If a Wilderness Area is to be deleted, let it be done in the light of day, by legislation - just as the removal of an area from a National Park requires.

Free Outdoor Access

114. FMC endorses [the Outdoor Access Commission / Herenga a Nuku Aotearoa's submission on the Bill](#) for the same reasons it sets out. These relate to:
 - i. Proposed section 10 / clause 13, a clarification about free access to boardwalks, bridges and the like;
 - ii. Proposed section 14K / part of clause 23, a clarification about considerations upon concession applications;
 - iii. Proposed section 14ZB / part of clause 23, a clarification about considerations upon concession applications for leases, licences and easements;
 - iv. Proposed section 15C / part of clause 23, an addition to any net conservation benefit test that may be added to exchange provisions;
 - v. Proposed new Part 3C, Subpart 2 / part of clause 23, the replication of the current marginal strip disposal consultation regime;



- vi. Proposed section 15X / part of clause 23, a protection for practical access in the minor boundary adjustment proposal;
 - vii. Proposed section 16E / part of clause 23, a mandatory consideration about access protection during the creation of VAAs.
115. All of these positions are valuable baseline suggestions for drafting improvements to the current Bill across the gamut of access issues it raises. However, they are baseline only - many have the character of adding an access consideration to a decision.
 116. We say, as the joint outdoor recreation sector has, that conservation land is public land. It is all of ours. The substantive loss of public access to public land in favour of private interests is generally unacceptable and this should be reflected in actual threshold tests for concessions, disposals and exchanges.
 117. The paradigmatic example of this is in the proposed section 10 (see clause 13). This provision provides for qualified free access. One qualification relates to international visitors, which we support (albeit that issues of dealing with Australian Citizens may arise owing to the proposed definition of "International visitor"). However a second qualification to the right to freedom of access to conservation land is "Part 3B".
 118. Going to proposed Part 3B (part of clause 23) one finds section 14ZB, which on present drafting may straightforwardly be used to admit exclusive game parks or ski fields or even tramping experiences on conservation land. This will not be acceptable to New Zealanders and will not prove durable - and may lead to public outcry if one or two operators gain such exclusivity before amendments are made.
 119. Better that section 14ZB is more carefully considered now. We propose that proposed section 14ZB(1) be reframed in terms of the public - and not private - interests. The private interests currently listed in that provision will be protected by exclusive possession by definition.
 120. A further issue with proposed section 10 in subs 10(3), which provides for reasonable charges for the use of "facilities". In principle this is unobjectionable, but there are two issues:
 - i. One relates to drafting: it may be beneficial to to define "facilities that are provided by the Minister in or in respect of any conservation area" in order that clarity is retained in relation to facilities that are not "tracks or paths" but which are nonetheless inappropriate for charges - for example standing on wharves, under shelters, using boardwalks etc.
 - ii. Another relates to DOC funding: it is all well that users should pay for facilities. But this provision must not become a further excuse to reduce core DOC funding, which is already far below what is required. DOC is funded on about \$650 million a year, less than 0.5 percent of core Crown funding. That figure is to be compared to an estimated biodiversity funding need alone of \$2.3 billion annually.



121. Section 14ZC (part of clause 23) allows for leases over marginal strips, which are essentially river margins. These areas are often critical for accessing conservation land, and sometimes the only way, or the only practical way. At Wanaka for example, both a recreation and tourism mecca, marginal strips provide the only access to the Fallburn Scenic Reserve, and the only practical access to much of the Stack Conservation Area, Motutapu Conservation Area, or the Leaping Burn or Phoebe Creek. Section 14ZC(2) should be amended to preclude leases where it would hinder practical access to any conservation land.

Access Levies

122. Proposed section 48D(2) provides that the purpose of area-specific international visitor levies is to fund, or contribute to the funding of, either collecting the levies themselves, or maintaining and enhancing visitor experiences on land managed or administered by DOC.

