

Departmental Disclosure Statement

Conservation Amendment Bill

The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by the Department of Conservation.

The Department of Conservation certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

21 April 2026

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Part One: General Policy Statement

The Conservation Act 1987 establishes the framework for managing conservation land protected under that Act and the Acts listed in Schedule 1. The Conservation Act includes many functions that also apply to the Schedule 1 Acts.

The Bill amends the Conservation Act to streamline the management of land under this framework, better enable appropriate use of conservation land, and support more effective administration of conservation land. The amendments focus on streamlining the conservation planning and land classification framework, improving the concessions regime regulated by that framework, broadening the Minister of Conservation's (the **Minister's**) ability to exchange or dispose of conservation land, enabling charging a levy to access parts of conservation land, and other minor changes to create a more modern and user-friendly Act.

These changes support the Government's key priorities for the conservation portfolio, which include fixing concessions processes and generating revenue for conservation.

Proposals

Changes to purpose-related provisions of the Conservation Act

The Bill amends several purpose-related provisions in the Conservation Act to enable more development on conservation land, while protecting conservation values. It includes a package of targeted changes to streamline processes by explicitly acknowledging that development is an acceptable activity on conservation land, and increase the likelihood of granting concessions that are not inconsistent with conservation where they otherwise may not have been.

Clarifying section 4 of the Conservation Act

Section 4 of the Conservation Act requires conservation legislation to be administered and interpreted so as to give effect to Treaty principles.

To provide additional clarity and certainty, the Bill contains a descriptive provision identifying the steps, processes and other activities that section 4 requires the Crown to undertake before making land management decisions (i.e. on land exchanges and disposals, concessions, area plans, and visitor amenities areas).

The Bill also clarifies that section 4 of the Conservation Act does not require the Minister of Conservation (the **Minister**) to initiate an allocation process (e.g., a competitive tender process) to grant a concession for any activity.

Streamlining management planning framework

Streamlining the management planning framework will improve efficiency by ensuring rules are better aligned across different tiers of the framework and different types of conservation land, and enable appropriate use of conservation land.

The Bill does this by:

- replacing two general policies with a single National Conservation Policy Statement (NCPS) that is secondary legislation approved by the Minister under the Conservation Act 1987 with the purpose of setting policies for the listed Acts, including regulating the content of area plans; and

- empowering the NCPS to exempt activities from requiring a concession or pre-approve activities in advance, allowing a concession to be obtained easily after paying a fee and agreeing to certain pre-determined conditions; and
- 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); and
- replacing the hierarchy of conservation management strategies, conservation management plans and national park management plans with a single layer of non-overlapping area plans; and
- establishing streamlined and proportionate processes for making or amending the NCPS and area plans. This includes statutory time frames, defined roles for iwi authorities, advisory roles for the New Zealand Conservation Authority (NZCA) and conservation boards, and approval by the Minister to ensure a single coherent framework and accountability for the Government in setting rules and making decisions under those rules.

The first NCPS will be developed through a separate process determined by the Minister to enable it to come into force as soon as possible following commencement.

Modernising concession processing

To improve efficiency and regulatory practice in how concession applications are processed, and speed up decision-making, the Bill:

- introduces statutory time frames for concession applications; and
- enables the Minister to decline applications earlier in the process when there are clear reasons for declining to grant a concession; and
- allows the Minister to require a fee to be paid up-front when an application is made and to recover processing costs from the applicant during processing; and
- allows the Minister to require applications to be made in standard forms; and
- removes requirements to hold hearings for submitters in a public notification process, and removes public notification requirements for applications that are intended to be declined, as well as applications for grazing licenses; and
- enables regulations to provide for a contribution to third parties who provide comments on concession applications (excluding public notification), funded through a charge on relevant concession applications or applicants; and
- streamlines the reconsideration process by allowing a decision to be reconsidered once and only on the basis of information that existed when the original decision was made.

