

30 June 2022

CMAF Consultation
Policy Unit
Department of Conservation
WELLINGTON

Email: CMAF@doc.govt.nz

Kia ora

Tourism Industry Aotearoa Submission on the DOC Conservation Management and Processes Consultation

TIA welcomes the opportunity to provide comment on behalf of the wider tourism industry on the consultation DOC is undertaking on its Conservation Management and Processes discussion document.

We consider the steps DOC is taking to address issues with the planning and concessions systems to be very positive. Given the rare opportunity to change legislation, we must grasp the opportunity with both hands.

Our comments in this submission will respond to the specific questions and we will also contribute wider thinking around how we could maximise the benefits from the proposed changes.

TIA's Overall Position

TIA presents feedback in two parts: firstly, in response to the proposed changes; and secondly, to articulate the need to widen the scope of this exercise to include a wider set of known problems that can be fixed.

TIA's three key recommendations are:

1. Conservation Management Planning

We agree with position of DOC expressed in the document that the current planning approach is not working. It is cumbersome, expensive and inflexible that results in out-of-date Plans that are difficult to keep current to changing needs. In making changes to the current system, TIA considers it important to secure the conservation integrity of the place in the Plans, while establishing flexibility in the system to allow effective management of those places.

Recommendation: TIA submits that the proposed changes should be further refined to simplify and speed up the partial review aspects of the Plans. TIA proposes a fixed and enduring core Plan, with ability to undertake partial reviews as and when needed. The criteria for partial reviews should be wide and not limited by criteria such as 'limited public interest'. (Issues 1A and 1B)

2. Concession Processes

The concession system is the mechanism for enabling commercial activities on conservation lands and waters. This generates benefits for visitors, operators and conservation, and it is essential these benefits are optimised. The current system would benefit from improvement and TIA welcomes the intent to make some changes - although we are concerned that important changes are proposed, such as the use of tender processes, without the necessary policy work having been completed, making it difficult to assess potential implications of the proposed changes.

Recommendation. TIA submits that further policy work is needed around the implications and parameters of the proposal to 'provide the ability to return concession applications where a tender would be more appropriate.' It is important that the policy framework is established, and implications identified, before this proposal is embedded in law. (Issue 2C)

3. Better Concession System

TIA assesses the proposed changes as being very narrow in scope, meaning that there is considerable 'opportunity lost' to make some other changes to how the concession system works, especially for enabling visitor activity on conservation lands and waters. TIA believes the opportunity to widen the scope for improving the concession system should be grasped with both hands. This is the single most important point TIA is making in this submission.

TIA will be very happy to work with the Department on this. A process such as that used for the Percentage of Revenue Review could be used to bring informed operator input to the work.

Recommendation: TIA submits that further consideration is given to other changes to the concession system given the rare window that is available to change the governing legislation. We must be looking at a more ideal concession system, and TIA will be available to work with DOC in advancing this.

Tourism Industry Aotearoa

TIA is the peak body for the tourism industry in New Zealand. With around 1,300 members, TIA represents a range of tourism-related activities including hospitality, accommodation, adventure and other activities, attractions, retail, airports and airlines, transport, as well as related tourism services.

TIA established and supports the tourism industry's strategic document, *Tourism 2025 & Beyond – A Sustainable Growth Framework*. This has the Vision of 'Growing a sustainable tourism industry that benefits New Zealanders'.

In 2017, TIA launched the *New Zealand Tourism Sustainability Commitment - He kupu taurangi kia toitū ai te tāpoianga*. The TSC has the Vision of 'Leading the world in sustainable tourism'.

The TSC is implemented through the actions of individual businesses and entities who join the TSC and take on its 12 Commitments. With almost universal voluntary uptake, the TSC is now a standard part of TIA membership.

Of direct relevance to this DOC consultation is:

Commitment 10: Restoring Nature. *We contribute to protecting and enhancing Aotearoa New Zealand's environment, including water, biodiversity, landscapes and clean air.*

This Commitment signifies that the tourism industry must operate at a high standard in how it interfaces with nature to deliver against the TSC's holistic economic, visitor, community and environment framework, and also the Government's Wellness Framework and ultimately the United Nations' Sustainable Development Goals.

