

PART 2

CORE OPERATING PROCEDURES - TENURE REVIEW

OVERVIEW

Introduction

The majority of reviews under the CPLA will be carried out under the provisions of Part 2 of the Act.

In this Part of the Manual you will find the procedures most commonly used in tenure reviews under Part 2 of the Act.

Integration between two types of review

Where Section 2-A to 2-I have links to, or are the same for reviews under both Part 2 and Part 3 of the Act, the procedure has been integrated so that it can be applied to both types of review.

In this part

This part of the Manual contains standard operating procedures showing how you carry out the following actions:

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A	Reporting on conservation resources in a tenure review under Part 2 CPLA	2-A
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[SECTION 2-A](#)

HOW TO REPORT ON CONSERVATION RESOURCES IN A TENURE REVIEW UNDER PART 2 CPLA

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SECTION 2-A

HOW TO REPORT ON CONSERVATION RESOURCES IN A TENURE REVIEW UNDER PART 2 CPLA

1. Background

- 1.1 In 1986 Government specifically charged the Department of Conservation (DOC) with undertaking “the identification of preservation and conservation values” on pastoral leasehold lands, “in close liaison with” the agency responsible for the lessor’s interest.
- 1.2 This activity was subsequently incorporated into procedures for pastoral lease tenure review prior to the Crown Pastoral Land Act (CPLA).
- 1.3 The Director-General of Conservation (DGC) and the Commissioner of Crown Lands (CCL) have agreed that, as part of the tenure review process under the CPLA, the Department will identify and report on a range of significant inherent values on reviewable land.
- 1.4 As part of this procedure (but by way of a separate report) the High Country Tenure Review Manager (HCTRM) prepares proposals for designations (see Appendix 2) which will be had regard to by the DGC in submitting his/her views to the CCL on a preliminary proposal (see Section 2-G of this Manual).
- 1.5

The purpose of this procedure is to outline the process, standards, and accountabilities for staff undertaking reporting on significant inherent values in tenure review under Part 2 CPLA.

2. Process

- 2.1 The reporting process on each tenure review is shown in the table below.

Stage	Who Does It	What Happens
1	HCTRM	<ul style="list-style-type: none">• Arranges provision for resource assessment and reporting in the annual programme of work in the relevant conservancy business plan(s) in accordance with CCL decisions under s.32 CPLA.• Arranges and co-ordinates internal and external contributions to the preparation of the reports and the field inspections.
2	Contributors	Provide their solicited contributions to the HCTRM.

3	HCTRM	<ul style="list-style-type: none">• Drafts the reports, using the contributions, to meet the standards of this procedure.
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Cont'd over

Stage	Who Does It	What Happens
		<ul style="list-style-type: none"> • Completes Stages 1 to 3 in the process table in Section 2-B. • Provides the reports to the CCL's Agent (see Section 2-G of this Manual).

3. Reporting Objectives

3.1 For each tenure review the Department will meet the following objectives in reporting:

- provide sufficient information about the agreed range of significant inherent values to facilitate the development by the CCL of a preliminary proposal under s.34 CPLA;
- record any special matters that will need to be dealt with by the CCL in the negotiation of a preliminary proposal;
- propose designations (for the purposes of consultation) consistent with the provision of s.35 and, as appropriate, sections 36, 37, 38 and 40 CPLA within the agreed reporting range (see appendix 2 to this Section).

4. Standards Attaching to the Objectives

4.1 Provide sufficient information about the agreed range of significant inherent values to facilitate the development by the CCL of preliminary proposals under s.34 CPLA.

4.1.1 "Significant inherent values" are to be identified on the basis shown in Section 1-A of this Manual. The agreed range on which DOC will report is set out in Appendix 4 on page 2-A-29.

4.1.2 The significant inherent values (within the agreed reporting range) on all the land which is included in the tenure review must be covered (s.34(2) CPLA).

4.1.3 The formatting of the information is to be in accordance with the standard report shown in Appendix 3 on page 2-A-22.

4.1.4 The areal extent of land having significant inherent values (within the agreed reporting range) is to be illustrated on map(s).

4.2 Record any special matters that will need to be dealt with by the CCL in the negotiation of a preliminary proposal.

4.2.1 A prescriptive standard is not being set for this objective.

4.2.2 Relevant matters may include issues surrounding:

- marginal strips
- existing access (e.g. road legalisation)
- third party occupation and encumbrances on the land
- encroachments/boundaries
- existing land status
- differing views of stakeholders (where known)

4.3

Propose designations (for the purposes of consultation) consistent with the provisions of s.35 and, as appropriate, sections 36, 37, 38 and 40 CPLA.
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4.3.1 The development of each of these proposed designations will take into account tenure review policies and the objects of Part 2 CPLA (see Part 1-A of this Manual).

4.3.2 The future ecological sustainability of management (for areas designated to protect significant inherent values) of the land under the Reserves Act or the Conservation Act (as appropriate) will be considered. Cost assessment for this purpose is to be carried out in accordance with Section 2-B of this Manual.

4.3.3 In dealing with land which may become marginal strip (if the **HCTRM** is not aware whether s.24 Conservation will definitely apply) the designations proposed may be predicated by the statement: "...subject to the application of Part IVA Conservation Act".

[See also Section 3-A of this Manual.]

4.3.4 In proposing a designation with an appurtenant right of way easement where the Crown is the beneficiary (e.g. to cover vehicle access by DOC staff) the **HCTRM** should recommend a qualified designation under s.36(3)(b) CPLA. If the easement is to be for public access then it is to be designated with a protective mechanism (s.40). A single route may therefore have two easements. [NB Under review]

4.3.5 If there is an existing easement then (provided it has satisfactory terms and conditions) its continuation can be proposed by the **HCTRM** under the provisions of s.36(3)(c).

5. General Standards for Reporting

5.1 The standards which follow are to be met by **contributors** who prepare information for or give advice on the reports. (The **HCTRM is accountable** for the finished output and for bringing these standards to the attention of all officers whom he invites to contribute.)

The standards are that:

- (i) the objectives of reporting (to the extent that they apply to the contribution being made) are met in accordance with the standards set in para.4 above.
- (ii) the contribution is made by the date set by the **HCTRM**, to enable the report to be provided to the CCL's agent in a timely manner after all relevant preliminary stages in the approved tenure review process are completed.
- (iii) professional standards and quality control are maintained, in terms of accuracy and conservation advocacy, and best practice is followed.
- (iv) any involvement with stakeholders in sharing information on inherent values (for the purposes of reporting) does not lead to a breach of the Department's Code of Conduct of December 1998. (See "Consultation" on pg 2-A-9)
- (v) contributions suit the model formats to be used in reporting.
- (vi) requests for release of the reports or drafts of the reports are dealt with in terms of the Official Information Act and departmental procedures for that purpose while having regard to any protocol agreed from time to time between the CCL and the DGC (see paras 10.2 on pg 2-A-5).