Improving management of concessions

To provide more certainty and transparency to operators, and standardise the ongoing management of concessions, the Bill:

- allows the Minister to set standardised conditions for concessions and provides more detail about how standard activity fees may be set in regulations; and
- allows term lengths for leases up to 60 years if the useful life of fixed assets or structures associated with the concession are longer than 30 years, or the concession provides critical infrastructure; and
- makes it easier to transfer an entire concession to a new operator; and
- empowers the Minister to issue concessions for Crown-owned wharves adjacent to conservation land.

Better enabling allocation of concession opportunities

The Bill also provides an explicit framework for allocation of concession opportunities. Building on the Minister's existing general discretion to initiate an allocation process, the Bill:

- empowers the Minister to decline an application early in processing to instead run an allocation process; and
- enables regulations to be made which specify classes of concessions that are exempt from an allocation process.

Introducing visitor amenities areas

The Bill creates the ability for the Minister to establish visitor amenities areas on a range of conservation land types. These will also replace existing amenities areas under the National Parks Act 1980.

Visitor amenities areas will provide for the development and operation of recreational and public amenities, to support enjoyment of conservation land. Visitor amenities areas will enable forward-looking spatial planning, remove constraints on visitor-related development, and enable local communities and tourism operations to make longer-term strategic investment decisions.

The Bill outlines a process for establishing, amending or revoking a visitor amenities area and updating the relevant area plan, including safeguards for conservation values and public participation. Visitor amenities area policies will prevail over the policies in the wider plan where there are inconsistencies.

Enabling more flexibility for land exchange and disposals

The Bill loosens existing constraints on exchanging and disposing of Crown-owned conservation land. However, the highest value conservation land (approximately 40%) continues to be ineligible for both exchange and disposal. This increased flexibility supports more effective land management by allowing greater optimisation of the portfolio of land managed by the Department.

Land exchanges will be possible where the land received will have higher conservation values than the conservation land traded away. The assessment of conservation values includes cultural and historic values. Whether a proposed exchange meets this test will be determined by the Minister.

Land disposals will be possible where the land is not important for the conservation of threatened species or ecosystems, the habitat provided is not one of the best examples of its type, and the Director-General of Conservation (the **Director-General**) has recommended it.

The processes for exchanges and disposals set out in the Bill include a range of other considerations and specific requirements to seek comments from Māori groups with relevant interests to ensure the Minister has information to meaningfully consider the rights and interests of Māori.

Where an exchange or disposal triggers an offer-back or right of first refusal obligation, agreement in writing from the holder of that right or obligation is required before any exchange or disposal can go ahead.

Charging international visitors a levy for access to some areas of conservation land

The Bill enables charging international visitors for access to some conservation land. This will be in the form of a new levy for specific areas, paths, or tracks. The Bill enables regulations to be made setting out key details of the levy such as where the levy will apply, how much the levy is, and any discounts and exemptions.

Enabling an access levy will raise additional revenue, which can then be used to maintain and enhance visitor experiences on conservation land. This revenue will support investment in visitor infrastructure, and biodiversity and heritage work.

Upholding Treaty settlements

Many Treaty settlement commitments provide roles for post-settlement governance entities (**PSGEs**) in processes such as management planning and concessions. The Bill therefore includes provisions that address how Treaty settlement redress will be upheld after commencement.

Some redress can be upheld with minor changes or consequential amendments made through the Bill. In particular, the Bill:

- provides for overlay classifications (that is, recognition of a claimant groups association to sites of significance) in the new system; and
- preserves specified time frames greater than 20 working days for responses from PSGEs on concession applications.

For redress that requires more than minor changes, the Bill:

- commits the Crown to work with PSGEs to seek agreement on how Treaty settlement redress will operate with the same or equivalent effect to the greatest extent possible in the new system; and
- before any agreement is reached, requires giving redress the same or equivalent effect, to the greatest extent possible, when exercising or performing functions, duties, or powers.

