



Submission on the Conservation Amendment Bill

13 July 2026

To the Environment Select Committee

Submitter details

This submission is from the Parliamentary Commissioner for the Environment, Simon Upton.

I wish to appear before the Environment Select Committee to present my submission.

My contact details are:

Phone: 04 495 8350

Email: pce@pce.parliament.nz

Parliamentary Commissioner for the Environment

The Parliamentary Commissioner for the Environment was established under the Environment Act 1986. As an independent Officer of Parliament, the Commissioner has broad powers to investigate environmental concerns and is wholly independent of the government of the day. The current Parliamentary Commissioner for the Environment is Simon Upton.

Introduction

The Conservation Act is a foundational element of New Zealand's environmental management system. This Bill presents an opportunity to identify improvements to conservation planning and land management. I support changes to the conservation planning system that will reduce the complexity of existing processes, update legislation to reflect current practice, and simplify the framework of plans currently in use. I also support changes to concessions, to introduce categories of permitted activities and competitive allocation. This should come as no surprise to the Environment Committee given some of the recommendations made in my 2021 report *Not 100% - but four steps closer to sustainable tourism*.

My principal concern is to ensure that amendments to the Conservation Act are **consistent with conservation**. No government to date has provided the Department of Conservation (DOC) with sufficient budget resources to properly manage the land under its remit. Given that this amounts to roughly one-third of the country, I think it unlikely that any future government will do so either. I therefore accept the Government's fundamental premise that DOC must be able to extract greater economic value from its management of the conservation estate **in order to reinvest in conservation**. Achieving this will, however, require careful balancing to ensure that use does not occur at the **expense** of conservation. The central premise of this submission is that successfully implementing such a balance within a large organisation requires appropriate checks and balances.

The conservation paradigm

This Amendment Bill incorporates several features that are also reflected in the legislation

proposed to replace the Resource Management Act (RMA).¹ These include an increased emphasis on centralised direction and decision-making, streamlined planning processes, and a greater focus on use and development.

Resource management requires a regulatory framework which deals with competing interests and that can make trade-offs designed to achieve effective planning and improved environmental outcomes. Conservation, however, enlists an entirely different paradigm. It is grounded in the public interest and in concepts of preservation, protection, and perpetuity. The meaning of conservation was considered to be central to the Conservation Act, as evidenced by the discussion when the Conservation Bill was reported back to the House by the Planning and Development Committee in 1987: “In particular, the definition of ‘conservation’ has been changed to make it clear that it is for the protection and enhancement of New Zealand’s natural resources... the committee felt it necessary to ensure that the definition of ‘conservation’ clearly portrayed the message that the department’s principal role is one of preserving New Zealand’s natural heritage”.²

In the words of the then Minister of Conservation: “However, the Bill does much more than that. It is a statement of New Zealand’s maturity as a nation, because it shows that we are ready to own and carefully manage our national heritage. It reflects a recognition of our roots, of our perception of what we value about New Zealand, and acceptance of the need for this unique country – its mountains, forest and coasts – to be properly minded in trust for future generations. The Bill gives a clear instruction to the Department of Conservation to care for and provide for the upkeep of those important resources. It establishes a mechanism by which management can involve the public and work of the time-scale necessary for fulfilment of the mission. The time-scale is longer than the economic or political time-frame that constantly brings pressure on the House. It is a time-horizon, befitting the age of conservation”.³

While procedural efficiencies identified through resource management reform may usefully be adopted to improve conservation planning processes, conservation serves a distinct purpose. That purpose is not expressed through a dedicated ‘purpose’ provision, but in the definition of conservation itself. All aspects of the statutory framework should be consistent with that definition which extends to the functions of the Department, conservation planning and decision-making, the use of conservation land, and management of the conservation estate. There may be limited circumstances in which aspects of that purpose will need to be prioritised over others. For example, providing for appreciation and recreational enjoyment by the public. Such decisions should be carefully prescribed exceptions to the overall aim of preservation and protection, ensuring that natural and historic resources are safeguarded to maintain options for future generations.