5.2 More detailed reporting requirements are set out in the appendices to this Section of the Manual.

6. **Legislation**

6.1 This is not a statutory procedure for the CPLA.

6.2 It is akin to resource assessment under s.4 Reserves Act 1977 or s.53 Conservation Act 1987.

7. **Delegations**

7.1 There is no statutory power to be delegated.

7.2 The proposals in the Proposed Designations Report are re-evaluated under the statutory process described in Section 2-G of this Manual.

8. **References**

8.1 Policy and Procedure Manual instruction 2.9.7 of 22.10.97. That instruction is replaced by this SOP. HO file papers on PAS0042.

9. **Cross References**

9.1 See the other procedures in this manual – in particular 1-A, 2-B, 2-G and 3-A.

10. Implementation

10.1	Further cross references.
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10.1.1 You will find instructions for completing the standard reports in Appendix 1 of this Section commencing on page 2-A-8.

10.1.2 Some stages of the process above are associated with the processes dealt with in Section 2-B and Section 2-G of this Manual.

10.2	Release of Information
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10.2.1 At this stage of the tenure review process there is to be no discussion by **DOC officials** with the lessee about possible tenure review designations in the preliminary proposal. Such action might prejudice the tenure review and the exercise of the CCL's discretion. The officer dealing with any request for a report must have regard to the provisions of s.14 Official Information Act and the closer connection of the Office of the Commissioner of Crown Lands to the function of identifying significant inherent values and formulating designations for preliminary proposals.

10.2.2 That officer (if the request is not transferred) must consider whether the report(s) need to be withheld under section 9(2) Official Information Act 1982 until a preliminary proposal has been publicly notified¹. Legal advice must be obtained, in each case, by the **officer dealing with the information request**.

10.2.3 The Proposed Designations Report is to be endorsed by the **HCTRM** as "FOR OFFICIAL USE ONLY" [see "Information Security: Policy and Procedures" DOC August 1996]. The release of this report to the CCL's Agent is the prerogative of the officer exercising the delegation under s.26(1) CPLA.

10.3	Funding
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10.3.1 Arrangements are made annually between the **RGM (Southern)**, the CCL, and the GM Business Management over funding of conservancies for tenure review. Funding levels depend on the programme of work approved by the CCL under s.32 CPLA. (HO file PAS 0035).

10.4	Late Information
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¹ This temporary limitation would allow the Crown's interest to be discussed with the lessee by the CCL, as the other principal party to the review, before a proposal is made known to third parties. Free and frank expressions of opinion between officials of DOC and the CCL's agent are an essential part of the process. Arising from these consultative discussions a preliminary proposal is publicly notified by the Agent on behalf of the CCL.

- 10.4.1 Any information or umbrella group views about inherent values, obtained after report(s) have been sent to the Agent, will be immediately copied and passed on to the Agent by the **HCTRM**. If the information affects the DGC's views on a preliminary proposal which has not yet been put, then the HCTRM will let the Agent know.

11. **Appendices**

- 11.1 As further aids to implementation, various standards applicable to this procedure are set out in the next part of this Section of the Manual.

APPENDICES

APPENDIX 1: INSTRUCTION FOR COMPLETING THE DOC REPORTS

GENERAL

Purposes of Parts of Reports	<p>The model Conservation Resources Report (CRR) is divided into four parts.</p> <p>The primary purpose of the first two parts of the report is resource description. They cover the range of values identified in Appendix 5 on pg. 2-A.30.</p> <p>The purpose of Part 3 is to (i) cross reference the report to the views of other bodies DOC has consulted about the identification of inherent values and (ii) to take into account planning documents. The purpose of Part 4 of the report is to describe any attachments.</p> <p>Parts 1-4 and are provided to the CCL as a “shareholder”.</p> <p>The purpose of the Proposed Designations Report is to set out the designation proposals which the HCTRM, as delegatee, considers necessary to protect significant inherent values for conservation reasons and to secure public access.</p>
Distinguishing land of different tenure	<hr/> <p>It must be made clear in the reports (if they include land other than a single pastoral lease) which parts of the text refer to land of any particular tenure. This is important in both describing resources and proposing the proper designation.</p>
Working Documents	<hr/> <p>The reports produced under this standard are intended to be professional working documents for tenure review purposes but are not required to meet publication standards. The HCTRM is accountable for quality control and consistency with the standards set in paras. 4 and 5 of Section 2-A.</p>
Purpose of this Appendix	<hr/> <p>The main purpose of this appendix is to provide instructions on how to complete the various elements of the model reports, as set out below.</p>
To use this appendix	<hr/> <p>Have the model reports (appendix 3) set up as a template on your computer.</p> <p>Open this instruction alongside as a reference tool.</p>

CONSERVATION RESOURCE REPORT

Introduction to the Report The sections below follow the same sequence as the model report. In **Part 1** of the report set the context. Specify the purpose of the report and what land is included in the review at the time of preparation of the report. Comment on the ecological region/district and existing areas that have protection such as reserves or covenanted areas within the area being reviewed.

Inherent Values:
Description of
Conservation
Resources and
Assessment of
Significance In **Part 2** of the report you will factually describe the resource attributes and characteristics which (in terms of the standards set in Appendix 4 on pg 2-A-29) you consider are likely to give rise to “significant inherent values”. The key reasons why a value is assessed as “significant” should be brought out in the text (see Appendix 5 on page 2-A-30 and Section 1-A of this Manual).

This part of the report will not indicate the department’s approach/recommendations about ownership or additional protection. Only a brief resource description may be required and photos may supplement.

The main headings for Part 2 are set out below, in sequence, with descriptors. Sub-headings may be used.

Landscape In **para. 2.1** provide a description of the landscape values, their regional context and areas of vulnerability.

Landforms & Geology In **para. 2.2** include geology, soils, landform, hydrology; the earth sciences. The significance of any conservation/recreation features is highlighted.

Climate In **para. 2.3** comment on any climatic factors relevant to the distribution of natural values and recreational use. This section can be left out if not relevant to the land being reviewed.

Vegetation In **para 2.4** describe the distribution and health of the vegetation. The significance of indigenous species or communities is to be highlighted. Consider historical context where appropriate. (Flora and communities may be described separately under this heading.) “Problem plants” and their distributions should be described.