Tourism and Conservation Interface

TIA is determined that tourism be a positive contributor to the wellbeing of the environment in Aotearoa New Zealand. The role that tourism operators and concessionaires specifically play in this is vital, including:

- **Societal support for nature.** There is the position that 'people protect the things they care about, and they care about the things they experience.' As the 'experience industry', tourism plays an important role in getting people into nature and providing interpretation of it, thereby growing the number of people in society that care for and protect nature. This applies to both international and domestic visitors.
- **Importance of concessions for businesses.** With concessions serving to permit commercially supported visitor activity on conservation lands and waters, these concessions are very important to operators. They form a critical part of their business viability with operations and assets oriented to delivering the consented activities. As such, the concession arrangements are of particular importance and interest to the operators involved.
- **Providing safe access.** Concessionaires are important agents to providing safe and managed visitation to our special areas. In so doing, they are relieving some of the responsibility from DOC itself while enabling many visitors to safely experience more than they could have otherwise.
- **Contributions to restoration.** Many tourism businesses go above and beyond in working to restore the ecology of the places in which they operate, and there are obvious examples such as Real NZ, Southern Discoveries, and others. Tourism concessionaires often serve as partners with DOC to extend its impact in areas of value to New Zealanders. In the recent TIA TSC Annual Return survey, respondents indicated how they act to restore nature: 69% educate their guests; 49% enable staff to get involved in environmental projects; 38% make financial contributions; 37% make in-kind contributions; 37% have a plan to guide the environmental initiatives.
- **Financial contributions.** There are financial considerations at the tourism/conservation interface, with concession fees, user fees for such activities as the Great Walks and a portion of the International Visitor Levy being used for conservation purposes. More broadly, tourism is a major contributor to the government's tax revenues, part of which funds wider DOC activities.

With these factors in play, TIA sees tourism concessionaires as having a symbiotic relationship with both DOC and those other stakeholders that value and cherish our nature. As such, we must act to maximise this relationship and celebrate it as two-way and mutually beneficial, with clear incentives for both DOC and tourism interests to work together for the greater good.

The spirit of this symbiotic relationship is well articulated in the Department's *Heritage and Visitor Strategy* that sets the goals of Protect, Connect and Thrive, and as the purpose to '*Sustainably manage visitors to protect and enhance the value of New Zealand's natural, cultural and historic heritage*'. TIA believes the tourism industry itself is a partner with DOC in striving to achieve this ambition.

Another important consideration lies with the current operating context for concession operators. Coming through the COVID-19 period, there is much rebuilding to do and this scaling up, with workforce shortages and the like, makes this a challenging time. Also, concessionaires are very aware of developments on DOC's movement to give

effect to Te Tiriti o Waitangi and they anticipate that things will change. Already, the granting of shorter-term concessions for some concessionaires is heightening concerns.

Proposed Legislative Changes

TIA has long advocated for changes to the very complex legislative environment that DOC is working to. The implications of this complexity have been two-way, DOC finding it hard to work with tourism, and tourism finding it hard to work with the Department.

We appreciate that the Conservation Law Reform Roadmap work is underway to address long-standing problems with conservation law, with this being a long-term exercise.

We are therefore very pleased that DOC has instigated a process to make some relatively small changes to legislation to address known and readily solved issues. We do appreciate the balance required to make small and achievable changes without having to relitigate bigger and contentious matters. Nevertheless, TIA is striving to make those small changes as transformative as possible within the constrained parameters of the project.

The Discussion Document sets out the proposed changes in two key areas. Following are comments on each of these, noting that Appendix 1 sets out TIA responses to the consultation questions, or groups of questions.

1. Conservation Management Planning

The long-term planning approach requiring 10-year reviews is widely agreed to not be working and TIA welcomes changes being made. Along with the rigid time periods, TIA is concerned that the plans have too much prescribed detail that is all but impossible to change as the real world changes. For instance, new technologies cannot be readily included (drones, e-bikes and the like) and reasonable operational changes cannot be made (such as for aircraft landings as demand increases). The result is that the planning documents become marginalised and hinder rather than help quality governance of our special places.

The idea set out in the Discussion Document to replace the 10-year full review with a statutory check-in process that can lead to partial reviews is a step in the right direction. In this, the difference between Issue 1A and Issue 1B was not clear. 1B seemed to be enabling more use of Partial Reviews, even though these are also referred to in 1A as something that can occur at the 10-year statutory check-in. The wording in 1B to 'introduce a new streamlined process for partially reviewing planning documents where public interest is limited' may serve to limit what matters can be subject to a partial review. As such, 'public interest' will need to be defined. How these two changes will work in practice is unclear.