Purpose of conservation

The functions of the Department of Conservation are set out in section 6 of the Conservation Act: the Department is to manage all land held for conservation purposes, including land held under the statutes listed in Schedule 1, this includes the Reserves Act and the National Parks Act.

The functions set out in section 6 share a common thread of stewardship grounded in the word ‘conservation’. Conservation is defined in the Act as: “the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations”.⁴

Preservation and protection are both defined as being the “maintenance, so far as is practicable of its intrinsic values or natural state.” Tourism and recreation – activities for which DOC has

¹ Planning Bill and Natural Environment Bill.

² (19 March 1987) 479 NZPD 7882.

³ Conservation Bill, second reading, 24 March 1987, vol 479, at p. 7976. Russell Marshall.

⁴ Conservation Act 1987, s 2.

management responsibilities on conservation land – are to be fostered to the extent that such activity is “not inconsistent” with conservation. There can be no doubt that the 1987 Act established a clear ‘conservation first’ priority.

The Bill proposes to replace section 6(e) with two new functions:

1. (e) to foster the use of land and other natural resources and historic resources managed by the Department for recreation to the extent consistent with their conservation
2. (ea) to recognise the economic opportunities that arise from the use and development of land and other natural resources and historic resources managed by the Department, and to enable this use and development to the greatest extent practicable under this Act and other enactments.

Tourism has been removed from clause 6(e), which is now directed solely towards fostering recreation in a manner consistent with conservation. However, the language used in the proposed clause 6(ea) is inconsistent with the statutory definition of conservation, and the preceding function of managing land and resources for conservation purposes. The phrase ‘to the greatest extent practicable’ is used sparingly in the statute books, and when it is, is generally associated with obligations that contain a significant protective element. Examples include:

- Section 81(2)(b) of the Heritage New Zealand Pouhere Taonga Act 2014, which describes the purpose of the National Historic Landmarks List, to include the conservation of such places, including their protection from natural disasters *to the greatest extent practicable*.
- Clause 2 of schedule 2 of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020, which required relevant aircrew members to wear personal protective equipment at all times (*to the greatest extent practicable*) in specified circumstances.
- Schedule 2 of the Resource Management Amendment Act (No 2) 2011, which amended the Waikato Regional Coastal Plan so that the specified rules relating to marine farm proposals for fed aquaculture included information demonstrating that the volume and level of contamination of the discharge had been minimised *to the greatest extent practicable*.

By contrast, ‘use and development’ of conservation land does not serve a protective purpose. “To the greatest extent practicable” establishes an extremely high statutory threshold. It is essentially one step removed from being an absolute legislative direction to facilitate development wherever. As a result, the phrase gives use and development a stronger legislative footing than conservation itself, despite conservation being defined in terms of preservation and protection.

The Act does not prescribe a hierarchy or priority for the Department’s functions. In circumstances where competing functions are weighed against one another, particularly section 6(a) and new 6(ea), greater weight is likely to be attributed to the function containing the direction “to the greatest extent practicable”. Similarly, where this language is replicated elsewhere in the Bill, it will further reinforce the primacy of use and development over conservation. For example, proposed section 13D (clause 15) sets out the purpose of the National Conservation Policy Statement (NCPS).

Reference to enabling “use and development to the greatest extent practicable under those Acts” risks giving use and development precedence over other policy considerations. This risks the Conservation Act being less about conservation and more about the use and development of conservation land and resources. This is contrary to the foundational purpose of the Act. The Minister has invited the Environment Committee to work on clause 6(ea) and the surrounding provisions to ensure that they “support strong and enduring conservation outcomes while at the same time enabling tourism and other economic activities”.⁵ To support the Committee in this work I have made recommendations suggesting how relevant clauses of the Bill might be redrafted to be consistent with strong and enduring conservation outcomes.

⁵ Letter from Minister of Conservation to the Chair, Environment Committee, 29 June 2026.