This approach will provide time for the Government to engage in good faith with PSGEs to seek agreement on how their redress will operate in the new system.

Upholding Takutai Moana rights

Some of the changes made by the Bill to management planning and concession processes affect rights and arrangements provided through the Marine and Coastal Area (Takutai Moana) Act 2011 and the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act 2019.

Customary marine title (**CMT**) under the Marine and Coastal Area (Takutai Moana) Act recognises the relationship of iwi, hapū or whānau with a part of the common marine and coastal area. Recognition of CMT confers a “conservation permission right”. The conservation permission right provides for CMT groups to give or decline permission for the Minister or Director-General to consider applications for certain conservation activities within their CMT area.

Under the status quo, the conservation permission right applies to all concession applications within a CMT area. The Bill provides for the conservation permission right to also apply to decisions by the Minister to pre-approve or exempt activities through the NCPS within any CMT area, given these will no longer require individual concession applications.

The Bill requires the Director-General to take relevant CMT planning documents into account when preparing area plans. This will replace the current obligation that requires the Director-General to take relevant CMT planning documents into account when preparing a conservation management strategy.

In relation to arrangements provided through the Ngā Rohe Moana o Ngā Hapū o Ngāti Porou Act, the Bill:

- commits the Crown to work with Ngā Hapū o Ngāti Porou to seek agreement on how their arrangements will operate with the same or equivalent effect to the greatest extent possible in the new system; and
- before any agreement is reached, requires giving their arrangements the same or equivalent effect, to the greatest extent possible, when exercising or performing functions, duties, or powers.

Other changes to modernise administration of the Conservation Act

Due to the age of conservation legislation, some provisions contain outdated references or requirements. This Bill contains provisions to update references, reduce administration costs and make the Conservation Act more user-friendly. This includes:

- reducing instances where delegations of powers by the Director-General require written consent from the Public Service Commission; and
- allowing a “conservation area” to be established as a nature reserve or scientific reserve without first needing to be established as a “reserve”; and
- modernising public notification requirements by removing any requirements related to newspaper notifications; and
- modernising the delivery of infringement notices to support email delivery; and
- clarifying that a concession is required for recreational aircraft take offs and landings; and

- updating outdated references to dogs akin to a “disability assist dog” in line with the updated Dog Control Act 1996; and
- clarifying legislation to support online issuing of hunting permits; and
- removing personal liability of the NZCA and Conservation Board members acting in good faith when undertaking their statutory duties.

Part Two: Background Material and Policy Information

Published reviews or evaluations

2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?	YES
<ul style="list-style-type: none"> • Not 100% - but four steps closer to sustainable tourism, Parliamentary Commissioner for the Environment, February 2021 - Not 100% – but four steps closer to sustainable tourism Parliamentary Commissioner of Environment. • Partial Reviews of the Conservation General Policy and General Policy for National Parks regarding the Treaty of Waitangi, Department of Conservation, March 2022 - Options Development Group report: Partial reviews of general policies. • Independent Review of the Conservation Management Planning System, Environmental Defence Society, April 2023 - Independent Review of the Conservation Management Planning System EDS. • Restoring Nature: Reform of the Conservation Management System, Environmental Defence Society, August 2024 - Restoring Nature: Reform of the Conservation Management System EDS. 	

Relevant international treaties

2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?	NO
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2.2.1. If so, was a National Interest Analysis report prepared to inform a Parliamentary examination of the proposed New Zealand action in relation to the treaty?	NO
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Regulatory impact analysis

