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Ruth Isaac
Deputy Director-General, Policy and Regulatory Services
Department of Conservation

By Email: risaac@doc.govt.nz

FEEDBACK ON NATIONAL CONSERVATION POLICY STATEMENT PROPOSALS AND MODERNISING THE CONSERVATION PLANNING SYSTEM

Introduction

1. Enclosed is feedback from the Environmental Defence Society (**EDS**) on the Department's National Conservation Policy Statement (**NCPS**) proposals, as set out in a 13-page document dated July 2025 provided to EDS on Friday 1 August 2025 (**Proposals Document**).
2. This feedback should be read in conjunction with EDS's submission on modernising conservation land management, dated 26 February 2025.¹
3. EDS's feedback is informed by extensive policy research it has undertaken on the conservation system, including:
 - a. Tourism and Landscape Protection report (2020) which investigated how tourism was currently managed, its environmental impacts, and opportunities for the tourism industry to positively contribute to landscape protection.
 - b. Caring for the Landscapes of Aotearoa New Zealand report (2021) which built on a range of case studies, a review of international and national best practice, and a legal review to propose a range of reforms to provide more robust landscape protection.
 - c. Conserving Nature report (2021) which undertook a detailed examination of the regulatory framework in place for the conservation system, identifying key issues and problems. The report won the RMLA publication of the year award for its contribution to enhance understanding of conservation issues.
 - d. Review of the Conservation Management Planning System (2023) which focused on identifying reasons for inertia in the planning system and developing proposals to address them.

¹ Available here: <https://eds.org.nz/wp-content/uploads/2025/02/EDS-Submission-on-Modernising-conservation-land-Final.pdf>

- e. Wildlife Report (2023) which highlighted the need for urgent reform of the Wildlife Act 1953.
 - f. Restoring Nature: Reform of the conservation management system report (2024) which drew on the insights garnered from over 100 interviews with people regularly engaging in the conservation system; expert ecological and economic advice; advice from Māori advisors; and a review of case-law and international best practice. It set out a comprehensive package of recommendations for a new, modernised, streamlined and fit-for-purpose conservation system.
4. Our feedback addresses the three matters raised in the Proposals Document, namely:
- a. Area plans and their values, objectives and places;
 - b. Standardising activities in certain land classifications and visitor zones; and
 - c. Exempt and pre-approved activities.
5. We also briefly discuss other matters of general policy that are outside the scope of the Proposals Document, but which nonetheless relate to a new NPCS. But first, some general comments.

General comments

6. EDS supports reform of the conservation management planning system. Issues with the current approach are set out in its independent review of the system² and reflect the Government's concern that the system for plan-making and concessions is too complex and uncertain, takes too long and is not responsive to modern needs. Proposals to streamline the system largely reflect the recommendations in EDS's independent review (with minor changes in terminology).³
7. However, EDS is concerned with the emphasis in conservation law reform on economic development. The Proposals Document seeks to enable more use and development on PCL, with fewer or weaker checks and balances. EDS's submission on modernising conservation land management details these concerns.
8. The NCPS must comply with the Conservation Act 1987 (**Act**). As currently proposed, EDS does not consider that it would meet the purpose of the Act.
9. The Act seeks to "promote the conservation of New Zealand's natural and historic resources".⁴ Land held under the Act is held for conservation purposes, with "conservation" defined as:⁵

"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."

² <https://eds.org.nz/resources/documents/reports/independent-review-of-the-conservation-management-planning-system/>, Section 3

³ Ibid, section 5

⁴ Conservation Act 1987, Long title

⁵ Conservation Act 1987, s 2

10. “Preservation” is defined as “in relation to a resource, means the maintenance, so far as is practicable, of its intrinsic values”.⁶ Protection is defined as:⁷

“protection, in relation to a resource, means its maintenance, so far as is practicable, in its current state; but includes—

- (a) its restoration to some former state; and*
(b) its augmentation, enhancement, or expansion”

11. The Supreme Court has confirmed that the definition of “conservation” means that it is necessary to consider what is appropriate to protect the “intrinsic values” of the land concerned.⁸ This focus on intrinsic values is appropriate as the appreciation or enjoyment of natural and historic resources, and the safeguarding of them for future generations, is dependent on these values being maintained. It also reflects the Department’s function of fostering of the use of natural and historic resources for recreation and allowing their use for tourism to the extent that this is “not inconsistent with” the conservation of such resources.⁹
12. Economic considerations are not relevant under the Act. EDS’s submission on modernising conservation land management details Parliament’s deliberate approach to giving prominence to preserving the nation’s collective natural heritage. Legislators sought “absolute clarity of function” through “the separation of the Government’s conservation and development objectives”.¹⁰
13. The NCPS should embed this hierarchy of priorities and ensure that economic matters are not inappropriately factored into any considerations.

