

Proposed changes to concessions management processes

Summary only - See the Conservation Management and Process Discussion Document for detailed analysis

What are concessions and why are these changes needed?

A concession is an authorisation from the Minister of Conservation to undertake an activity on public conservation lands and waters. The concessions system regulates and allocates the private use of public lands and waters. This ensures that responsibilities are clear and that the values of those areas are protected.

There is an opportunity to make the process for obtaining a concession more transparent and accessible, while reducing the time and cost of assessing whether someone can undertake an activity. The current process is highly reactive and a more proactive approach could benefit both DOC and tangata whenua.

There is also an opportunity to enable more competitive allocation processes. Competitive processes for allocating concession opportunities can be more effective and transparent, and better enable DOC to consider a degree of preference for tangata whenua.

Giving effect to the principles of the Treaty of Waitangi in concessions management

Under section 4 of the Conservation Act 1987, DOC is required to give effect to the principles of the Treaty of Waitangi when implementing its legislative responsibilities. The operational approach to this will differ depending on the locations and the nature of the activity.

Some Treaty settlements include cultural redress with bespoke requirements regarding processes and responsibilities in the management of concessions.

Providing DOC the ability to create regulations that generally authorise activities

(Issue 2A)

Proposed change

There is an opportunity to manage some activities more efficiently by taking a proactive approach to assessing impacts and authorising activities that are commonly applied for and present a low risk of cumulative impacts. The proposed way of doing this is to provide the Minister of Conservation (through DOC) the ability to make regulations that generally authorise specific activities, removing the need for an individual concession.

Regulations would be subject to criteria to ensure that any activity authorised in this way is in line with parameters currently required for concessions.

Giving effect to the principles of the Treaty of Waitangi

Engagement with tangata whenua would enable informed decision making on which activities should be authorised through regulations and any other conditions needed.

Conditions on the authorisation or excluding specific places from the authorisation could be used to manage any concerns with the impact of a concession activity.

The process for updating regulations would be an opportunity for DOC and tangata whenua to engagement on management questions at an activity level rather than on individual applications. Engagement at this level will help to better inform good system-level settings.

Providing DOC the ability to offer pre-approved standardised concessions

(Issue 2B)

Proposed change

This proposal would allow DOC to pre-approve activities (permits) and make a permit available without the need for an application. Approval would still be subject to the same assessment and engagement requirements. Unlike general authorisations, a concession would still be required.

This would support efficient management by focusing on the nature of the activity rather than assessing individual applications.

Giving effect to the principles of the Treaty of Waitangi

Like the current concessions process, pre-approved concessions would still be required to give effect to the Treaty principles before being approved.

In some places, pre-approvals may not be compatible with DOC's obligations under Treaty settlement legislation or Takutai Moana legislation.

Enabling DOC to run more competitive allocation processes (i.e. tendering)

(Issue 2C)

Proposed change

The Conservation Act isn't clear on whether DOC can return a concession application if conducting a competitive process with multiple interested parties would be more appropriate. This proposal would allow DOC to do so.

We are also considering if there should be a timeframe for DOC to initiate a tender process, and if so, what that timeframe should be.

Giving effect to the principles of the Treaty of Waitangi

This proposal would provide DOC with an effective mechanism to consider the active protection of tangata whenua interests when allocating concessions.

Currently, DOC cannot easily invite and consider additional applications – this includes when tangata whenua have expressed an interest in an activity, but another applicant has applied first.

Removing the double up of impact analysis after tendering an opportunity

(Issue 2D)

Proposed change

The tender process does not allow a successful applicant to be offered a concession outright. In cases where DOC pre-assesses the activity, this amounts to DOC considering if an activity is acceptable twice – once before the opportunity is tendered and again when an application is submitted by the successful applicant.

Giving effect to the principles of the Treaty of Waitangi

It is important that the use of the proposed process is limited to cases where engagement with tangata whenua has taken place.

This will ensure that DOC gives effect to Treaty principles when determining the nature and scope of the concession activity.

Setting a time limit on when concession applicants can request a reconsideration

(Issue 2E)

Proposed change

This proposal would put in place a statutory timeframe for when requests for the reconsideration of a decision can be sought. This will provide clarity to help DOC with workflow management.

Giving effect to the principles of the Treaty of Waitangi

This proposal will not directly impact tangata whenua because it does not remove the right to request a reconsideration or change the process for considering it.