Priorities within the purpose of conservation

The underlying policy intent for the Bill is to “enable economic development activities that are impeded by the Conservation Act, but which are not inconsistent with conservation”.⁶ However, as discussed above, the Bill proposes amendments that would promote use and development that may be significantly inconsistent with conservation.

The Department’s Supplementary Analysis Report for this Bill states that “the exact nature of the activities enabled through the changes is unclear”.⁷ It is also unclear what economic development activities are impeded by the Act, which the Bill seeks to remedy. Approximately two percent of concession applications are declined, yet there is no explanation or case study provided that can provide an indication of what the Bill seeks to enable. Without further information, it is difficult to assess if these concessions have been declined on reasonable grounds, such as information gaps, safety concerns, Treaty implications, or as a result of other procedural issues.

However, it is conceivable that there are circumstances in which it is necessary to prioritise activities which facilitate the use of conservation land over its preservation and protection. Such activities should be extremely limited, and approval should be based on clearly prescribed criteria in the Act. Visitor Amenities Areas (VAAs) appear to be an activity that may merit this exception. Greater specificity in setting out the decision-making criteria that are applied to decisions to create VAAs would increase trust and confidence in how these areas will be identified and established. I will return to VAAs in detail later in this submission.

Recommendations

References to “use and development” throughout the Bill should not be subject to the threshold of “to the greatest extent practicable”, and this phrase should be removed from the Bill.

Ensuring that the Conservation Act continues to deliver outcomes that are consistent with the definition of conservation, while facilitating recreation and economic opportunities, could be achieved by amending the Bill in the following ways:

- A purpose clause could be added which sets out the overall purpose of the Conservation Act, based on the function set out in section 6(a), namely that land and resources are held and managed for conservation purposes. The functions of the Department, and any other functions, duties, and powers under the Act should be required to be performed or exercised in a manner that achieves that purpose.
- Alternatively, references to “use and development” throughout the Bill could be amended along the following lines:⁸ *(ea) to facilitate the economic opportunities that arise from the use and development of land and other natural resources and historic resources managed by the Department, under this Act and other enactments, consistent with their conservation.*

The Committee should consider seeking further information from officials regarding the reasons for two per cent of concessions are declined, to be satisfied that a case exists for enabling these economic opportunities to gain priority over the preservation and protection of conservation land.

Conservation planning

Improvements to planning processes and decision-making may help to achieve the objective of enabling more economic opportunities on public conservation land (PCL). Concessions must be consistent with plans. Streamlined processes with clear timeframes are expected to deliver a new generation of up-to-date plans that should make it easier for conservation users to interact with

⁶ Department of Conservation, 2026. Supplementary Analysis Report: Amending the purpose of the Conservation Act 1987, 15 April 2026, para 33.

⁷ As above, para 50.

⁸ Conservation Amendment Bill, cl 6 (new s 6(ea)), cl 15 (new ss 13D(2)(b) and 13H(2)(b)), cl 23 (new s 14(1)).

the conservation planning system. However, there are some areas of concern in the details of the proposed approach, including who makes decisions and the opportunities for constructive input.

Who approves plans?

The Bill proposes changes to the approval of plans under the Act, currently:

- Approval of **national direction**. The existing equivalents of the **National Conservation Policy Statement** – the **Conservation General Policy** and the **General Policy for National Parks** – are currently approved by the Minister and the NZCA respectively.
- Approval of **area plans**. The existing equivalents – **Conservation Management Strategies**, **Conservation Management Plans**, and **National Park Management Plans** – are approved by the NZCA, conservation boards, and the NZCA respectively.⁹

Under the proposed system, the Minister will approve the National Conservation Policy Statement, setting direction for all PCL (including national parks). This direction will then flow through to area plans, which will also be approved by the Minister. The NZCA and Conservation Boards will no longer provide a final check on conservation planning processes.

Local decision-making was a conscious design choice when the Department was created and the rationale for dispensing with it has not been adequately explained. There are good reasons why independent institutions, such as the NZCA and conservation boards (and the entities that preceded them), were entrusted with deciding how public conservation land and water is managed.