123. In FMC's view that is unobjectionable as far as it goes, and we **support** it, but it implies a reallocation - and firmly regulated commitment - of the purposes of collecting the international visitor levy.

124. The High-level uses of the International Visitor Levy (IVL) must be set in stone. In 2019 Cabinet set a split for IVL of 50:50 between "tourism" and "conservation". In reality much more has gone to "tourism" in the following years. Furthermore, within the broad "tourism" bucket, IVL funding has been used on initiatives like promotional advertisements for New Zealand tourism and DOC computer systems. At very best, these initiatives have only indirectly helped maintain and enhance visitor experiences on land managed or administered DOC, and have probably generally exacerbated infrastructure issues at those "visitor experiences".

125. What is needed is:

- i. A firmer commitment to the 50:50 split; and
- ii. As a commitment within the "tourism" 50% to fund huts, tracks, toilets and bridges, carparks, and even resolving access issues by buying easements etc, or even passing lanes or bays on key roads; and
- iii. A firmer commitment not to use the IVL to displace core Crown funding.

Ngā mihi



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ANNEXURE 1 - FMC'S DETAILED DRAFTING PROPOSALS

Bill Clause	Bill Section	Related Conservation Act 1987 Section	FMC proposed re-draft	FMC proposed comment
5	New section 4A inserted (Section 4 requirements in relation to land management processes)	None.	None.	Circumscribing an ancestral relationship using law is not possible or desirable, and it will not be durable and may lead unnecessarily to division.
6	Section 6 amended (Functions of Department) sections 6(e) and 6(ea)	Section 6 Functions of Department section 6(e)	Total reconsideration and re-draft of the economic imperative set out currently in proposed section 6(ea). FMC proposes one of two formulations. The first expresses a view on economic imperatives, the second allows more flexibility for a range of views. In the first drafting formulation we propose drafting as follows: • Conservation as DOC's overriding function; • Fostering recreation, as now in section 6(e) and proposed section 6(e); • Enabling appropriate economic use of conservation land, provided it is consistent with conservation and recreation. This limiting function might be housed in a future equivalent to section 6(ea); • Allowing appropriate economic development of conservation land, provided it is consistent with conservation and recreation. This limiting function might be housed in a future equivalent to section 6(ea). The second drafting formulation we propose that whatever economic imperative emerges from present political discussions, DOC be tasked with the following	Conservation land needs to be able to contribute to the nation's sustenance, and it does. This means it asks our long term stewardship in return. Practically, this means conservation land is not literally for disposal or exchange. It is an intergenerational inheritance and it is for conservation and recreation before it is for being exploited to make money today. We offer two options to reflect this, the basic cultural and political settlement for conservation land. We agree that the requirement for recreation in public conservation lands to be "consistent with conservation", and this should be the benchmark for all uses of public conservation land. Also, refer paragraphs 30-40 in our above submission.



Bill Clause	Bill Section	Related Conservation Act 1987 Section	FMC proposed re-draft	FMC proposed comment
			functions: - Fostering recreation that is consistent with conservation; - Facilitating whatever economic imperative might form the basis of a political settlement on that matter, provided that is consistent with conservation and recreation. This limiting function might be housed in a future equivalent to section 6(ea). Alternatively and at very minimum, the words “and to enable this use and development to the greatest extent practicable under this Act” must be removed from proposed section 6(ea).	
7	Section 6B amended (Functions of Authority)	6B Functions of Authority	Amend proposed section 6B(1)(b) to read “to approve the National Conservation Management Strategy.” Add new subsection 6B(3) to the effect that “In exercising powers other than advocacy or investigative powers, the Authority shall have regard to any views expressed in writing by the Minister and addressed to the Authority.” Alternatively amend proposed section 6B(1)(b) to read “to approve the National Conservation Management Strategy in concurrence with the Minister of Conservation.	The Authority ought to have approval power for the National Conservation Policy Statement. If this is not seen to be tenable, and we see no reason why not, the Authority must be consulted on and retain at least joint approval power. Concurrent approvals are well known to other enactments. Also, refer paragraphs 79-87 in our above submission.
9	Section 6M amended (Functions of Boards)	6M Functions of Boards	Amend proposed section 6M(1)(b) to read “to approve the Area plans in effect in the jurisdiction of the Board.” Add new subsection 6M(3) to the effect that “In exercising powers other than advocacy or	Boards ought to have approval power for Area Plans. If this is not seen to be tenable, and we see no reason why it is not, Boards must be consulted on and retain at least joint approval power. Concurrent approvals are well known to other enactments.