Fauna¹	In para. 2.5 the description should include vertebrate and invertebrate species by terrestrial and aquatic habitats. The significance of indigenous species is to be highlighted. Consider historical context where appropriate. “Problem animals” and their distributions should be dealt with.
Historic¹	In para. 2.6 provide a description of archaeological and historical resources. The significance of places is to be highlighted. (Maori values will not be dealt with unless authoritative documentation is already available).
Public Recreation	Para 2.7 of the model report refers. See below for sub-headings.
Physical Characteristics	In para 2.7.1 describe the primary physical characteristics of the recreation setting(s) ² of the land in terms of accessibility, size and modification. The significance of particular places is highlighted. (The recreation opportunity is not, however, defined in this part of the report unless it has already been mapped in a conservancy recreation strategy).
Legal Access	In para. 2.7.2 comment on those existing marginal strips or legal roads (formed and unformed) etc. that provide a current public right of access for recreationalists. If there are existing rights of way registered against the title describe who may exercise the right. Ensure any easements allow for public use before assuming any existing public use is as of right.
Activities	In para 2.7.3 describe the types of recreation activities which now take place on the land included in the review (commercial and public) and specify any encumbrances on the land for such activities (e.g. recreation permits under s.66A Land Act 1948).
Other Relevant Matters & Plans	Part 3 of the report refers. See below for sub-headings.

¹ This section may be cross-referenced to any external report (written by a statutory body for the tenure review) which is attached - see Part 3 underleaf.

² “Outdoor Recreation in Otago : A Recreation Plan”. Bruce Mason. 1989. Federated Mt Clubs of NZ.

Consultation

In **para 3.1** provide a brief summary of the consultation with “umbrella groups”³ about the conservation resources report (Parts 1-3) from any verbal and written comments they may have made. Present without DOC analysis or comment. Unedited written material is to be attached to the report.

The approved process allows for information exchange, between DOC and those groups which it consults, before the PDR is written.

The CCL and DOC may from time to time agree which groups are to be dealt with by DOC and which by the CCL’s agent.

Also, there are a number of statutory bodies which have a direct functional interest in tenure review e.g., the Historic Places Trust and its regional committees, New Zealand Fish and Game Council and its regional councils, conservation boards etc.

The CCL may from time to time negotiate protocols with those bodies about how they participate in the tenure review process. This may involve their making separate submissions direct to the CCL’s agent rather than through DOC.

Plans

In **paras 3.2 to 3.5** deal briefly with any relevant provisions in Regional Policy Statements and other plans.

District Plans

In **para. 3.3** summarise key provisions in district plan(s) dealing with relevant matters under s.6 RMA. If any areas within the land being reported on have been scheduled in the plan(s) then mention it in the report. [Note that these areas will have been selected under RMA objectives, rather than CPLA ones, as having significant indigenous vegetation and significant habitats of indigenous fauna. What is significant may differ between the 2 Acts].

Conservation Management Strategies and Plans

In **para. 3.4** provide a brief summary of any provisions in the CMS or CMP relevant to identifying land which has “significant inherent value”. Text may be copied and attached.

Freshwater Fisheries Plans

In **para. 3.5** summarise any relevant provisions in plans made under s. 17K Conservation Act. Text may be copied and attached.

Maps Etc

In **Part 4** deal with the matters outlined below, which are in the same sequence as the model CRR report.

Additional

In **para 4.1** include any acknowledgements, references, glossaries etc.;

³ “Umbrella groups” is the term in the CCLs February 1997 procedure, formerly used for pastoral lease tenure review, to cover the Royal Forest and Bird Protection Society NZ, Federated Mountain Clubs of NZ, Public Access NZ and local interest groups.

Information	any other attachments mentioned in the descriptors above.
Illustrative Maps	In para. 4.2 provide for three maps or sets of maps as specified below.
Topo/Cadastral	<p>As the para. 4.2.1 attachment use a topographical map as the base to support Part 1 of the report. It will contain the statutory land information for the pastoral lease and adjoining properties, pastoral lease boundary; also, existing marginal strips, legal roads, conservation estate, covenants.</p> <p>If all the cadastral information cannot readily be shown on the topo base, while retaining a clear image, a cadastral map can be attached..</p>
Values	As the para 4.2.2 attachment use a map which has a generalised outline of any conservation resource data (relevant to Part 2 of the report) that is required to support the descriptions, including RAPs already identified through the PNAP in published reports. The RAPs should only be included if this is <u>not</u> the first time the information about them has been made public. The map may consist of one or more sheets showing different values.

PROPOSALS FOR DESIGNATIONS REPORT

About this Report⁴ **The Proposals for Designations Report (PDR)** report will underpin the Department’s advice to the CCL (see para. 7.2 on page 2-A-4).

While Part 2 of the CRR is descriptive of the attributes and characteristics which may give rise to “significant inherent values” the approach of the PDR is to look at what “designations” may be worthwhile. (Appendix 2 on pg. 2-A-18 provides a description and pick-list of designations).

The proposals are informed and supported by an assessment of future management costs - see Section 2-B of this Manual.

This report should not be confused with the “preliminary proposal” referred to in s.34 CPLA.

In the PDR you must be specific about future management considerations - what is required for the protection of significant inherent values for conservation reasons and to secure public access - and about which organisation(s) should take responsibility for particular proposals. Considerations include: public ownership (status/classification), covenants, easements, retirement from grazing, ecologically sustainable management, control of weeds and pests etc.

⁴ The information that is appropriate in this report would be inappropriate if included in the CRR.

Cont'd Over

About this Report
(Cont'd)

This section should include comments on “umbrella group” views arising from consultation (Part 3 of the CRR) if the department’s views differ. Comment is made from a DOC perspective on the differences, informed by the policy and standards.

In summary, the PDR sets out the individual areas that should be protected, the means of protection or public access provision, and the justification for them.

The **sequence of information** in this report is described below. Additional sub-headings may be used.

Main Heading

Insert name of lease being reviewed and name of current registered lessee, and any other appropriate details.

Recommendations

In **para. 1** incorporate the three standard recommendations provided for in the model. The HCTRM may add other recommendations if appropriate.

The second standard recommendation requires you to identify (by paragraph number) which of the proposed designations will require a **CPLA consent**. These designations are for: **concessions, protective mechanisms, exchange of any conservation area or reserve, or appointment of a marginal strip manager**.