Independent approval helps ensure that short-term political considerations do not interfere with decisions that serve current societal interests and appropriately preserve options for future generations. Decisions the management of particular areas of conservation land must also be guided by local knowledge and experience. When the Department of Conservation was established in 1987, considerable effort went into retaining that local representation. As Hon Ken Shirley said during the second reading of the Conservation Law Reform Bill in 1990: “all the decisions cannot be made in Wellington, and it is completely inappropriate that they should be. It is appropriate for communities to have control over their own areas while interfacing with the Department of Conservation.”

Management of the conservation estate cannot rely on resources provided by central government, as this will always be insufficient. DOC relies on the goodwill of communities and volunteers. That goodwill may be undermined if there is insufficient access to contribute to the planning process, either on an individual level, or through representation by local conservation boards or the NZCA.

While shifting all approvals to the Minister may improve efficiency in the planning process, independent advice and local knowledge should remain prominent features. This will help ensure that robust and transparent decisions are informed by all relevant considerations, resulting in conservation plans that endure. The functions of the NZCA and conservation boards, and their appointed membership, should reflect the independent expertise and local knowledge that these institutions contribute to the conservation system. I address the design of the conservation planning process in further detail below.

Components of the planning process

Functionally more important than who makes the final decision, the Bill proposes procedural changes to conservation plan-making. Current processes are clearly sclerotic or simply lack detailed description in the Act. There is a clear need for reform. The Bill presents an opportunity to improve conservation processes, and with some amendment it could succeed to a degree.

⁹ These functions currently exist in Conservation Act 1987 ss 6B and 6M, National Parks Act 1980 ss 18 and 30, Marine Reserves Act 1971, s 13.

However, I am concerned that the current proposals go too far in hampering place-based decision-making and may, in some cases, reduce procedural quality. Conservation planning should be the result of robust, transparent, accessible processes that incorporate both independent advice and local knowledge.

Increased transparency and accountability

Schedule 2 of the Bill sets out the processes for developing and amending the NCPS and area plans, with standard processes for preparing new documents and short processes for amendments.¹⁰ While greater procedural clarity is an improvement, it is undermined by the fact that the Minister is specifically exempted from following either process when preparing the first NCPS.¹¹ Consultation and process to date have been non-statutory. The risk in the loss of transparent processes is that the Minister will have sweeping discretion to design the NCPS, favouring either conservation or use and development. The current approach to the first NCPS presumes the planning process, as set out in the Bill, will progress without key changes. It would be more appropriate if the first NCPS followed a legislatively directed, transparent development process.

While it is proposed that the NZCA and conservation boards would retain an advisory role, there is broad scope for their functions to be enhanced. The NZCA should be relied on by the Minister as a significant source of independent expertise, providing perspectives that transcend election cycles. Local conservation boards have access to important local knowledge for place-based planning. The expert advice and local knowledge of the NZCA and boards should not be a mere input that the Minister must consider. A useful discipline to help ensure that the Minister's approval of the NCPS is diligent and based on evidence, would be to require him to provide reasons for any aspect of his decision that departs from the advice of the NZCA. The same approach should apply to the feedback received from conservation boards, in relation to area plans.

Participation

The top-down approach proposed for conservation planning is accompanied by new limitations on opportunities for local and regional input and public participation. The NZCA, conservation boards and regional councils (or their successors following local government reform) should all be included among the parties invited for initial consultation on area plans and VAAs. While I've made the case for the involvement of the NZCA and conservation boards wherever appropriate above, regional councils also merit inclusion. They are the entities tasked with managing environmental limits (including indigenous biodiversity) and natural hazards. VAAs and area plans have significant consequences for council planning – regional councils have the relevant planning expertise to provide meaningful input on the potential effects of related decisions. In particular, the economic development made possible within VAAs could have significant impacts beyond DOC land – particularly on environmental management such as pest control for which regional councils have responsibility.