2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?	YES
<ul style="list-style-type: none"> • Regulatory Impact Statement: Amenities areas, 17 June 2025 • Regulatory Impact Statement: Competitive allocation of conservation concessions, 17 June 2025 • Regulatory Impact Statement: Conservation Land Management Planning, 17 June 2025 • Regulatory Impact Statement: Enabling more flexibility for land exchanges and disposals, 17 June 2025 • Regulatory Impact Statement: Modernising the concessions framework, 17 June 2025 • Regulatory Impact Statement: Charging for access to some public conservation land, 9 July 2025 • Regulatory Impact Statement: Limitations on competitive allocation of certain concessions on conservation land, 4 September 2025 • Cost Recovery Impact Statement: Financial contributions for Treaty partner consultation in concessions processes, 4 September 2025 • Supplementary Analysis Report: Amending the purpose of the Conservation Act 1987, 15 April 2026 <p>All of the Regulatory Impact Statements and the Supplementary Analysis Report can be accessed on the Department of Conservation (DOC) and the Ministry for Regulation (MfR) websites.</p> <ul style="list-style-type: none"> • DOC: Regulatory Impact Statements: Legislation • MfR: Regulatory Impact Statements (RISs) Ministry for Regulation 	

2.3.1. If so, did the Ministry for Regulation provide an independent opinion on the quality of any of these regulatory impact statements?	NO
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2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?	YES
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The CRIS (*Financial contributions for Treaty partner consultation in concessions processes*) analyses funding options for financial contributions for Treaty partner consultation, including enabling a charge in the Bill. However, the Bill enables a charge for financial contributions for *all* third-party consultation, with detail on eligibility (as well as the level of charge and contribution) to be determined in secondary legislation.

Limitations on competitive allocation of certain concessions on conservation land analysed options for competitive allocation settings for leases and licences with significant private capital investment. None of the options were included in the Bill; instead the Bill includes a regulation-making power for allocation processes as the granularity of the policy settings are better suited to secondary legislation than primary legislation.

Extent of impact analysis available

2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?	NO
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2.5. For the policy to be given effect by this Bill, is there analysis available on:	
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(a) the size of the potential costs and benefits?	NO
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(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?	NO
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Most of the regulatory impact analysis was based on qualitative information. Some quantitative information was included where it was possible to retrieve data. The most up to date information can be found in the documents referenced above in 2.3.

Access Levy

Some quantitative information estimating relative costs and benefits of the Minister and the Department's preferred options was included in the access levy Regulatory Impact Statement. Costs over the first five years of implementation were estimated to be \$46 million for both options. This included estimated costs for using existing booking systems, some new physical infrastructure and staff to help with monitoring/enforcement.

Gross revenue for Option 4A (charging both New Zealanders and internationals) was estimated at \$254.8 million over five years, and for Option 4B (charging just internationals) it was estimated at \$236.6 million. This resulted in net present values of \$208.8 million for Option 4A, and \$190.6 million for Option 4B. This was based on charges of \$20 and \$40 for international visitors (for small and large experiences, respectively), or \$10 and \$20 for New Zealanders.

2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:	
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(a) the level of effective compliance or non-compliance with applicable obligations or standards?	YES
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(b) the nature and level of regulator effort put into encouraging or securing compliance?	YES
<p>The most up to date information can be found in the documents referenced above in 2.3.</p> <p>2.6.(a) – Access Levy</p> <p>Compliance levels by international visitors will materially affect the amount of revenue collected by the Department and may impact the overall cost/benefit ratio of the levy. Conversations with overseas jurisdictions who already run conservation systems with entry fees suggested that compliance rates vary between an estimated 80-90%. We incorporated this into initial cost/benefit estimates in the regulatory impact statement, assuming a compliance rate of 85% for revenue estimates.</p> <p>2.6.(b) – Access Levy</p> <p>How much effort the Department puts into ensuring compliance by international visitors with access levies will also affect overall cost/benefit ratios. The Department uses the ‘VADE’ model for compliance and enforcement, focussing first on voluntary compliance through education and engagement, before moving to stricter compliance approaches like assisting with compliance, or enforcing with offences or legal proceedings.</p> <p>As noted, we assumed a compliance rate of 85% based on the Department utilising this existing compliance system. However, the legislation also includes new offences and infringement offences to ensure that the Department has access to a wide variety of tools to ensure compliance, if needed, and to further discourage non-compliance.</p> <p>There is likely to be a trade-off between:</p> <ol style="list-style-type: none"> 1) resource-intensive compliance approaches with either many rangers on the ground, or extensive camera/monitoring systems being set up. These approaches will encourage greater compliance at higher cost. 2) a hands-off approach, with lower compliance but lower costs. <p>Implementation planning and undertaking further work to better understand the costs of each approach will help decide how much effort the Department puts into ensuring compliance.</p>	