Proposed changes to statutory management planning processes

Summary only - See the Conservation Management and Process Discussion Document for detailed analysis

What are statutory planning documents?

Conservation management strategies and plans, and national park management plans are key tools for conservation management. They translate conservation legislation into policies and objectives for managing specific places. They also guide what activities can and cannot happen in these places.

DOC, tangata whenua, conservation boards, the New Zealand Conservation Authority (NZCA), other legislated bodies, and the Minister of Conservation all have roles in developing, reviewing and approving these documents. All parties need to give effect to the principles of the Treaty of Waitangi in this work.

Many things influence how DOC and tangata whenua partner in management planning processes.

The approach will be different depending on the location and scale of the project.

Management planning processes are often guided by the Treaty Settlements at place. Most processes are unique because they are shaped by the requirements of individual settlements and the number of relevant settlements within an area of statutory process. Process requirements from existing settlements include:

- Requiring new planning documents to be developed, or making updates to existing ones
- co-authoring / joint drafting by Treaty partners of all or parts of a document
- early or specific engagement points with Treaty partners
- Treaty partner final approval of the Document.

Why are changes to the current process for developing and reviewing planning documents needed?

Many of these strategies and plans are out of date and no longer fit for purpose due to the slow and resource intensive nature of statutory management processes.

The number of overdue documents is increasing:

- Older documents are reaching their 10-year statutory timeframe, and require full review.
- Some Treaty settlements call for new planning documents or the review of old documents.

Scaling plan reviews

(Issue 1A)

Proposed change:

Statutory management documents are currently required to be fully reviewed every 10 years, but this is contributing to a growing number of documents that are out of date. There is an opportunity to manage these documents more effectively by allowing a statutory check-in process at 10 years to assess the need of a review and the scale it requires (full, partial, or no review).

Giving effect to the principles of the Treaty of Waitangi

This proposal will require engagement with tangata whenua at the 10-year check in to ensure that the appropriate type of review is informed by tangata whenua interests and aspirations.

Some Treaty settlement legislation includes requirements relating to the 10-year full-review timeframe. This change will provide a mechanism for such provisions to be honoured.

Providing DOC a simple process for partially reviewing planning documents

(Issue 1B)

Proposed change:

Once a planning document is approved, it cannot be easily updated to reflect changing needs, new technology and evolving pressures. This proposal would allow DOC to use a new streamlined process for partially reviewing documents where public interest is limited.

Giving effect to the principles of the Treaty of Waitangi

The streamlined process would maintain a requirement to engage with tangata whenua during the drafting process.

Where Treaty settlement legislation sets out a role for PSGEs in existing review processes the streamlined process would allow for those requirements. If the streamlined process cannot allow for Treaty settlement requirements then a streamlined process would not be considered appropriate, and full review process would need to be used instead.

Removing the process step to notify the intent to begin preparing or reviewing a national park management plan

(Issue 1Ci)

Proposed change:

DOC is currently required to publicly notify the intent to develop or review an NPMP. This proposal seeks to remove this process step as there is no content or provisions for the public to engage on at that point.

Giving effect to the principles of the Treaty of Waitangi

Removing this process step would not impact DOC's responsibilities to partner with and engage tangata whenua during the process for developing national park management plans.

The process for public engagement in developing and reviewing planning documents is outdated+

(Issue 1Cii)

Proposed change:

The requirements for public notification and seeking public input on notified draft planning documents are outdated and overly prescriptive. This proposal looks to modernise this process through incorporating modern technologies. DOC is also seeking specific feedback on whether the requirement to hold a public hearing should be retained.

Giving effect to the principles of the Treaty of Waitangi

Engagement with tangata whenua would continue at multiple points in the planning process. Increased flexibility in the engagement process may improve accessibility and improve the ability to design processes that work better for tangata whenua.

Increased flexibility would still allow for existing Treaty settlement requirements. If required, exemptions from process changes would be provided.

Requirements for publishing draft or approved planning documents are outdated

(Issue 1Ciii)

Proposed change:

The requirements for publishing draft or approved planning documents do not reflect modern preferences for accessing information. This proposal would enable a 'digital-by-default' approach with hard copies of documents still available on request.

Giving effect to the principles of the Treaty of Waitangi

No direct impact on tangata whenua. This proposal strengthens requirements for statutory documents to be made publicly available.