Opportunities for public participation are reduced by the removal of a right to be heard, with hearings only at the discretion of the Minister. Decisions about a hearing on submissions or feedback should logically rest with the person responsible for receiving and assessing that information. That person is the Director-General of Conservation, who can reasonably be expected to have the necessary context to decide if hearings are necessary or appropriate. If limitations to the scope of hearings are considered necessary to streamline processes, the Act could specify who is entitled to be heard. This finite list could include statutory bodies, industry groups, regulatory bodies, place-based organisations, iwi Māori, organisations with an interest

¹⁰ The key functional differences between the standard and short processes are the lack of advance consultation and a reduction in submission periods from 40 to 20 working days. For the NCPS, only amendments to add, remove, or amend activities as exempt activities or pre-approved activities can use the short process.

¹¹ Conservation Amendment Bill, sch 1, new cl 8.

greater than the general public and any other person the Director-General considers relevant.

Recommendations

- The first NCPS should follow the standard process after enactment.
- If the Minister retains the authority to approve the NCPS and area plans, the Minister should be required to provide a response to the advice of the NZCA and conservation boards, particularly where the approved policy statement or plans depart from their advice or recommendations.
- Retain the right to a hearing if requested by a submitter. If discretion is to be applied, ensure that the Director-General of Conservation should be the decision-maker, or the Minister should be required to act on the Director-General's recommendation.
- If eligibility for hearings is limited to streamline the process, a list of specified persons should be heard, including:
 - statutory bodies such as the Game Animal Council
 - industry groups
 - regulatory bodies such as Fish and Game
 - local authorities
 - place-based organisations
 - iwi Māori and hapū groups
 - organisations which represent an interest greater than the general public such as the Royal Forest and Bird Society and other nongovernmental organisations
 - any other person the Director-General considers relevant.
- Include the NZCA, relevant conservation boards and regional councils (or any successor entities) in initial consultation on area plans and VAAs.
- Improve the transparency of departmental and ministerial decision-making by requiring responses to submissions.

Use of conservation land

Requiring economic opportunities to be consistent with conservation is not an argument against all tourism or other development on public conservation land. The reality is that the Department is responsible for managing a vast area of New Zealand without anywhere near the resources needed to look after it. Public funding is not forthcoming at the scale needed to protect all the biodiversity and habitats the Department is legally required to protect.

Furthermore, some land under the Department's control is not of such a rarity or value that development should necessarily be precluded. Denying opportunities for development that may arise will do nothing to address the steady erosion of habitat at the hands of pests and predators. Recognising development opportunities where they can be undertaken consistently with conservation values should not be contentious – but it will be if the power to do so is unconstrained or if new revenue streams are simply used to justify reductions to baseline funding (as has arguably happened with the appropriation of part of the International Visitor Levy to support activities such as tourism promotion).

While the enablement of development can be subject to statutory limits, diverting the proceeds from revenue-gathering activities cannot. In my view, if the pursuit of economic development opportunities is to win broad social licence, it is essential that any revenue generated by development is hypothecated or, in other words, treated as additional to taxpayer contributions and ring-fenced to support DOC's conservation mission.

The way revenue is currently raised also warrants closer attention. Activity fees paid by concessionaires should better reflect the fair market value of being able to operate on public conservation land (or water). This is a point I have previously made in *Not 100% – but four steps closer to sustainable tourism*.¹² Fair compensation for the use and development of public resources for private gain is not an unreasonable expectation.

It seems doubtful if the changes proposed in the Bill will achieve this outcome, however. The creation of pre-approved activity classes will limit the Department's ability to use competitive processes, such as tenders, when granting concessions. Much will depend on how commercially minded the Department is when it comes to setting activity fees that reflect the "market value" allowed for in the Bill, particularly for VAAs.

Another issue is the proposed removal of limits on commercial activity, and the impact this could have on the effectiveness of competitive allocation processes where they remain available. This will be a key theme of my submission on the NCPS consultation document.

Concessions

The Bill proposes significant changes to the way concessions are processed and granted, with three separate pathways proposed:¹³

- exempt activities - these would no longer require a concession
- pre-approved activities - these would be applied for online, subject to standardised conditions and activity fees, and granted automatically
- other (pre-assessed) activities - these would be processed by the Department in a similar way to the existing system, but with a standardised pre-assessment process.