Proposals & Justification⁵

In **para. 2** each proposal is listed in accordance with a set format, as follows:

- **name** – give each proposal a name
- **current status** – specify the current status and tenure of the land and any encumbrances such as type of lease, licence, permit or easement.
- **authority for designation** (specify the appropriate sub-para of the CPLA – see Appendix 2 on pg. 2-A-18)

proposal – describe the management purpose of the designation, area calculation, and which agency (DOC or someone else) should take the responsibility for protection. In the case of a covenant, the management purpose would be derived from the provision in the relevant Act. For example, a conservation covenant under the Conservation Act, would be described in terms of s.27 of the Act simply as being for “conservation purposes”. (See page 2-D of this Manual).

Cont'd over

⁵ Put “N.A” in a report if any para. heading is not applicable.

Proposals & Justification

Similarly, a proposal to designate land as a “conservation area” would have the management purpose in s.25 Conservation Act (i.e. “protecting natural and historic resources”) as they all become stewardship areas. In the case of a proposed reserve it would be the appropriate purpose from sections 17 to 23 Reserves Act.

(See SOP QD code: NH/1027 or refer to the relevant Act).

- **description** – summarise the conservation resources found in the designation area.
- **justification** – in terms of protecting significant inherent values; relate to the management purpose(s) of proposal and see Appendix 5 of this procedure on pg 2-A-30.
- **Management and boundary issues** (e.g. see para. 4.2.2 on pg. 2-A-2).
- **Type of qualification** – in terms of designations under s.36 CPLA (e.g. concessions etc) or **Type of protective mechanism** – in terms of designations under s.40.

Additional sub-headings may be used. Full terms and conditions (e.g. for a concession, easement, or covenant) will be included as attachments to the report. For information requirements where consent will be required later see other Sections in this Part, or in Part 3, of the Manual (eg for concessions see the appendices to Section 2-C).

The sequence of designation proposals to be used⁵ is set out below.

Un-qualified Designations

Para. 2.1 – land to be restored to or retained in full Crown ownership and control out of the pastoral lease and (if included) the occupation licence, unused Crown Land, and freehold land. These areas will not be subject to a qualified designation under s.36 CPLA.

Each proposal should be separately numbered in sequence e.g. 2.1.1, 2.1.2 etc.

Qualified Designations (s.36(1))

Para 2.2 – land to be restored to or retained in Crown control.

A s.35(2)(b) designation proposal which will be qualified under s.36(1) CPLA, involving one or more of the following:

- concession
- special lease
- grazing permit (in the latter two cases whether new, or existing and to continue in force)

Cont'd over

Qualified Designations
(Cont'd)

The designation may apply to land in the pastoral lease and (if included) the occupation licence, unused Crown land, and freehold land.

Each designation proposal is to be separately numbered in sequence.

Any designation that will eventually require consent by the Minister of Conservation (if adopted by the CCL for the preliminary proposal) must meet the standards for consent (e.g. see Section 2-C for concession). Section 3-F has standards for a special lease or grazing permit designation, but there is no consent requirement.

Existing Reserve

Para. 2.3 – will deal with any existing reserve included in the review.

There are potentially three types of designation, each one to be dealt with in a separate proposal:

- land to remain reserve
- concession
- exchange

A proposed designation for a concession or an exchange will eventually require consents by the Minister of Conservation if adopted by the CCL for the preliminary proposal. A proposed designation must therefore meet the standards for consent (see Section 2-C or 2-F).

Existing Conservation Area

Para. 2.4 – will deal with any existing conservation area⁶ included in the review.

There are potentially four types of designation, each one to be dealt with in a separate proposal:

- land to remain conservation area
- concession
- exchange (for land in the same preliminary proposal)
- appointment of manager (existing marginal strip)

If the designation is for an exchange then the land to become conservation area or reserve must be referred to in this part of the report. You may refer back to the appropriate area described in para. 2.1 or 2.2.

Cont'd over

⁶ A "Conservation Area" includes a marginal strip.

**Existing
Conservation Area**
(Cont'd)

A proposed designation for a concession or an exchange or an appointment will eventually require consents by the Minister of Conservation if adopted by the CCL for the preliminary proposal. A proposed designation must therefore meet the standards for consent (see Sections 2-C, or 2-F or 3-B).

**Protective
Mechanisms**

Para. 2.5 – will deal with any **land being disposed of subject to a protective mechanism.**

There are potentially eight types of designation, each one to be dealt with in a separate proposal:

- easement s.12 Reserves Act
- easement s.7(2) Conservation Act
- easement s.8 NZ Walkways Act
- open space covenant (s.22 QEII Act)
- conservation covenant (s.77 Reserves Act)
 - Minister of Conservation
 - local authority (name in the proposal)
 - other approved body (name in the proposal)
- conservation covenant (s.27 Conservation Act)
- heritage covenant (s.6 Historic Places Act)
- sustainable management covenant (s.97(1) CPLA)

Each proposal is to be separately numbered in sequence.

As any designation in the preliminary proposal will eventually require consent by the Minister of Conservation you should ensure that the proposal is likely to meet the standards for consent before finalising it for the report (see section 2-D of this Manual).

**Other Qualified
Designations (s.36(2)
& (3))**

Para. 2.6 – A s.35 designation proposal may be qualified under s.36(2) or (3) CPLA, involving one or more of the following:

- sustainable management covenant
- easement (new or existing)
- manager appointment (proposed marginal strip) [see Section 3-B of this Manual].

Easements may be in gross or in favour of adjacent land (whether or not included in the review in question).

Each designation proposal is to be separately numbered in sequence.

**Marginal Strip
Width**

Para. 3 – will deal with any known proposal for an **exemption or a variation of width of a marginal strip** – see Section 3-A of this Manual and para. 4.3.3 of this Section on pg 2-A-3.

Other Matters

Para. 4 - will deal with any other relevant matters e.g. differences between views offered by the “umbrella groups” and the DOC proposals.

Attachments

Para. 5 - provide and describe the attachments, including the “Boundaries Map.”

Boundaries

Use the Topo/Cadastral map as the base and then define the areas that the department is recommending be restored to full crown ownership, or covenanted, and any access easements proposed etc. This map will only be made available to third parties when the whole PDR is made available (see para 10.2 of this Section) and is to be labelled ‘For Official Use Only’.

Note: You can use the table in this appendix as a quick reference to identify the correct statutory authority to include in Part 4 of your report, or refer to the Act.

APPENDIX 2 : DESIGNATIONS IN PRELIMINARY PROPOSALS

Table

The table in this appendix shows the statutory authority (in Part 2 of the CPLA) for designations in a preliminary proposal. Some of these may be relevant to a Proposed Designations Report.

Meaning of Designation

Designation is a process in the Act used by the CCL to specify or particularise how land is shown in a tenure review preliminary or substantive proposal and indicates its intended future status.