Part Three: Testing of Legislative Content

Consistency with New Zealand's international obligations

3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?
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New Zealand's international obligations have been considered, specifically in the policy process for determining land types to be excluded for exchange and disposal.

New Zealand has obligations to protect sites under the Ramsar Convention and World Heritage Convention. Ramsar sites are excluded from exchange and disposal processes in the Bill. Status quo arrangements and protections will remain in place for World Heritage Areas.

Consistency with the government's Treaty of Waitangi obligations

3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

Consideration of the Bill's potential Treaty of Waitangi obligations has been informed by engagement with iwi.

Engagement with iwi on the reforms has included:

- regional in-person and online hui to explain the proposed reforms.
- specific engagement with PSGEs to discuss how to uphold specific Treaty settlement commitments in the context of the reforms.

The Department also engaged with the National Iwi Chairs Forum's Pou Taiao technicians on upholding Treaty settlements.

The Bill commits the Crown to engage with PSGEs to seek agreement on how settlement arrangements will operate in the new system and requires that prior to this agreement, persons exercising powers and functions under the Act must, to the greatest extent possible, give Treaty settlement redress the same or an equivalent effect to the effect that redress has under the previous Conservation Act.

Section 4 of the Conservation Act requires conservation legislation to be administered and interpreted so as to give effect to Treaty principles. The Bill will include a new descriptive provision to provide certainty as to the steps, processes and other activities that section 4 requires the Crown to undertake.

Consistency with the New Zealand Bill of Rights Act 1990

3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?	YES
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Advice provided to the Attorney-General by the Ministry of Justice is expected to be available on the Ministry of Justice's website when the Bill is introduced, and can be accessed at <https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/the-bill-of-rights-act/advice>

Offences, penalties and court jurisdictions

3.4. Does this Bill create, amend, or remove:	
(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?	YES
(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?	NO
<p><i>Access Levy – non-payment of a levy</i></p> <p>The Bill creates new offences and infringement offences for international visitors who do not pay an access levy before entering an area with an access levy in place. These will be inserted into the Conservation Act 1987.</p> <p>Clause 13 creates a new offence for international visitors who access an area with a levy prescribed before paying the levy. Clause 35 creates an associated infringement offence.</p> <p>The Conservation Act will have its schedule amended to outline that infringement offences for non-payment of an access levy are \$200, with a maximum fine of \$400.</p>	

3.4.1. Was the Ministry of Justice consulted about these provisions?	YES
<p>The Ministry of Justice's offence and penalty vetting (OPV) team was consulted on an exposure draft of the Bill. This consultation was subject to significant time constraints. OPV advice was therefore limited to focusing on key relevant provisions.</p> <p>The Ministry of Justice was comfortable with the strict liability offence and infringement offence provisions for the access levy in the Bill at the time of consultation. More detail on these offence and penalty provisions is provided at 4.4 of this disclosure statement.</p>	

Privacy issues

3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?	NO
<p>The Bill authorises the Minister to collect information from concession applicants for the purposes of assessing their concession application. The relevant provisions are in clause 23 (new sections 14G, 14L, and 14ZZC).</p> <p>Clause 23, new section 14ZQ, of the Bill also authorises the Minister to collect financial information from concession holders to verify any fees, levies, or charges payable under the concession.</p> <p>These provisions are being carried over from the current legislation, with the powers largely unchanged. They allow for more information to be collected from applicants, but they do not change how the information will be used.</p>	