The Bill allows for these classifications to apply across all public conservation land (and water) or parts of it.¹⁴

The locations where pre-approved activities ultimately take place will largely be determined by the NCPS, which will prescribe the statutory land classifications (national parks, conservation parks) within which individual activities can occur. Where other (pre-assessed) activities take place will depend on the NCPS as well as area plans. The NCPS will include guidance on the statutory land classifications and visitor zones where it is envisaged that concessions for individual activities will be granted. Area plans will establish the spatial extent of the visitor zones themselves.

The objective of these changes seems to be to improve administrative efficiency, reduce processing times, and provide greater certainty for prospective concessionaires. These are all worthy objectives. However, the proposed class approach to concessions also poses some risks.

One relates to workability. The Bill proposes that the Minister will be able to prescribe the activities that are pre-approved in the NCPS, subject to several conditions being met. These include the Minister being satisfied that "the activity is consistent with ... the purposes for which the land is held or managed"¹⁵ and that "any adverse effects (including any cumulative effects) of the activity can be avoided, remedied, or mitigated (including by use of conditions)."¹⁶

While I support this test, it is important to highlight the ambiguity inherent in the first limb – activity must be consistent with purposes for which the land is held or managed. The purposes for which land is held under the existing set of land classifications is not always straightforward. As a result,

¹² PCE, 2021, p. 76.

¹³ Exempt and Pre-approved activities are set out in Conservation Amendment Bill, cl 15 new s 13E, while pre-assessed activities are a creation of the proposed NCPS.

¹⁴ Conservation Amendment Bill, cl 15 (new s 13E(5)).

¹⁵ As above, cl 15 (new s 13E(a)(ii)).

¹⁶ As above, cl 15 (new s 13E(1)(c)).

in some cases, determining whether an activity is consistent with the purposes for which the land is held will not be a simple 'yes' or 'no' decision.

Notably though, the Minister need not be satisfied that every instance of a particular activity will be consistent with the purpose for which the land is held.¹⁷ It is unclear why this eventuality is provided for. If the intent is to avoid judicial review, then another approach could be to simply require the Minister to be *reasonably* satisfied that the activity is consistent with the Act and purposes for which the land is held. That would remove the need for the awkwardly formulated proposed section 13E(2).

Furthermore, there is an implicit assumption that existing conservation land classifications accurately describe the conservation value of the underlying land and can therefore be used to exclude more harmful activities from more sensitive areas. As I have noted elsewhere (and return to at end of this submission), I am not convinced the existing mapping is of sufficient quality to serve this purpose.¹⁸

Another risk arises from changes in how area plans – and the spatial distribution of visitor zones included in them – are developed and approved. Other (pre-assessed) activities are likely to be more damaging and disruptive than those that are exempt or pre-approved. Examples in the recent NCPS consultation include the construction of sealed tracks or large tourism facilities such as hotels. If, as currently proposed, the locations where these sorts of activities can go ahead depends in part on the underlying visitor zone, then who gets a say on the spatial distribution of those visitor zones becomes vitally important. The reduced influence of conservation boards in plan development process is concerning in this regard, given the unique local knowledge they can contribute.

Finally, some of the combinations of activities, conditions, and zones envisaged for pre-approved and other (pre-assessed) activities may prove to be inappropriate – particularly for the management of cumulative effects. I will return to this point in my submission on the NCPS consultation.

Visitor Amenities Areas

Visitor Amenities Areas (VAAs) will be a new statutory land classification which enable significant economic development. They will replace Amenities Areas currently provided for under the National Parks Act, but may be established on all types of conservation land (except wilderness areas). VAAs are not to be confused with Amenity Areas under the Conservation Act, which have been renamed Natural Character Areas to align with the focus on natural resource amenity and avoid confusion with visitor amenity.