Scheme of Designation

The designations which the CCL may apply to land held under a reviewable instrument or in fee simple or as unused Crown land in a preliminary proposal under Part 2 CPLA fall into the groups described below.

The broad groups (s.35 CPLA) are:

1. Land to be restored to or retained in full Crown ownership and control
2. Land to be restored to or retained in Crown control
3. Land that may be disposed of to any person.
4. Land to be disposed of by freehold disposal to a person specified in the proposal.
5. Land held in fee-simple only, as land to be kept by its owner.

Conservation area(s) (s.37) and reserve(s) (s.38) which are included in a tenure review by agreement will be separately designated in a preliminary proposal.

Further breakdown of designations

Designations in Group 1 are further particularised by the intended purpose -

- conservation area
- reserve (specified purpose)
- other specified Crown purpose

The may be **qualified** in accordance with s.36(3) CPLA.

Designations in Group 2 are also further particularised by the intended purpose -

Cont'd over

- conservation area
- reserve (specified purpose)
- other specified Crown purpose
- Crown land (Land Act 1948)

They must be **qualified** in accordance with s.36(1) and may be qualified in accordance with s.36(2) and s.36(3) CPLA as well.

Designations in Groups 3 and 4 (and designations in Group 2 which are qualified as subject to a special lease) may be made subject to the creation of one or more **protective mechanism(s)** (s.40 CPLA).

Section 3-F of this Manual deals in greater detail with designations which involve special leases or grazing permits.

**Using the Correct
Statutory Authority**

The table on the next page is designed to help you fill in the gaps in the standard format where you have to choose the correct statutory authority.

DOC's proposing of designations is part of the CCL's consultation process (see Section 2-G of this Manual) and the designations which will go in the preliminary proposal (s.34 CPLA) will be the ones selected by the CCL on the recommendation of his/her Agent.

Fitting DOC proposals into the same designations framework will help assure the quality of DOC advice to the CCL.

Cont'd over

This is the quick-reference table referred to on the previous page.

Para of Report	Proposed Status	Proposed Encumbrance ⁷	Statutory Authority
2.1	• conservation area		s.35(2)(a)(i)
	• reserve ⁸ for specified purpose		s.35(2)(a)(ii)
2.2	• conservation area	<ul style="list-style-type: none"> • concession • new special lease • new grazing permit • existing special lease • existing grazing permit 	s.35(2)(b)(i) s.36(1)(a) s.36(1)(b) s.36(1)(c) s.36(1)(d) s.36(1)(e)
	• reserve for specified purpose	• as above for conservation area	s.35(2)(b)(ii) (except s.36(2))
	• Crown land	<ul style="list-style-type: none"> • new special lease • new grazing permit • existing special lease • existing special permit 	s.35(2)(b)(iv) s.36(1)(b) s.36(1)(c) s.36(1)(d) s.36(1)(e)
2.3	<ul style="list-style-type: none"> • remain reserve • remain reserve • disposed of by exchange • remain reserve 	<ul style="list-style-type: none"> • concession • s.73 Reserves Act lease 	s.38(1)(a) s.38(1)(b) s.38(1)(c) s.38(2)
2.4	<ul style="list-style-type: none"> • remain conservation area • remain conservation area • disposed of by exchange • remain conservation area 	<ul style="list-style-type: none"> • concession • appoint marginal strip manager 	s.37(1)(a) s.37(1)(b) s.37(1)(c) s.37(2)
2.5	land to be disposed of: - on special lease - to a specified person - to any person	• protective mechanism ⁹	s.40 s.40(1)(a) s.40(1)(b) s.40(1)(c)

Cont'd over

⁷ Proposed encumbrance either refers to a qualified designation or to a protective mechanism

⁸ The specified purposes for reserves are any one of:

- recreation
- historic
- scenic
- nature
- scientific
- government purpose (type)
- local purpose (type)

⁹ Protective mechanisms (s.2 CPLA) are:

- easement under s.12 Reserves Act, s.7(2) Conservation Act, or s.8 NZ Walkways Act (public Access only)
- covenant under s.22 QEII National Trust Act, s.77 Reserves Act, s.27 Conservation Act, or s.6 Historic Places Act
- sustainable management covenant under s.97 CPLA

2.6	land to be disposed of to any person	<ul style="list-style-type: none"> • appointment of manager of marginal strip¹⁰ • sustainable management covenant • new easement • existing easement 	s.36(2) s.35(2)(c) s.36(3)(a) s.36(3)(b) s.36(3)(c)
	land to be disposed of to specified person by freehold disposal	<ul style="list-style-type: none"> • as above for disposal to any person 	s.35(3)
	fee simple land to be kept by its owner	<ul style="list-style-type: none"> • as above for disposal to any person 	s.35(4)

¹⁰ Note that appointment of a manager of marginal strip under s.36(2) can only occur when land is disposed of by the Crown.

APPENDIX 3: REPORTING FORMATS

1. The standard formats for reporting are set out below.
 2. In Appendix 1 above there are instructions which will provide you with guidance on how to complete each part of the report.
 3. In the Proposed Designations Report add additional, sequentially numbered proposals in the appropriate place as required.
-

DOC CONSERVATION RESOURCES REPORT ON TENURE REVIEW OF LEASE/LICENCE/AND.....

PART 1

INTRODUCTION

1.1

PART 2

INHERENT VALUES: DESCRIPTION OF CONSERVATION RESOURCES AND ASSESSMENT OF SIGNIFICANCE
--

2.1 Landscape

2.2 Landforms & Geology

2.3 Climate

2.4 Vegetation

2.5 Fauna

2.6 Historic

2.7 Public Recreation

2.7.1 Physical Characteristics

2.7.2 Legal Access

2.7.3 **Activities**

PART 3

OTHER RELEVANT MATTERS & PLANS

3.1 Consultation

3.2 Regional Policy Statements & Plans

3.3 District Plans

3.4 Conservation Management Strategies & Plans

3.5 Freshwater Fisheries Plans

PART 4

MAPS ETC.

4.1 Additional information

4.2 Illustrative Maps

4.2.1 Topo/Cadastral

4.2.2 Resources

**PROPOSED DESIGNATIONS REPORT:
TENURE REVIEW OF THE LEASE
HELD BY UNDER/AND
PART 2 CROWN PASTORAL LAND ACT**

(FOR OFFICIAL USE ONLY)

1 Recommendations

- 1.1 That the proposals described below be submitted to the CCL’s Agent, during the consultation process on the preliminary proposal for this tenure review, as representing the views developed under delegated authority from the Director-General of Conservation.
[Note that additional proposals, developed after the initial report is written, may also be put forward at the consultation stage.]
- 1.2 Note that statutory consents will be required before the CCL can include (in the preliminary proposal for this tenure review) the designations set out in paragraphs: below.
- 1.3 Note that any disposition of land by the Crown will be subject to the relevant provisions of Part IVA Conservation Act.