Process for promulgation of the first NCPS

14. The first NCPS is proposed to be included in the Conservation Acts (Land Management) Amendment Bill (**Bill**). This means that the only opportunity for public feedback on the NCPS will be via the Select Committee process on the Bill.
15. The Proposals Document sets out significant changes to the conservation management planning system which will be mandated in the NCPS, including very specific direction about the values and objectives that can be applied to ‘places’ in area plans, what activities can proceed in certain land classification and visitor zones, and what activities can proceed as of right across the conservation estate.
16. These are not inconsequential process changes. They will have substantive and substantial ramifications for the future management of PCL.
17. It is inappropriate to limit public participation on the first NCPS to the Select Committee process, which is perfunctory and politically driven.

⁶ Conservation Act 1987, s 2

⁷ Conservation Act 1987, s 2

⁸ *Hawke’s Bay Regional Investment Company Ltd v Royal Forest and Bird Protection Society of New Zealand Inc* [2017] NZSC 106 at [111]

⁹ Conservation Act 1987, s 6(e)

¹⁰ <https://eds.org.nz/wp-content/uploads/2025/02/EDS-Submission-on-Modernising-conservation-land-Final.pdf>, paras 53 - 60

18. Public feedback on the NCPS will require careful consideration to ensure that the instrument is evidenced based, practically grounded and lawful. This necessarily requires a deep understanding of the Act, conservation land classifications, the conservation management planning system and concessions.

19. EDS considers that the NCPS should be decoupled from the Bill and consulted on separately.

Area plan values, objectives and places

20. EDS supports greater certainty in the conservation management system. This will facilitate speedier and more consistent plan and decision-making across the country. For that reason, EDS supports a NCPS that:

- a. Includes an exclusive list of ‘values’ that can be applied to ‘places’ in area plans.
 - i. EDS supports the list of values set out in the Proposals Document. It is rightly limited to matters relating to conservation purposes, which are the intrinsic values of natural and historic resources and the provision of recreation and tourism to the extent that they are consistent with those values.
 - ii. EDS opposes any enlargement of the list to include matters pertaining to commercial value.
 - iii. It is appropriate that values for the conservation management planning system be set out in the NCPS. These values are set by the Act and should not be devolved to local input.
- b. Requires that area plans include long-term outcomes-focused objectives for those values.
 - i. It appears the intention is for the NCPS to include a list of objectives that can be selected for each value. The Proposals Document refers to standardising objectives and “a common set of outcomes for DOC and the wider community, retaining the concept of integrated management.”¹¹
 - ii. It is not clear however whether the intention is for the NCPS to dictate what objective(s) must apply to individual values.
 - iii. EDS sees merit in the NCPS adopting a prescriptive approach with respect to ascribing objectives to values, whereby the NCPS sets out an exclusive list of objectives and directs their application to certain value(s), provided:
 - The objectives align with the conservation purposes of the Act. For natural and historic values this means achieving their maintenance (as per the definition of preservation) or improvement (as per the definition of protection). For recreation and tourism, this means providing for them where not inconsistent with natural and historic values.

¹¹ Page 5

- There is clear direction in the NCPS that where objectives conflict, they should be resolved in favour of the preservation and protection of the intrinsic values of natural and historic resources.
- The objectives do not relate to commercial outcomes.
- There is an ability to apply new objectives (in addition to those set out in the NCPS) where special circumstances exist (provided they apply with the above criteria).

This would ensure that the main architecture of area plans, their identification of values and objectives to achieve those values, comply with the statutory purpose of the Act.

- iv. EDS supports objectives being focused on outcomes. This mirrors the approach adopted by the now repealed Natural and Built Environment Act, away from managing effects towards managing for outcomes. It is a more future-focused approach and should better address management of cumulative effects in an integrated way.
- v. Objectives should aim for maximum integration across places and, more broadly, across area plans. Ecosystems and the mobile wildlife that inhabit them are not static and do not survive in isolation. Objectives should not lose sight of wider ecological integrity.
- vi. The reference only to long-term objectives is, however, concerning and may enable a series of digressions along the way which may hinder achievement of objectives in the long run. EDS recommends that the NCPS create a framework whereby:
 - Area plans set short- and medium-term targets, which are steppingstones on the path to achieving the long-term objective.
 - Progress against those targets is monitored, measured and reported on.
 - Intervention is triggered if outcomes are occurring that do not align with the long-term objective, including funding if required.
- vii. EDS supports operational discretion as to how the objectives are achieved but considers that area plans should include narrative about how the objective(s) for each value is to be achieved. Transparency about the direction of travel will assist in providing greater clarity about the future use of a place.