Bill Clause	Bill Section	Related Conservation Act 1987 Section	FMC proposed re-draft	FMC proposed comment
			investigative powers, Boards shall have regard to any views expressed in writing by the Minister and addressed to Boards collectively or that Board.” Alternatively amend proposed section 6M(1)(b) to read “to approve the Area plans in effect in the jurisdiction of the Board in concurrence with the Minister of Conservation.	Also, refer paragraphs 79-87 in our above submission.
13	10 Access and use of conservation areas	None.	Add definition relating to proposed section 10(3) to define facilities that are not “tracks or paths” but which are nonetheless inappropriate for charges.	User pays for many facilities is appropriate. For some, it is not: for example standing on wharves, under shelters, using boardwalks etc. Also, refer paragraphs 113 and 119 in our above submission.
15	Subpart 5—Amendments to Part 3A Management Planning 13D National Conservation Policy Statement	Part 3A Management Planning No related sections	Amend to reflect eventual settlement on issues raised by proposed section 6, and 6(ea) in particular.	Amendments on the purpose of the NCPS ought necessarily to apply to section 13D(2) and (3) and likely many others. Also, refer paragraphs 41-49 in our above submission.
15	Subpart 5—Amendments to Part 3A Management Planning 13E NCPS may classify activities as exempt or pre-approved 13F Suspension of exempt or pre-approved activities 13G Minister may amend NCPS during suspension period	Part 3A Management Planning No related sections	Total reconsideration and re-draft of section 13E, and 13E(1) in particular.	The threshold for pre-approved and exempted activities in the NCPS raises serious issues of cumulative effects that are not addressed adequately by the suspension mechanism in proposed sections 13F and 13G. It is possible that activities might be straightforwardly classified exempt or pre-approved where the Minister is satisfied that an unlimited extent of use will not lead to adverse cumulative effects. In our view the Director-General of DOC must have a much stronger role in creating and deleting pre-approved and exempted activities. The Minister will be too readily exposed to parties with a financial interest in reducing their



Bill Clause	Bill Section	Related Conservation Act 1987 Section	FMC proposed re-draft	FMC proposed comment
				compliance burden, whether or not it is good for conservation or recreation. Also, refer paragraphs 41-49 in our above submission.
15	Subpart 5—Amendments to Part 3A Management Planning 13H Area plans	Part 3A Management Planning Section 17D(3).	Amend proposed section 13H to require: 1. the NCPS to set out criteria for defining the extent of area plans and planning zones or local plans 2. The Director General to consult with the NZCA and Boards on the boundaries of the area plans and management zones or local plans. Amend to reflect eventual settlement on issues raised by proposed section 6, and 6(ea) in particular.	Area plans will be the fundamental planning tool for managing public conservation land and waters. The time for preparing area plans is short - 270 days. The NCPS can provide consistency by setting out criteria for area plans To avoid any potential problems with the plan boundaries the Director General needs to draw on iwi, recreational users and other local knowledge when defining area plan boundaries or management zones. Amendments on the purpose of Area Plans ought necessarily to apply to section 13H(2) and likely many others. Also, refer paragraphs 41-44 and 50-54 in our above submission.
15	Subpart 5—Amendments to Part 3A Management Planning 13I Director-General to determine boundaries for area plans	Part 3A Management Planning No related sections	As above.	As above.
23	Part 3B Concessions Subpart 1—Purpose and other preliminary matters 14A When concession required 14B How concession granted	Part 3B Concessions	Add proposed section 14A(2)(g) with exemption for “ a conservation-volunteering activity undertaken by an individual or organised group if the individual or group is undertaking the activity without gain or reward, pecuniary or otherwise, for that activity, and is not required to obtain permits under any other enactment.”	Clarifies that conservation volunteering is allowed without a concession. Qualified by ensuring that people cannot breach for example the Wildlife Act by handling rare birds or the Resource Management Act by diverting water etc. Also, refer paragraphs 55-60 in our above submission.