2 Proposals and Justification

2.1 Land to be Restored to or Retained in Full Crown Ownership and Control

- 2.1.1 Name:
Existing status:
Authority: s.35(2)(a) () CPLA
Proposal: That an area of approximatelyhectares be designated as a
for the purpose of to be managed by .
Description:
Justification: The land is characterised by areas that have the following significant inherent values:
•
Management and boundary issues:

2.2 Land to be Restored to or Retained in Crown Control (Qualified Designation)

- 2.2.1 Name:
Existing status:
Authority: s.35() () () and s.36(1)() CPLA
Proposal: That an area of approximately hectares be designated as a
for the purpose of to be managed by .
Description:

Justification: The land is characterised by areas that have the following significant inherent values:

Management and boundary issues:

Type of qualification:

Attachment: Terms and conditions.

2.3 Existing Reserve

2.3.1 Name:

Existing purpose:

Authority: s.38() () CPLA

Proposal: That an area of approximately hectares be designated as a .

Description:

Justification:

Management and boundary issues:

Attachment: terms & conditions:

2.4 Existing Conservation Area

2.4.1 Name:

Existing status:

Authority: s.37() () CPLA

Proposal: That an area of approximately hectares be designated as .

Description:

Justification:

Management and boundary issues:

Attachment: Terms and conditions etc.

2.5 Land Being Disposed of Subject to a Protective Mechanism

2.5.1 Name:

Existing status:

Authority: s.40() () CPLA

Proposal: That an area of approximately hectares be designated as subject to the creation of a protective mechanism for the purpose of .

Description:

Justification:

Management and boundary issues:

Type of protective mechanism:

Attachment: Terms and conditions

2.6 Other qualified designations

2.6.1 Name:
 Existing status:

Authority: s.36()() CPLA

Proposal: That the designation of land under s.35()() CPLA, for disposal,
be subject to .

Description:

Justification:

Management and boundary issues:

Type of Qualification:

Attachment: Terms and conditions

3. Exemption or variation of a marginal strip width

- 3.1 Name:
Existing status:
Proposal:
Description:
Justification:
Management and boundary issues:

4 Other Matters

4.1

5. Attachments

5.1. Additional Information

- (i) Terms and conditions of qualified designations
- (ii) Terms and conditions of protective mechanism
- (iii)

5.2. Illustrative Map

APPENDIX 4 : THE RANGE OF SIGNIFICANT INHERENT VALUES ON WHICH THE DEPARTMENT OF CONSERVATION WILL REPORT TO ADVOCATE PROTECTION

1. For the purpose of tenure review process it is assumed that DOC is the expert on the identification and assessment of those inherent values which have sufficient worth or utility or desirability for conservation reasons to rank as “significant inherent values”.
2. “Conservation reasons” are :
 - preservation and protection to maintain the intrinsic values of natural and historic resources, having special regard to indigenous flora and fauna, natural ecosystems, and landscape;
 - providing for the appreciation and recreational enjoyment of such resources by the public; and
 - safeguarding the options of future generations.
(c.f. s.2 Conservation Act)

This catch-all expression is not intended to exclude reasons drawn from s.3 Reserves Act 1977, as they apply to significant inherent values.

3. The Department will not report on inherent values associated with sports fish and game. This information will be obtained by the CCL from Fish and Game Councils.
4. Information on inherent values arising from Maori cultural attributes or characteristics of a natural resource or historic place are best obtained by the CCL direct from the tangata whenua or other authoritative sources (e.g. Ngai Tahu Claims Settlement Act 1998 for tenure reviews in the Ngai Tahu Takiwa).

APPENDIX 5 STANDARDS TO BE APPLIED AS GUIDELINES IN THE IDENTIFICATION AND ASSESSMENT OF SIGNIFICANT INHERENT VALUES

Significant Inherent Values Associated With Natural Resources

Within the reporting range set out in Appendix 4, the Department considers the following inherent values are specially worthy of protection under the Conservation Act or the Reserves Act; namely those characterised by:

1. Areas which alone or collectively sustain the special natural quality and integrity of the High Country landscape, especially the indigenous component.
2. Areas which sustain the most culturally valued attributes (e.g. scenic, aesthetic, recreational and historic) and their context within a natural High Country landscape.
3. Areas which would currently meet the Protected Natural Area Programme (PNAP) criteria for selection as priority natural areas (e.g. RAPs), or sites of special wildlife significance ranking as “outstanding” to “moderate/high”, or wetlands of ecological and representative importance included in the WERI inventory (see Appendix 6).
4. Habitats of threatened species (including those which are regionally threatened). (see Appendix 6 for ranking of sites of special wildlife interest)
NB: The species are those found in the High Country which are in the priority categories A B or C or special purpose categories X, I, O and M in “Setting Priorities for the Conservation of New Zealand threatened Plants and Animals” 2nd Edition ed. J Molloy, A Davis and C Tisdall Department of Conservation 1994.
5. Type localities and habitats of species and communities which are at their distributional limits and/or endemic or which have specialised habitat requirements in the High Country, and species, communities habitats or ecosystems which are uncommon and/or endemic in the ecological district.
NB: This standard will apply to native fish as well as other indigenous animals and to indigenous plants.
6. Key breeding or feeding sites of fully protected wildlife or sites which are important for other life cycle stages of indigenous or migratory species, or which support species that contribute significantly to the ecological functioning of off-site protected areas. (see Appendix 6)
7. Areas which make a special contribution to the overall quality, natural functioning and ecological integrity of significant values (e.g. linkages, buffers etc.) whether in their present or potential state.

8. Threatened and special geo-physical features.

NB: The sites in the High Country of international, national or regional importance when judged against the criteria used for that purpose - see Appendix 6.

All or some of the above values may be found together on reviewable land and will not necessarily require protection of separate areas. An area may be evaluated under one or more standard, according to the inherent values present. The broad context of ecological processes and landscape patterns are relevant to protected area design.

Note: The Department of Conservation will generally accept responsibility for all such areas which are fully restored to Crown ownership.

Significant Inherent Values Associated With Historic Places & Cultural Resources

Assessment will be guided by Part II of the Historic Places Act. Within the reporting range set out in Appendix 4, the Department considers the following inherent values are specially worthy of protection under the Conservation Act or the Reserves Act; namely those characterised as:

1. Reflecting important and representative aspects of human activities in the High Country.
2. Being associated with events, persons and ideas of importance in the High Country.
3. Having the potential to provide significant knowledge of human activities in the High Country.
4. Forming an important part of the wider historic and cultural complexes and landscapes of the High Country.