TIA submits that these changes can be adjusted slightly to provide a clearer and more flexible review process. We propose having the Plans as enduring statements of the place and its values, about what needs to be protected and why. These would be ten years plus, and the existing plans to be mapped over until a full review is undertaken. Then, a mechanism like Partial Reviews is used to make management-level changes. The matters to be covered by this more flexible approach could be specified as a set of factors that can move with time. This would result in an enduring core plan, with flexibility to manage to best effect.

Central to this from TIA's perspective will be the driving imperative that the quality of nature and our conservation places will not be compromised.

TIA is supportive of the proposed changes to modernise the consultation processes that must be used, and for making information, such as the plans, available for the public.

TIA Recommendation: TIA submits that the proposed changes should be further refined to simplify and speed up the partial review aspects of the Plans. TIA proposes a fixed and enduring core Plan, with ability to undertake partial reviews as and when needed. The criteria for partial reviews should be wide and not limited by criteria such as 'limited public interest'.

2. Concession Process

Again, TIA welcomes DOC's move to address long-standing issues with the concession process and views this consultation as an opportunity to suggest further improvement.

Issue 2A and 2B both streamline the permissions process for those activities that fall within them. However, it does not appear that any tourism activities would be covered by these two changes. The tourism benefit would stem from DOC divesting itself of considerable workload and thereby freeing resources for the more complex tourism concessions.

Issue 2C set out that it would 'provide the Minister of Conservation with the ability to return a concession application if initiating a tender process would be more appropriate' and this is the key aspect that directly relates to the tourism concession system. At one level this looks like a simple change, but it does appear likely to open a very wide door to a range of downstream implications. DOC cites that its ability to 'return' an application is ambiguous at present meaning that concessions tend to get rolled over and it would like to address this through this proposed change.

Our interpretation of this proposed change is that it may result in a quite different concession system with wider use of tender processes for new and existing concessions. While it might be a good move to go to market for some concessions, TIA is concerned that the proposed legislative change would embed this before the necessary policy investigation of important questions, including:

- How would existing capital assets that are part of the concession be treated?
- What is the nature of any incumbency position?
- What is the position of the concession product or service in the marketplace?
- How will Te Tiriti o Waitangi considerations guide allocation decisions?
- What value is accorded to conservation gains delivered by the concessionaire?
- What criteria would trigger this option being used?
- What appeal processes might there be?

TIA submits that policy work on these questions needs to be undertaken before legislation is established, and not afterwards. There is considerable risk for unintended consequences. For instance, TIA understands that financial lending institutions place a monetary value on DOC concessions with lending decisions based on the length of term and stability of a concession. Any changes to the concession process will likely impact on incumbent and future concessionaires' ability to obtain financial support from banks. If a tender process is implemented, this would likely impact the ability of operators to access funds to invest in and operate their business.

This also raises questions around the more holistic nature of the concession/DOC relationship. TIA firmly considers that the relationship is much more than just a financial one. Many tourism concessions involve capital investment over many years, many involve the development of products to market that would not exist without innovation, investment and risk. The link to market is important as it takes a long time to get established and to build the networks and track record that are essential to building credibility in the marketplace. Tourism is a highly networked industry and establishing a place in this is not easy. For a tourism concessionaire, the concession itself becomes a major part of the asset base of that business. Without their concession, we would expect that many businesses would be severely impacted.

For these reasons, TIA submits that this area needs to be treated with great care. Where it is appropriate to tender for concessions, TIA supports this, but it is very concerned about the destabilising effect of tendering where not appropriate.

TIA Recommendation: TIA submits that further policy work is needed around the implications and parameters of the proposal to 'provide the ability to return concession applications where a tender would be more appropriate'. It is important that the policy framework is established, and implications identified, before this proposal is embedded in law.

TIA supports the other two Issues in the concession section of the Discussion Document, although Issue 2D would require concession tender documents to contain all the information for the concession itself which may be excessive in some circumstances.