Bill Clause	Bill Section	Related Conservation Act 1987 Section	FMC proposed re-draft	FMC proposed comment
23	Part 3B Concessions Subpart 2—Individual application process 14K Matters that must be considered	Part 3B Concessions	Adopt Outdoor Access Commission / Herenga a Nuku Aotearoa suggestions on proposed section 14K.	Outdoor Access Commission / Herenga a Nuku Aotearoa submission points are a starting point. FMC says that access protections must have a much more mandatory character. A commitment to monitoring pre-approved and exempt activities is essential from the outset. Also, refer paragraphs 55-78 and 114-121 in our above submission.
23	Part 3B Concessions Subpart 2—Individual application process 14R Public notification of applications 14S Hearings	Part 3B Concessions	Amend to ensure proposed provisions align public notification requirements with current settings. Amend to ensure that where concessions are notified, hearings are mandatory.	It is only right that the public have a right to comment on concessions. Also, refer paragraphs 55-78 in our above submission.
23	Part 3B Concessions Subpart 2—Individual application process 14Z Grounds for declining application	Part 3B Concessions	Amend proposed section 14Z(1) to include mandatory decline ground currently contained in section 17U(4) of the Act.	Unless dealing with a public utility, applications to build or extend structures or facilities must be declined where the activity could reasonably be undertaken in another location outside conservation land, or on other parts of conservation land where potential adverse effects would be significantly less. Also, refer paragraphs 55-78 in our above submission.
23	14ZA Declined applications 14ZD Entitlement to reconsideration 14ZE Reconsideration	Part 3B Concessions	Amend section 14ZD to switch to a test barring any applicant from bringing substantially similar applications to a declined application within 10 years. Add right to appeal to the Environment or District Court in lieu.	The Act must better reflect that “no means no”. “Second-first-instance” decisions are unknown elsewhere in the law and recourse to the general courts is more appropriate. Also, refer paragraphs 55-78 in our above submission.



Bill Clause	Bill Section	Related Conservation Act 1987 Section	FMC proposed re-draft	FMC proposed comment
23	Part 3B Concessions Subpart 2—Individual application process 14ZB Limitations on granting lease, licence, or easement 14ZC Limitations regarding marginal strips	Part 3B Concessions	Withdraw and reconsider proposed section 14ZB. Amend proposed section 14ZC(2) to require the decline of an application where it could or would preclude or hinder practical access to any conservation land or private land with recreational values.	Outdoor Access Commission / Herenga a Nuku Aotearoa submission points are a starting point. FMC says that access protections must have a much more mandatory character. Proposed section 14ZB may straightforwardly pave the way exclusive game parks or ski fields or even tramping experiences on conservation land and will not be acceptable to New Zealanders. Also, refer paragraphs 55-78 and 114-121 in our above submission.
23	Part 3B Concessions Subpart 3—Allocation process 14ZF and 14ZH Allocation process 14ZH Application of subpart 2	Part 3B Concessions	Total reconsideration and re-draft of proposed sections 14ZF and 14 ZH.	An allocation process must be used for at least some class of pre-approved activities, and this must be connected with limits in the NCPS and Area Plans, and made workable by the insertion of default pre-approved concession conditions. No other way will allow the management of cumulative effects of pore-approved concessions, which may compromise predictability, social licence for pre-approved activities and the like. Also, refer paragraphs 55-78 in our above submission.
23	Part 3B Concessions Subpart 3—Allocation process 14ZG Section 4 does not require allocation process	Part 3B Concessions	Consider deletion.	This provision straightforwardly reverses the obiter comment of the Supreme Court at <i>Ngāi Tai Ki Tamaki Tribal Trust v Minister of Conservation</i> [2018] NZSC 122, paragraph [8]. Also, refer paragraphs 55-78 in our above submission.
23	Part 3B Concessions Subpart 5—Matters that apply to all concessions 14ZV Variation of conditions	Part 3B Concessions	Amend proposed section 14ZV by adding a new subs (4) and re-numbering following provisions. Subs (4) should empower a Minister to decline of any variation in their absolute discretion they consider that a party is abusing the Act's processes to seek a commercial	The Act must better reflect that “no means no”. Step-wise variations are not an acceptable way to develop private interests in a multi-generation public inheritance. Also, refer paragraphs 55-78 in our above submission.