Other values include places and natural features which are of scientific, educational or other special interest.

Note: The Department of Conservation will not necessarily accept responsibility for all such areas fully restored to the Crown. It will collaborate with other agencies e.g. NZ Historic Places Trust.

Significant Inherent Values Associated With Recreational Resources

Within the reporting range set out in Appendix 4, the Department considers the following inherent values are specially worthy of protection under the Conservation Act or the Reserves Act; namely those characterised by:

1. Settings of high natural or historical value for outdoor recreational opportunities in the High Country.

Note: This will include “Wilderness Areas” in the High Country (identified by the Wilderness Advisory Group in 1985) which still retain their wilderness character.

2. Other significant recreation settings which provide for regional outdoor recreational opportunities.

Note: The Department of Conservation will not necessarily accept responsibility for all such areas restored to the Crown and may transfer control to other agencies as reserve administering bodies.

Public Access

In addition to identifying and assessing inherent values arising from recreational attributes or characteristics the Department also reports on the securing of public access to and enjoyment of reviewable land. Use rights are determined by the status/classification of a protected area, and may be limited or controlled by concessions or regulations or bylaws or offence provisions. The relevant guidelines for public access are:

1. All areas to be restored to Crown ownership as conservation area or reserve should have legal, practical and reasonably convenient public access secured where it does not exist at present.

NB: This may be achieved through appurtenant easements over land being freeholded, or by restoring the necessary areas to Crown ownership. Marginal strips, where they are provided and where they permit practical access, may fulfil the same public access functions as easements or unformed legal roads. Marginal strip managers may be appointed.

The best statutory provision for an easement is one which will result in the offence provisions of the Act applying to the use of the easement.

2. Important linkages for public access to or through reviewable land, needed for public enjoyment of that land, should be secured.

NB: This standard will often be met by easements in gross (e.g. NZ Walkways Act) or appurtenant easements (e.g. Conservation Act, Reserves Act) as above. Sometimes the land restored to Crown ownership as conservation area or reserve will itself meet the access standard without the need for additional easements.

3. The provision of formed and unformed public roads, and their use for access in the High Country, is generally the responsibility of territorial authorities; they will determine appropriate standards of access and use for that purpose.

NB: The Department of Conservation does not accept responsibility for all types of access, but may assist the CCL to facilitate action by territorial authorities or others where appropriate.

APPENDIX 6 - CRITERIA FOR ASSESSING NATURAL RESOURCES

(NB : relates to Appendix 5)

1. Criteria for the evaluation of priority natural areas for protection (adapted from the New Zealand Protected Natural Areas Programme: A Scientific Focus ed. G C Kelly and G N Park pp 45-46).

The legislation [Reserves Act 1977] and the intrinsic functions of natural ecosystems, give rise to the following seven primary criteria:

- representativeness
- diversity and pattern
- rarity and special features
- naturalness
- long-term ecological viability
- size and shape
- buffering, surrounding landscape and boundaries.

These criteria are related through sharing many component attributes (e.g. diversity has a direct relationship with size). In themselves however they are clear concepts, related in the purposes for which natural areas are selected for protection. They include concepts such as “connectivity” e.g. sequences along environmental, especially climatic, gradients.

The seven criteria provide a primary assessment of a natural area’s nature conservation value.

NB: A further explanation of the criteria may be found in: Guidebook for the Rapid Ecological Survey of Natural Areas. NZBRC Publication No.6, 1987, pp 58-65. A subsequent reference is: “Land Evaluation for Nature Conservation : a scientific review compiled for application in NZ”. Conservation Sciences Paper No.3, DOC, 1990.

2. Selected Criteria for Ranking Sites of Special Wildlife Interest (adapted from standard criteria used by the former NZ Wildlife Service)

These criteria are taken from an example published as Appendix IX in “Wildlife and Wildlife Habitat Values of Waitutu Forest Western Southland” Fauna Survey Report No.39 1985.

(i) Outstanding

- (a) Presence of a breeding population of a highly endangered or rare endemic species.

- (b) Presence of a population of an endemic species of very restricted distribution and which could become endangered.
 - (c) Area essential to species from (a) and (b) for purposes other than breeding.
 - (d) Area of vital importance to internationally uncommon species (breeding and/or migratory).
 - (e) Area of vital importance to internally migratory species with very limited distribution or abundance.
 - (f) Largely unmodified ecosystem or examples of the original habitat type not represented elsewhere in the country, of large size and containing viable populations of all or almost all species which are typical of the ecosystem or habitat type.
- (ii) High
- (a) Site containing an indigenous species which has declined significantly as a result of human influence.
 - (b) One of a few or the only breeding area for a non-endemic indigenous species of limited abundance.
 - (c) Habitat of an uncommon, discontinuously distributed species not adequately represented in a particular ecological region.
 - (d) Example of a largely unmodified site which is not represented to the same extent elsewhere in the ecological region and is used by most species which are typical of that habitat type for the region.
 - (e) Presence of a species of an endemic family which is of limited abundance throughout the country although adequately represented in one ecological region but whose habitat is at some risk.
- (iii) Moderate - High
- (a) Presence of a species which is still quite widely distributed but whose habitat has been and still is being significantly reduced or modified as a result of human influence.
 - (b) Area containing high numbers of breeding or moulting birds or where breeding or moulting areas are of inter-regional significance to wildlife.

- (c) A large and fairly unmodified site or ecosystem which is represented elsewhere in the ecological region and contains all, or almost all, species typical of that habitat type for a particular region.
- (d) An area where any particular species is exceptional in terms of, say, abundance or behaviour but which is otherwise widespread.

3. Criteria for Wetlands (i.e. for sites listed in the WERI data base)

- (i) Wetlands of national or regional significance i.e. general examples of the type of wetland that is characteristic of the region or supporting rare, vulnerable or endangered species or having particular value in maintaining ecological diversity or particular species, including areas suitable for listing under the Ramsar Convention.
- (ii) Other representative wetlands characteristic of particular ecological regions.
- (iii) Unique areas that are a typical of particular ecological regions.
- (iv) Wetlands that are important in the biological cycles of rare or threatened species.

4. Criteria for the assessment of the importance of geo-physical sites

These criteria are taken from: Arnad et al. 1991 Inventory of New Zealand soil sites of international, national and regional importance. Part one - South Island and southern offshore islands (*1st edition*). *New Zealand Society of Soil Science occasional publication 1. 158p*

International: contains the best example of a feature, or is unique to New Zealand or these latitudes; or contains a feature that is naturally uncommon or reduced in extent in other parts of the world; or contains a wide range of relatively unmodified features; or has been studied in detail and is known internationally.