Proportionality of VAAs

According to the Regulatory Impact Statement, four amenities areas have been established under the National Parks Act to date.¹⁹ The Bill proposes to significantly extend the scope of development and activity such areas could support. The purpose of VAAs is “to provide the public with recreational and public amenities and related services to further the use and enjoyment of land held under this Act”.²⁰ There is no requirement for the scale of amenities and related services to proportionately facilitate the use and enjoyment of conservation land.

Further, clause 23 proposes new sections 16E(3) and 16G, which expressly allow VAAs to be inconsistent with the relevant area plan and the purpose or principles for which the land is held.

¹⁷ Conservation Amendment Bill, cl 15 (new s 13E(2)).

¹⁸ PCE, 2025. Submission on modernising conservation land management discussion document.

¹⁹ Department of Conservation, 2026. Regulatory Impact Statement: Amenities Areas, 17 June 2026, para 66. The existing amenities areas include one in Aoraki/Mount Cook Village and three in Tongariro National Park (the Tūroa and Whakapapa ski fields and Whakapapa village).

²⁰ Conservation Amendment Bill, cl 23 (new s 16A).

Combined with their purpose, this expands the scope of what may be constructed in VAAs to exceed what might be necessary to facilitate public access to, or use of, conservation land.

All existing amenities areas in national parks are automatically converted into VAAs, though they are currently required to be:

- appropriate for the public use and enjoyment of the park, and
- consistent with the management plan.²¹

As proposed, VAAs have no such constraints. The Minister's decision on a proposed VAA is guided by new section 16E. While the Minister is required to be satisfied of certain conditions for location and development, there is room for improvement, particularly in terms of the requirements that:

- there is no other area within the parent land where the adverse effects of setting apart a VAA would be significantly less. 'Materially less' would be a more reasonable test, ensuring VAAs are on the land best suited for their compatibility with conservation, as 'significantly less' is still very permissive, and
- the size of the VAA is appropriate for the facilities and services that are likely to be provided – not the conservation value of the area.²² There is no cap on maximum footprint or density, even as a percentage of the relevant conservation area, reserve or national park within which the VAA sits.

Schedule 1, clause 16 will allow VAAs to be set before area plans are even in place. Consistency with the area plan is critical for ensuring that VAAs are set so that they are consistent with the purpose of conservation as far as practicable, and that place-based requirements are properly considered. It is proposed that once area plans are in place, any inconsistency between plans and VAAs does not require the Minister's decision to proceed with a VAA to be reconsidered, and a VAA chapter is deemed part of the plan.²³ Such an approach is not just a reprioritisation within the purpose of conservation, but a complete exclusion from it. As currently proposed, VAAs will essentially become areas that are alienated from the conservation estate in all but title.

Assessment of conservation value

I would be prepared to accept the need for this sort of approach on two conditions. Firstly, that decisions about the placement of VAAs be based on good biodiversity information so that they are informed by the risks to threatened species and ecosystems. Secondly, given that the establishment of a VAA is similar to a disposal, it should be subject to assessment criteria that reflect the permanent loss of conservation value. I am not convinced the test set out in clause 16E(2)(b)(v) of the Bill – that natural and historic resources will continue to be well represented – is sufficiently clear to protect important indigenous biodiversity and other resources. This is an area in which officials may be able to assist the committee by providing further advice on the impacts VAAs will have on conservation values. I would be happy for my office to assist in this work.

Recommendations

- Remove proposed new s 13E(2) and change 13E(1) to "the Minister is reasonably satisfied [...]"
- VAAs should be:
 - consistent with the relevant area plan;
 - appropriate for the use and enjoyment of the parent and adjacent land; and

²¹ National Parks Act 1980, s 15(2).

²² Conservation Amendment Bill, cl 23 (new s 16E(2)(b)(ii) and (iv)).

²³ As above, cl 23 (new ss 16E(3) and 16G).

- based on a clearer assessment of the impact the creation of a VAA will have on existing biodiversity than the currently undefined notion of natural and historic resources continuing to be “well-represented”. I would encourage the Committee to seek advice from officials on this point.