3.5.1. Was the Privacy Commissioner consulted about these provisions?	NO
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External consultation

3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?	YES
<p>Public consultation on the <i>Conservation management and processes</i> discussion document took place between May and July in 2022. The feedback and contents of this discussion document informed the development of the Bill.</p> <ul style="list-style-type: none"> • Help us improve conservation management planning and concessions legislation: Have your say <p>Public consultation on the <i>Modernising conservation land management</i> and <i>Exploring charging for access to some public conservation land</i> discussion documents took place between 15 November 2024 and 28 February 2025.</p> <ul style="list-style-type: none"> • Help us modernise conservation land management: Have your say • Exploring charging for access to some public conservation land: Have your say <p>During the consultation period, the Department held 25 regional hui with iwi and hapū. The Department also held three online sessions with statutory bodies, one session with environmental non-government organisations (ENGOS) and four public information sessions. Between November 2024 and February 2025, the Department collectively received over 8,100 submissions on the two discussion documents. Feedback was mixed and came from various groups including Treaty partners, Māori organisations, various recreation and commercial stakeholders, concessionaires, councils, ENGOS, statutory bodies and individuals.</p> <p>Separate consultation on specific aspects of the reforms took place with the Department's Concessionaire Reference Group and Expert Advisory Panel.</p> <p>There is ongoing consultation with PSGEs and Ngā Hapū o Ngāti Porou to seek agreement on how their redress will operate in the new system.</p>	

Other testing of proposals

3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill's provisions are workable and complete?	NO
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Part Four: Significant Legislative Features

Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	YES
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Concessions activity fees

Under the Conservation Act, the Minister can charge a market-based rent, royalty, or fee for the private use of public resources (collectively referred to as activity fees). Currently, these fees are set on a concession-by-concession basis, with reference to operational policy and guidance. While there is an existing regulation-making power for fees and levies (section 48 of the Conservation Act), clause 33 (new section 48E) of the Bill provides further specificity about regulations relating to activity fees.

Access Levy

The Bill enables the Minister to charge international visitors to enter some parts of public conservation land in the form of an access levy. Details for the access levy will be outlined in regulations which will be developed, including the rates of the levy and how this is calculated.

The levy will not apply to New Zealanders, or those who are ordinarily resident (have lived here for 6 months or more in the last year). It will also not apply across all conservation land, and will only be used in certain areas, as set in regulation, that meet the following criteria:

- (a) the benefits of a levy for the area exceed the levy's operational costs; and
- (b) the area—
 - (i) has high international visitor numbers; or
 - (ii) has high costs for visitor infrastructure and facilities.

The power is necessary to ensure that the Department can maintain and enhance its visitor experiences, and to ensure there is greater equity between those who are contributing towards these experiences. Without the Bill, international visitors who do short walks, day hikes, or sight-seeing in our most popular areas cannot be directly charged for the benefits they receive. These visitors are contributing less than New Zealanders who contribute to wider public land upkeep through their taxes, and other visitors who are paying fees to stay in huts and campsites overnight.

Details for the access levy will be outlined in regulations. Revenue will be ringfenced and used for conservation work (rather than a tax used to generate general Crown revenue). This will ensure the funds are available to the Department that bears the direct costs of maintaining the visitor experiences on conservation land. The Bill also outlines that the levy must be reviewed every 5 years, and any new sites, or significant changes, will need to be consulted on with relevant groups such as Iwi and the local community (see clause 33, new sections 48D(7) and (10) of the Conservation Act). There are also requirements for transparent monitoring and reporting to maintain social licence and oversight of how much money is coming in, and what it's being spent on (see clause 28, which amends section 34 of the Conservation Act).

Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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Strict liability or reversal of the usual burden of proof for offences

4.4. Does this Bill:	
(a) create or amend a strict or absolute liability offence?	YES
(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?	NO
Response provided in Appendix One.	