21. EDS supports the identification of 'places' within area plans. This is a sensible way of chunking up the management of large areas. In its submission on modernising the Conservation Estate, EDS recommended that area plans be regionally oriented and designed to ensure efficient and effective data collection systems and alignment of the Department's operations.¹² 'Places' within that regional context should align with natural and historic resources boundaries. This will enable alignment of 'place', 'values' and 'objectives' with intrinsic conservation values across the system.

¹² Also see EDS submission on Modernising the Conservation Estate, dated 26 February 2025, paras 94 - 101

22. In effect, area plan values and objectives are the conservation ‘limits’ for ‘places’. They have a significant role in gatekeeping activities that are standardised in the NCPS. As the Proposals Document states: “[a]pplications [for standardised activities] will still need to be assessed against the other values and objectives in the relevant area plan before a decision is made.” Their importance in ensuring that the changes proposed to the system are consistent with the purpose of the Act should not be overlooked or minimised. EDS recommends how this could be secured in paragraph 33 below.

Standardisation within land classifications and visitor zones

23. Under the Act, the Minister cannot grant an application for a concession if the proposed activity is contrary to the provisions of the Act or the purposes for which the land concerned is held.¹³

24. The Proposals Document seeks to “clarify where activities can and cannot occur” in land classifications and visitor zones in a way that overrides this case-by-case assessment.

25. The intended approach appears to be:

- a. That the NCPS permit the “economically significant activities” listed at the end of page 8 of the Proposals Document in specified land classification and visitor zones. The Proposals Document states that these activities “can” take place in these zones.
- b. These activities will be described as “standardised” activities in the NCPS.
- c. The effects of standardised activities against “biodiversity and cultural values” within land classifications and the “recreational and tourism value” within visitor zones are said to be pre-assessed (presumably prior to the NCPS being promulgated).
- d. Standardised activities will still require assessment against “other values and objectives” in the relevant area plan.
- e. Non-standardised activities will require assessment for consistency with the land classification and visitor zone and, presumably, the “other values and objectives” in the relevant area plan.

26. The Proposals Document says this approach brings the assessment of whether an activity is consistent with the purpose for which the land is held “to the national level”.

27. Standardisation presents opportunities and risks, depending on how it is applied. Its current use in the resource management system is a cautionary tale as activities which have been standardised have resulted in significant adverse effects to the environment, notably commercial forestry.

28. Ultimately, the desire for predictability or certainty of use of PCL must be set against the importance of contextualisation and discretion, especially when it comes to a changing environment. Key points are:

¹³ Conservation Act 1987, s 17U(3)

- a. The exact same activity can have significantly different effects depending on the biophysical and social conditions in which it is occurring.
- b. The effects of an activity might be far more uncertain in a new location even if it has been done many times before elsewhere.
- c. The exercise of rangatiratanga and kaitiakitanga is spatially or locality specific and context dependant.
- d. Where cumulative effects arise, it can be harder and slower to effect change.
- e. Standardisation may inhibit innovation by encouraging a box-ticking exercise.
- f. Often, standardisation does not allow for public or limited notification of activities, which means that potentially relevant information may not be taken into account.

29. The Proposals Document states that the NCPS “will” standardise the following activities:

- a. Tourism infrastructure and facilities;
- b. Ski fields;
- c. Aircraft landings;
- d. Grazing, beehives and planting; and
- e. Utilities, roading and public infrastructure.

30. This is an unwieldy and wide-ranging list of activities that will not, by virtue of being standardised, be assessed and tested for compliance with the purpose of the Act. That is because:

- a. Although the activities will still need to be assessed against placed-based values and objectives, there is no requirement that they be declined if they are inconsistent (ie they can still proceed).
- b. The approach effectively sets up a ‘balancing’ exercise where the activity, which the NCPS says is appropriate in certain land classifications and visitor zones, is weighted against the place-based values and objectives.
- c. The starting position of the activity being appropriate for the location minimises the assessment of it against placed-based values and objectives to a discussion about permit conditions.
- d. The presumption (actual or implicit) in favour of permitting does not provide for a proper consideration of cumulative effects. Assessment against the place-based values and objectives should consider more than just whether the activity is appropriate and examine whether the effects of all the activities in that place are consistent with the values and objectives.

- e. This is inconsistent with the statutory requirement that the Minister “shall not grant” any activity is contrary to the provisions of the Act.
31. With respect to aspects of the activities that relate to building a structure or facility, or extending or adding to an existing structure or facility, the approach is also inconsistent with the statutory requirement to assess whether the activity:¹⁴
- a. Could reasonably be undertaken in another location that:
 - i. Is outside the conservation area to which the application relates; or
 - ii. Is in another conservation area or in another part of the conservation area to which the application relates, where the potential adverse effects would be significantly less; or
 - b. Could reasonably use an existing structure or facility or the existing structure or facility without the addition.
32. As currently proposed, EDS does not consider that the standardised approach set out in the Proposals Document complies with the Act.
33. EDS considers this could be remedied by making it clear that if an application for an activity is not consistent with the values and objectives of its ‘place’, it must be declined. In other words, the values and objectives of ‘places’ in areas plans operative effectively as bottom-lines or limits. For this reason, the values and objectives should be as precise and measurable as possible, supporting the need for them to be set in the NCPS.
34. EDS understands the list of proposed standardised activities is currently being refined. EDS would like an opportunity to further engage in that process but notes that “planting” should not include exotic carbon forestry (commercial or permanent). This activity does not comply with the purpose of the Act. It has no place on PCL.