Bill Clause	Bill Section	Related Conservation Act 1987 Section	FMC proposed re-draft	FMC proposed comment
			gain.	
23	14ZY Term of concessions	Part 3B Concessions	Delete proposed section 14ZY(2)(b).	In practice this means all infrastructure will be able to access 60 year concessions. If any concession tends towards permanence, or all of them do, then the law is simply creating de facto private property rights on public land, or transferring public rights into private hands. Also, refer paragraphs 55-78 in our above submission.
23	14ZZG Continuation for reasons relating to allocation process	Part 3B Concessions	Renumber all proposed sections to make Act more workable in future.	Any Bill with proposals to add a proposed section 14ZZG has somewhere gone awry (especially being the last proposal of clause 23, itself a single clause introducing about 60 proposed provisions, among 599 other clauses plus six schedules). Also, refer paragraphs 55-78 in our above submission.
23	Part 3C Land exchanges and disposals 15A Minister may authorise land exchanges 15B Director-General must consult and produce report on proposal 15C Minister must consider proposal 15D Minister's decision 15E Minister may impose conditions on exchange 15F Minister may impose reservation, classification, etc	Effectively none.	Total reconsideration and re-draft of proposed Part 3C. Considerations in any future equivalent of proposed section 15C should explicitly include recreation values both on the land to be exchanged away and any conservation or private land practically accessed by that land. The threshold test in any future equivalent of proposed section 15D should guarantee a net conservation benefit, not merely require publishing a decision with a finding on that matter, as well as guarantee practical recreational access across the "outgoing land". It might be clarified any future equivalent of proposed	To the extent a "net conservation benefit" exchange structure is progressed, then proposed sections 15A-15F should be re-drafted in accordance with the recommendations made by the Parliamentary Commissioner for the Environment. Any exchange regime must also substantively protect from loss of practical public access. Proposed section 15F might usefully clarify that incoming land could be subject to easements. Also, refer paragraphs 88-97 and 114-121 in our above submission.