Civil or criminal immunity

4.5. Does this Bill create or amend a civil or criminal immunity for any person?	YES
<p>Clause 8 of the Bill inserts new section 6KA to the Conservation Act stating that a member of the New Zealand Conservation Authority is not subject to any civil or criminal liability for doing any act in good faith in the course of exercising the Authority's powers and functions under this Act. Clause 10 of the Bill also inserts new section 6WA providing the same protection to members of conservation boards.</p> <p>These provisions are necessary to ensure that members are unfettered when undertaking their statutory functions and duties without fear of personal reprisal. This also ensures consistency with other statutory provisions in the Conservation Act relating to personal liability.</p>	

Significant decision-making powers

4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?	NO
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Powers to make delegated legislation

4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?	YES
<p><i>Secondary legislation to add items to list in Schedule 5</i></p> <p>Clause 23 (new section 15Z in Part 3C of the Conservation Act) creates a new empowering provision to enable additions to the list of excluded land types (in new Schedule 5 of the Conservation Act) for exchanges and disposals by Order in Council on the Minister of Conservation's recommendation. However, amendments to primary legislation would be needed to remove any land types from the new Schedule 5.</p> <p>This reflects that the Minister can make decisions about adding new protection to areas of land through processes laid out in conservation legislation, without the involvement of Parliament.</p> <p>Before recommending any addition(s) to Schedule 5, the Minister is required to invite comments from people or groups who they believe represent those who will be seriously affected, or who represent some part of the public interest.</p> <p><i>Suspension notices for pre-approved concessions and exempt activities made by the NCPS</i></p> <p>Clause 15, new section 13E, empowers the NCPS (which is secondary legislation) to classify activities as pre-approved or exempt. Clause 15 (new section 13F), enables the Minister to issue a notice suspending the status of an activity as pre-approved or exempt. These suspension notices are secondary legislation, suspending secondary legislation in the form of</p>	

the NCPS. A suspension can last up to 60 working days, but further suspension notices may be issued.

This is necessary to ensure that activities can be suspended quickly if unacceptable adverse effects from an activity are observed. If necessary, the NCPS can then be amended through the short NCPS process in the new Schedule 2 to address the problems that led to the suspension.

4.8. Does this Bill create or amend any other powers to make delegated legislation?	YES
Response provided in Appendix One.	

Any other unusual provisions or features

4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?	NO
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Appendix One: Further Information Relating to Part Four

Strict liability or reversal of the usual burden of proof for offences – section 4.4

Access charging offences

The Bill creates new offences and infringement offences for international visitors who do not pay an access levy before entering an area with an access levy in place. These will be inserted into the Conservation Act 1987. As noted earlier, clauses 13 and 35 of the Bill create offences and associated infringement offences in the Conservation Act. The offences will carry a maximum penalty of \$5000 which is the smallest maximum penalty that is used elsewhere in conservation legislation. Infringement offences will incur a \$200 fine, with a maximum penalty of \$400. This is the same value as other similar existing infringement offences in conservation regulations like ‘failing to produce a permit on demand’.

A key driver for creating new offences is being able to enforce the charges. The new offences do not require proof of a guilty mind, or mens rea. This means they are likely to be treated by a court as “strict liability” offence. Without strict liability, the Department would need to prove a visitor intentionally failed to pay an access charge, which would be particularly burdensome on the Department to prove.

Defences to strict liability offences include total absence of fault for not paying the levy, for example, which could be made out if payment was required through an electronic kiosk, and at the time of entry the kiosk was defective or inoperable. The Department also anticipates that the Department will continue to use best judgement on when to issue infringement offences. Our priority will remain education first, before a heavy-handed approach with liberal use of offences.

Powers to make delegated legislation – section 4.8

New secondary legislation created by the Bill

Regulations relating to access levies

Clause 33 (new section 48D of the Conservation Act) outlines powers to develop regulations providing for levies payable to the Crown by international visitors when accessing levy areas. These regulations will set out the areas the levy applies to, classes of international visitors who are required to pay, the amount of the levy, and how it is to be collected. This delegated power is necessary to ensure that key details of the access levy can be transparently communicated to the public, and updated when necessary by Cabinet.