Feedback from TIA Members

A good number of TIA members have voiced their views to us on this matter, particularly around the concession arrangements. Key themes:

- The concession system is not working as well as it should and is causing considerable industry concern. Key issues are around tenure of concessions – including the term of concessions granted – and slow processes.
- There is a strong sense that there are issues to fix and DOC's steps to address some of these through this process is welcomed.
- Most concern was round the tendering for concessions (Issue 2C) and the lack of any detailed policy analysis to support the proposal. Concerns included risks to small concessionaires from larger operators with deeper pockets, ability to operate while a tender process is underway, what to do with assets (physical and market position) contained within the concession, the ability to market the concession product that can typically be taken to the tourism trade two or more years out, and the inability to develop and invest in the concession products and facilities due to uncertainties created.
- There was also the sense that the proposed changes do not go far enough to address important aspects of the concession process that form the root cause of the concerns above.

For TIA, the feedback reinforces that there are real issues that need fixing and that what we are seeing in the proposed changes will not address these, and may in fact create other issues, especially stemming from the proposed changes to tendering processes.

TIA is aware that many operators are submitting to DOC directly and we expect that they will flesh out the points above.

Need for Changes Towards a More Ideal Concession System

Having considered the proposed changes and the feedback from our members, we would like to see a more ambitious change programme that aims to fix known issues with the concession system.

The current process provides a rare opportunity to change legislation to address issues in the concession system, and we recommend taking full advantage of this opportunity. To not do so would mean that important issues will not be able to be addressed until the wider Conservation Law Reform process works through, which will be many years away.

TIA submits that the scope of the current process should be widened to identify and address key areas that can be changed, and that we look towards a more ideal and enduring system that can best enable the positive symbiotic relationship between nature and tourism.

Our conversations with operators indicate that there are some reasonably simple things that could be done to improve and speed up the system. We recommend these are looked at as part of this process, and we would be very pleased to work with DOC to identify and assess further areas of possible change.

TIA Recommendation: TIA submits that further consideration is given to other changes to the concession system given the rare window that is available to change the governing legislation. We must be looking for a more ideal concession system, and TIA will be available to work with DOC in advancing this.

Further Input

TIA is very keen to be part of ongoing processes to enable tourism activity and to protect and enhance nature in Aotearoa New Zealand. We wish to engage with the Department in any way through this process so we can best deliver towards our shared objectives.

If you have any queries about our feedback, please contact Bruce Bassett on 021 609 674 or bruce.bassett@tia.org.nz.

We would be very happy to meet to discuss the points raised in this submission.

Ngā mihi,



Rebecca Ingram
Chief Executive

Appendix 1: Responses to Consultation Questions

No.	Question or Issue	TIA Response
1, 2	Do you agree with the Objectives, and are there others?	Relating to the concession process itself, there is an Objective that could be included around the 'demand-side' of the equation. That is, an Objective around the transparency and stability of the system for concessionaires. This relates to the importance of concessions as key business assets, which in turn are supported by all sorts of capital, marketing and workforce investments. TIA considers that the sophisticated and multi-faceted interests of concessionaires need to be specifically covered.
3,4	Do you agree with the three major challenges for the Management Planning Processes, and are there others?	The three challenges appear DOC-centric rather than those of wider stakeholders that are impacted by the plans on a day-to-day basis. From a tourism perspective is the rigidity of the 10-year life span that will never meet the evolving needs of a dynamic industry like tourism. The inability to make sensible changes on an iterative basis seems a major gap, and therefore a challenge that should be addressed.
5, 6, 7, 8, 9	Issue 1A - Options for changing the management planning processes.	Option 1 is the best of the options presented but as it reads, it seems that partial reviews can only be undertaken at the 10-year review. As such, TIA does not think that this will solve the central problem which is the inability of the 10-year window to move with the times, to changes in society, to demand levels and to technology changes, etc. TIA greatly values the intent of the Plans to ensure we fundamentally care for nature and the conservation values of our protected areas. We also know that tourism concessionaires also hold this value strongly. As such, we consider that the plans should be constructed in two parts: firstly, with a strong enduring 'core' and secondly, areas of management flexibility that can move with the times. This might be achieved by enabling 'partial reviews to be conducted as and when needed' and not just on a ten-yearly basis. TIA considers that such an approach will have more integrity for all stakeholders and will lead to better conservation outcomes.
10, 11, 12, 13, 14	Issue 1B - Changing planning document to reflect changing needs, new technology and evolving pressures.	This section introduces the option of more flexibility, and this is supported by TIA and may end up looking like the 'core' and 'flexible' idea set out above. However, the parameters for being able to make changes is unclear and needs clarification. For instance, the preferred Option 1 allows for a 'new streamlined process for partially reviewing planning documents where public interest is limited '. TIA is of the view that this would prove problematic in practice and would likely limit the use of this approach. What criteria, who would make the call, etc.? TIA submits that the planning system must have flexibility to change, and to do so as and when needed and in relation to whatever matters arise. Any test needs to be in relation to the impacts on conservation values and should include, but not be limited to, public opinion.