Information requirements

As I have noted above, this reform shares much with the philosophy underpinning the current resource management system reforms. The proposals provide for a form of spatial planning of public conservation land and allow for more pre-approved uses in certain areas in much the same way as the proposed planning system does. The Bill moves much of the decision-making burden to upfront zoning decisions which then determine what activities may occur and where. Simplifying the approvals process by providing for pre-approved activities within specified locations makes good sense – provided we can be sure the activities being permitted are compatible with the conservation values present at those locations.

Much like the Planning and Natural Environment Bills, this is sound in theory. What is missing is the underlying environmental data to make it all work. Recent Budget 2026 announcements signal an investment in better environmental information to underpin the Government’s planning reforms. However, the conservation reforms create a similar need for robust information about biodiversity on public conservation land. This issue is not addressed in either the Bill or the NCPS and has not received any budgetary allowance.

The shortcomings of the current land classification system illustrate the information challenges that DOC faces. The current system of statutory land classifications was created in the 1980s at the time of the Department’s establishment. The classifications were never intended to be set in stone and were certainly not designed to bear the regulatory weight the current reforms would place on them. It was intended that the Protected Natural Areas review would follow the initial reforms to rationalise the classification system and resolve the status of stewardship land. This exercise was suspended after only 95 of the 268 ecological districts had been assessed. Nearly 40 years later there are still large areas held in stewardship which were always intended to be given a proper category based on their conservation value. It was understood at the time that much stewardship land would be given greater, rather than lesser, protection - but to do that depended on knowing what biodiversity values were there in the first place.²⁴

This Bill proposes using existing land classifications to “zone” public conservation land and determine where different activities can take place. These existing land classifications are not fit for this purpose. Deciding to build a streamlined decision-making system on a completely inadequate information basis is, from a conservation point of view, irresponsible. In this vein, it is equally irresponsible to abandon further reclassification of stewardship land. Pausing this process would only be reasonable if the classifications themselves were being addressed by this reform – but they are not. A clearer understanding the conservation value of all lands currently held in stewardship would be one of the most enabling measures for both economic development and conservation outcomes.

Before these reforms proceed, environmental information akin to that being gathered to support the planning process under the new Planning Bill and Natural Environment Bill needs to feed into an overhaul of the land classification system. This process needs dedicated funding to enable DOC to complete long-awaited surveys of the biodiversity on its own estate. The Government has acknowledged the need to invest in the information base that will underpin its proposed planning system. No such acknowledgment has been made about public lands, but this is just as important. Indeed, I would argue that this is a fundamental responsibility of the Crown.

²⁴ Woollaston, P., 2012. Stewardship Land and DOC – the beginning, commissioned by the Parliamentary Commissioner for the Environment.

Recommendation

- Improve the environmental information base for conservation by:
 - rationalising the system of statutory land classifications through investment in biodiversity surveys
 - funding the continuation of the reclassification process for stewardship land, setting a target date for this to be achieved by.

Conclusion

Firstly, I acknowledge that reform of the conservation planning system is sorely needed. The current framework is sclerotic.

Philosophically, these reforms have much in common with the concurrent Planning and Natural Environment Bills. The idea is to “spatially plan” public conservation land so that it is clearer what activities can happen and where. I am perfectly willing to accept increased development and use of the conservation estate, but **only** if it is consistent with the purpose of conservation. This principle must be crystal clear, and the Bill as currently drafted is not. We cannot forget why the nation chose to vest this land in the hands of the Department of Conservation in the first place.

The similarities with planning system reform extend to greater centralisation of decision making in the hands of the Minister and reduced opportunities for public participation in the process. This risks being counterproductive when conservation efforts rely so much on the buy-in of local communities.

Finally, as I observed at the start of the planning system reforms, we currently lack much of the information needed to implement these reforms. The Government has recognised this issue for the planning system and invested accordingly. I hope for a similar outcome here.

Kind regards



Rt Hon Simon Upton
Parliamentary Commissioner for the Environment
Te Kaitiaki Taiao a Te Whare Pāremata