New levy areas can only be specified and put forward by the Minister if they’re satisfied that the new levy will have benefits that exceed operational costs, and the area has high visitor numbers and high infrastructure and facility costs.

Other safeguards around the regulation making powers include:

- a requirement to consult with Māori, local communities, and concession holders when developing new regulations, or making changes to regulations that are more than minor/technical in nature,
- a requirement to review regulations every 5 years, and
- reporting requirements to ensure transparency.

Regulations relating to activity fees

Clause 33 (new section 48E of the Conservation Act) provides additional detail about the use of existing provisions in section 48 to set activity fees in regulations. The regulations can:

- Specify amount of fees or charges, or a method of calculating fees or charges, including variations for the same activity (e.g., for different parts of the year, scale, and location).
- Authorise the Minister to refund or waive (in part or in full) activity fees.

These regulations must be reviewed every 3 years.

Regulations relating to setting standardised conditions for existing concessions

Clause 23 (new section 14ZT of the Conservation Act) and clause 33 (new section 48E) provide for the setting of standardised conditions for existing concessions in regulations under existing section 48. This would allow the Minister to unilaterally vary existing concessions to require inclusion of particular conditions or types of conditions in specific existing concession types.

Regulations relating to third-party remuneration for consultation on concession applications

Clause 23 (new section 14ZZ of the Conservation Act) and clause 33 (new section 48E) provide for regulations to be made under existing section 48 for contributions toward third parties' consultation costs when they provide comments on concession applications. The regulations would specify the eligibility for the contribution and the quantum of the cost. The contributions would be funded by a charge on concession applicants.

Regulations to govern contestability of leases and licences with significant private capital investment

Clause 23 (new Part 3B, subpart 3 of the Conservation Act) and clause 33 (new section 48E) provide for regulations to be made under existing section 48 to exempt classes of concessions from allocation processes under subpart 3 of Part 3B. The regulations must specify:

- Classes of concessions that are exempted from an allocation process, and under what circumstances, and
- How those circumstances are determined.

Order in Council to declare a conservation area as a nature or scientific reserve under the Reserves Act, or to include existing nature or scientific reserves under that Act

Clause 11 (new section 8 of the Conservation Act) provides that the conservation areas may be declared to be nature or scientific reserves under the Reserves Act 1977 by the Governor-General, on the recommendation of the Minister of Conservation, through an Order in Council.

Prior to making a recommendation under this clause, the Minister must:

- refer the proposed name to the New Zealand Geographic Board Ngā Pou Taunaha o Aotearoa; and
- give public notice and consider all objections and submissions in relation to the proposal.

Power to make and amend the National Conservation Policy Statement

Clause 15 (new section 13D of the Conservation Act) provides for the Minister to make a National Conservation Policy Statement (NCPS). The powers of the NCPS include:

- setting policy for the Conservation Act 1987, Marine Mammals Protection Act 1978, Marine Reserves Act 1971, National Parks Act, Reserves Act 1977, Wild Animal Control Act 1977, and Wildlife Act 1953;
- determining the content of area plans, freshwater fisheries management plans and sports fish and game management plans (made under the Conservation Act), as well as reserve management plans (made under the Reserves Act); and
- classifying activities on conservation land as pre-approved or exempt from needing a concession.

The Bill allows the Minister to determine the process for the first NCPS to enable it to be made as quickly as possible. Future changes to the NCPS must be made in accordance with the processes set out in the new Schedule 2 of the Conservation Act inserted by clause 45.

Power to suspend notices for pre-approved and exempt activities classified by the NCPS

- Section 4.7 outlines this power.

Enabling additions through Order in Council (on the Minister of Conservation's recommendation) to the list of conservation land that cannot be exchanged or disposed of

- Section 4.7 outlines this power.