No.	Question or Issue	TIA Response
15 - 32	Issue 1C - Processes for public engagement in developing and reviewing plans	<p>TIA supports moving to current models for ensuring stakeholder input.</p> <p>TIA does consider it important that there are processes for letting the public, stakeholders and the tourism industry know of matters that concern them, and that the most appropriate method should be used to communicate with these groups.</p> <p>As with other aspects of TIA's assessment, we support processes that set the parameters and allow flexibility within these.</p> <p>The Acts should not prescribe how consultation is undertaken, but best practice should.</p> <p>TIA supports processes related to giving effect to Section 4 of the Conservation Act.</p>
33	Are there any other additional implementation, monitoring or evaluation measures you think should be considered?	<p>Information to support transparency would be the key thing TIA is looking for.</p> <p>It is important that all stakeholders know what is going on in each process to update the plans or to make any changes.</p>
34 - 50	Issue 2A – Authorising activities through regulations.	<p>TIA supports the move to establish mechanisms to authorise activities by generally authorising specific activities, removing the need for a concession.</p> <p>We note that this will be unlikely to include any tourism activity. Examples given include researchers, photography, news media.</p> <p>Any benefit for tourism will accrue from DOC not having to go through the consent process for these activities. The level of workload savings is not specified.</p>
41 - 44	Issue 2B – Pre-approval of concession applications	<p>TIA supports the move to pre-approve certain concession activities where there are no adverse impacts and if there are mitigations are in place.</p> <p>The example cited was of drone use in prescribed areas.</p> <p>No tourism examples are cited, but we understand some very low impact activities could possibly be included, eg.some guided walks.</p> <p>TIA views this as a good step but does not see much direct value for the tourism industry.</p>
45- 50	Issue 2C – Provide the Minister of Conservation to return a concession application if a tender process would be more appropriate.	<p>TIA considers that this is a narrowly worded change that may well have far-reaching implications to the concession system. A seemingly small change opening a big door.</p> <p>It appears that DOC may move to a position where concessions are put out to tender as a main allocation tool. TIA does support the appropriate use of tendering, but there are many other factors to be considered and these are not included in the discussion document, including:</p> <ul style="list-style-type: none"> • How would existing capital assets that are part of the concession be treated? • What is the nature of any incumbency position? • What is the position of the concession product or service in the marketplace? • How will Te Tiriti considerations fit into allocation decisions? • What value is accorded to conservation gains delivered by the concessionaire? • What criteria would trigger this option being used? • What appeals processes might there be? • What other important points will be relevant?

No.	Question or Issue	TIA Response
		<p>TIA strongly submits that the policy work on these questions needed to be undertaken before legislation is established, not afterwards.</p> <p>Given the narrow scope of the proposed changes, TIA is very keen to work with officials to identify and evaluate other possible changes to establish a more ideal concession process.</p>
51 - 54	Issue 2D – Offer a concession directly to a successful tender candidate.	<p>TIA supports the removal of an unnecessary step for a successful candidate.</p> <p>The caveat on this is around the level of information needed to place a valid tender. Logically this would require all bids to contain all the information required for a concession application.</p> <p>Care will be needed to ensure this is not overkill for a tender process, thereby making the application process excessively costly to undertake.</p> <p>We would envisage some practical steps could be taken to address this concern.</p>
55 - 59	Issue 2E – Require a statutory timeframe to seek a reconsideration.	<p>There are no current timeframe requirements for the reconsideration of decisions.</p> <p>This change would provide timeframe requirements and TIA is supportive.</p>
60	Implementation and monitoring of concessions.	<p>While not directly related to the proposed changes, TIA considers that major gains can be achieved from better concession management systems within DOC that will allow better reporting and data-based monitoring.</p> <p>This transparency will deepen understandings for the role tourism concessionaires play across a number of indicators, including visits facilitated, the nature of the visits, concessionaires' contribution to conservation, impacts on communities, and others.</p>
We have not provided comments to the Minor and Technical Amendments section.		