Exempt and pre-approved activities

35. EDS supports the use of exempt and pre-approved activities as a means of redirecting Departmental effort away from low impact activities to more high value work.
36. EDS supports the approach to exempt and pre-approved activities in the Proposals Document, with the following qualifications and additions:
- a. The criteria to be met for exempt or pre-approved activities be updated so that:
 - i. With respect to the first bullet point – exempt and pre-approved activities are limited to those which are not contrary to the provisions of the Act or the purposes for which the land concerned is held. This is already contemplated, but its importance bears repeating.

¹⁴ Conservation Act 1987, s 17U(4)

- ii. With respect to the second bullet point – the activity does not include the building of any structure *or facility, or to extend or add to an existing structure or facility*, permanent *or temporary*.
 - iii. With respect to the third bullet point – exempt activities are limited to *only* those which pose a low risk of adverse cumulative effects.
 - iv. New bullet point – the activity is temporary in nature. It is not appropriate for exempt or pre-approved activities to be long-term uses of PCL.
 - v. New bullet point – the activity does not increase the Department’s health and safety risk or legal liability.
- b. The NCPS requires monitoring and registration of *all* exempt and pre-approved activities, with reporting obligations and mandatory responses if adverse effects materialise (ie an immediate moratorium on further permitting).
- c. The Department has adequate capacity to ensure monitoring compliance and enforcement can be undertaken effectively.
- d. The NCPS provides a streamlined process for amending (adding or removing) the list of exempt and pre-approved activities, to ensure rapid response to changing circumstances (provided the criteria above is applied to new activities).
- e. All exempt and pre-approved activities have standard terms and conditions applied. This is not discretionary, as implied by the Proposals Document: “[s]ome exempted/pre-approved low activities *may* have terms and conditions... ”
- f. The terms and conditions for exempt and pre-approved are quantitatively defined to provide certainty and are designed to manage potential and actual effects arising from the activity. Without this, people will not be able to determine if their activity qualifies. For example,
 - i. For events, terms such as “small-scale” and “larger scale” could be defined by a maximum number of people.
 - ii. For activities within wildlife areas, this may include set exclusion times to avoid vulnerable life cycle activities such as breeding periods.
- g. The terms and conditions for exempt and pre-approved activities are linked to the values and objectives of the relevant place.
- h. Area plans should be able to disapply *all* pre-approved activities, not just those that the NCPS specifies can be disapplied (exempt activities can only be disapplied if the NCPS allows for that). Circumstances when it would be appropriate to do so include when the activity is *not consistent with* the values and objectives for a ‘place’ in an area plan, including on a cumulative basis. The proposed threshold of “significant adverse effects on natural, cultural, or historical values present at the subject site” may not capture all exempt and pre-approved activities which have the potential to undermine achievement of the place-based objectives. The threshold is too high.

37. Question 10 of the Proposals Document asks for any other comments on the provision for prohibited activities. Prohibited activities are not otherwise mentioned in the Proposals Document, but their use is supported by EDS. Further policy work would be required to determine what activities might fall within this category, but their use should be encouraged for activities that are not consistent with the Act and the purposes for which the land is held. Prohibited activity status usefully increases certainty for users of the system.

Other NCPS policies

38. EDS's submission on modernising conservation land management sets out several matters conservation policy should address to fill gaps in current general and national parks policy and to ensure that future policy is fit for the modern era, including:

- a. A clear purpose and priorities.¹⁵
- b. Climate change considerations.¹⁶
- c. Statutory recognition and provision for mana whenua.¹⁷

39. A new NCPS should incorporate these matters. The opportunity is unlikely to roll around again any time soon.

40. Finally, EDS understands that land disposal and exchange matters will be dealt with in the Bill. EDS reiterates its position on these matters as extensively detailed in its submission on modernising conservation land management.¹⁸ For the record, EDS opposes the weakening of disposal thresholds from low value to "values on the land are not considered essential for indigenous biodiversity conservation". The term "essential" is especially problematic and should be deleted as the threshold is too high.

¹⁵ <https://eds.org.nz/wp-content/uploads/2025/02/EDS-Submission-on-Modernising-conservation-land-Final.pdf>, paras 66 - 68

¹⁶ Ibid, 62 - 65

¹⁷ Ibid, 69 - 71

¹⁸ Ibid, 181 - 235