Bill Clause	Bill Section	Related Conservation Act 1987 Section	FMC proposed re-draft	FMC proposed comment
	15K Minister may dispose of land 15M Hearings		section 15E that conditions must guarantee both. Clearly proposed section 15K will require deletion and total re-draft. If this clause is kept in some form, we seek the insertion of a third threshold along the following lines: 15K(1)(c): The land is not used for, or could not be made available for: • Recreation on the land itself. • Provision of public access to other conservation land for recreation.	
23	Part 3C Land exchanges and disposals 15X Minor boundary adjustments		Adopt Outdoor Access Commission / Herenga a Nuku Aotearoa suggestions.	Practical access must be maintained even through minor boundary adjustments. Also, refer paragraph 114 in our above submission.
23	Part 3D Visitor amenities areas Proposed sections 16-16l.	Section 23A.	Total reconsideration and re-draft of proposed Part 3D. Re-name "Tourist Amenity Areas". Adopt Outdoor Access Commission / Herenga a Nuku Aotearoa suggestions with respect to maintaining access. Adopt NZCA suggestions with respect to high level policy settings.	FMC does not support the proposed approach to establishing Visitor Amenity Areas, which amount to de-facto privatisation of DOC land without public input. Practical access must be maintained even through VAA proposals. Also, refer paragraphs 98-104 and 114-121 in our above submission.
30	48D Regulations relating to access levies	None.	Add: • a firmer commitment to the 50:50 IVL split • a commitment within the "tourism" 50% to fund huts, tracks, toilets and bridges, carparks, and even resolving access issues by buying easements etc, or even passing lanes or bays on key roads; and	Must be reflected in arrangements for expenditure of the national International Visitor Levy. Also, refer paragraphs 122-125 in our above submission.



Bill Clause	Bill Section	Related Conservation Act 1987 Section	FMC proposed re-draft	FMC proposed comment
			a firmer commitment not to use the IVL to displace core Crown funding.	
44	Schedule 1AA amended	Schedule 1AA Transitional, savings, and related provisions	Ensure legislative basis for first NCPS.	If the first NCPS lacks legislative basis there may be a breach of the Bill of Rights 1688, and a clear show that a degree of reflection is required about the speed and depth of the changes proposed by the Bill. Also, refer paragraph 45 in our above submission.
45	Schedules 2 and 3 replaced	Schedule 2 Enactments amended Schedule 3 Consequential amendments to regulations	Amend proposed Schedule 2 clause 3 to ensure that civil society is consulted early in NCPS preparation, delete “short process” cls 8 - 13. Amend proposed Schedule 3 clause 4 to ensure that civil society is consulted early in Area Plan preparation.	The NCPS and area plans will determine the management of public conservation lands & waters. Submissions at the beginning and end of the planning process can test the quality of the plans and highlight any potential problems. Civil society, and in particular conservation and recreation NGOs, including FMC, have always had a strong interest in commenting on draft plans at the highest levels. Attempting to cut civil society interest out of planning may raise legal risks in relation to the NCPS, and in this way reduce certainty, effectiveness and efficiency for the process overall. Also, refer paragraphs 41-54 and 79-87 in our above submission.
47	New Schedule 5 inserted Schedule 5 Land ineligible for exchange or disposal	None.	Total reconsideration and re-draft of proposed disposal and exchange provisions including Sch 5. Any future equivalent to Sch 5 could identify “bits or bobs” to be disposed. It must also bar the exchange and disposal of a wider set of land than at present. We have specifically-mentioned several areas for addition on a rational basis. Section 26 of the present Act should be retained, and therefore clause 25 of the Bill deleted.	Selling or exchanging conservation land that has significant conservation or recreation value is not acceptable, as 75,000 New Zealanders have already made abundantly clear and as clearly the government agrees. Also, refer paragraphs 88-97 in our above submission.



Bill Clause	Bill Section	Related Conservation Act 1987 Section	FMC proposed re-draft	FMC proposed comment
57	Section 14A amended (Special provisions relating to wilderness areas under Reserves Act 1977 or Conservation Act 1987) Amending the National Parks Act 1980.	National Park Act 1980 s14A s3 (a)	Delete clause 57 of the Bill. Consider separate amendment to section 20 of the Conservation Act to better reflect Te Ao Maori views in relation to Wilderness Areas.	Also, refer paragraphs 105-113 in our above submission.
168-599	Part 3 Consequential amendments to Treaty settlement Acts Subparts 1-58	None.	None.	The integrity of these settlements is a matter of the highest national importance and the sheer number of amendments to Settlement Acts indicates the need for extreme care. Also, refer paragraphs 13-14 in our above submission.