National: contains the best or “classic” example of a feature in New Zealand; or contains a feature that is nationally uncommon or much reduced in extent in New Zealand; or contains a moderate range of relatively unmodified features; or has been studied in detail and is known nationally.

Regional: contains the best regional example of a feature; or contains a relatively limited range of relatively unmodified features.

APPENDIX 7: EXTRACT CONCERNING RECREATION SETTINGS

Refer to the information in the table below as a guide to describing and assessing the characteristics of recreation settings on the land. It can be supplemented with information from the Department's Recreation Opportunity Spectrum publications, as required.

SETTINGS	RECREATIONAL EXPERIENCE ZONING				
	WILDERNESS	REMOTE	NATURAL	OPEN SPACE	CULTURAL
NATURAL-CULTURAL SETTING	Large tracts of unoccupied land, native forest and grassland; alpine, lakes, rivers	Settings and activities same as for wilderness, but with minor incompatibilities eg smaller size, presence of a hut, less adequate buffering etc	Unoccupied native forest and grassland; alpine, lakes, rivers	Semi natural grasslands	Facility orientated. May have natural landforms, but be highly modified. In mountain, forest, grassland, rural, coastal situations.
PREDOMINANT LAND USE	Wilderness recreation		Nature conservation	Extensive grazing	Farming, forestry, hydro lakes, recreational facility areas/ski fields
ACCESSIBILITY	Physically inaccessible with unroaded buffer zone. No defined routes within. No recreational air access		May have foot tracks, bridges, road/vehicle tracks. May have legal restraints on public use, but generally available. Variable air access	Roads, off-road vehicles, foot tracks, horse trails. Aircraft use.	Roads throughout, defined walking and vehicle tracks
SOCIAL SETTING	Very low density use. Minimum impact practices. No, or at most, very brief inter-group contact. No visible or audible contact with motorised craft. Legal rights of use		Low to high use and inter-group contact. Density depends on degree of resource protection required. Minimum impact practices encouraged. Variable rights of use	Low to moderate use and inter-group contact. Some sharing of space and facilities. Few rights of public use.	High density use. Heavy social and technological interaction. Use actively encouraged. Variable legal rights
COMMERCIAL RECREATION	Very low density/negligible. Only under one-visit permits to avoid over-promotion and over-use; under the same physical limitations as other users ie no facilities, aircraft or vehicle access		Nil to moderately high intensity/highly variable. Activities and facilities excluded from some areas; otherwise under licence, subject to protection of environment and other users' rights	Generally low intensity. With land-holders, and official consents where required	High to very high intensity. No restraints, other than land ownership and planning controls; official consents on lands of the Crown
DEVELOPMENT & FACILITIES	None, except temporary facilities for management		Variable; depending on management priorities, or policies to maintain diversity of recreational opportunities	Some; confined to specific activity sites	Consideration developments; sophisticated facilities
MANAGERIAL SETTING	No discernible management presence. Pre-entry education. No overt promotion of use. Free-ranging, unconfined use		Management may be obvious; signs, rangers, but generally low key. Some user group conflicts. Zone may be subdivided in to different intensities of use and management	Informal use. No recreational management. User group conflicts	Obvious signs of use, control, and promotion. Emphasis on visitor services. Separation of activities within defined areas
ACTIVITIES	Mountaineering, ski mountaineering, cross country skiing, deer stalking, tramping, rafting without air access, fishing	As in wilderness	As in wilderness plus: primitive camping, walking, canoeing, rafting, sailing, fishing. Variable use of recreational aircraft	Heli-skiing, cross country and ski touring, tramping, walking, horse riding, fishing, game bird hunting, off-road vehicles, informal camping, picnicking, sailing, rafting, power boats, aircraft	Outdoor education and accommodation centres, camping grounds, picnic areas, ski fields, walkways, horse riding, off-road vehicle trails, power boating, sailing. May be constraints on recreational aircraft

SECTION 2-B

HOW TO ASSESS AND PROVIDE FOR FUTURE MANAGEMENT COSTS

1. Background

- 1.1 The Director-General of Conservation and the Minister of Conservation, in exercising their powers and duties under Parts 2 or 3 CPLA must consider the ecological sustainability and cost of the future management of land to be restored to the Crown as conservation area or reserve. Similarly, the Department may incur future management costs under the terms and conditions of conservation covenants which CCL proposes be entered into on behalf of the Minister of Conservation (see Section 1-A, para 7 of this Manual).
- 1.2 A number of officers of DOC (in accordance with the SOPs in this Manual) contribute to the systematic identification and recording of the consequences which may arise from particular tenure review proposals.
- 1.3 Their evaluations, relative to significant inherent values and public access, facilitate the CCL's task of determining whether or not particular designations are worthwhile in meeting the objects of Part 2 or Part 3 of the CPLA.
- 1.4

The purpose of this procedure is to outline the process, standards and accountabilities for staff undertaking assessment of the costs of future management of areas for which the department may/will have financial responsibility after a tenure review is completed.

2 Process

- 2.1 The process for this action is shown in the table below.

Stage	Who Does It	What Happens
1	HCTRM	Sends his/her draft CRR and PDR ¹ (see Section 2-A) to the Area Manager(s).

¹ The Conservation Resources Report and the Proposed Designations Report may have gone through some conservancy office vetting process, before this stage, as part of local practice

Stage	Who Does It	What Happens
2	Area Manager	<ul style="list-style-type: none"> • Prepares cost estimates and views on efficiency/ effectiveness aspects of the proposals in the draft PDR affecting the Area. • Sends estimates and views to HCTRM.
3	HCTRM	<ul style="list-style-type: none"> • Reviews proposals in the draft PDR (taking into account fiscal implications) and completes second draft of the report². • Consults within the relevant conservancy office on the proposals in the second draft of the report and the fiscal implications of future management. • Reviews proposals in the draft PDR, taking into account the views received, and finalises the report. • Records in data base costs associated with the proposals.
4	Agent	Consults the HCTRM over designations in the preliminary proposal to be put ³ (see para. 8 below).
5	HCTRM	Arranges with the AM(s) to revise the cost estimates (where necessary) as part of the consultation process (section 2-G)and changes data base.
6	Agent	Consults the HCTRM over designations in the substantive proposal ^{3&4} . (Section 2-G)
7	HCTRM	Arranges with the AM(s) to revise the cost estimates (where necessary) as part of the consultation process and changes data base.

Cont'd over

² This draft of the Proposed Designations Report will exclude proposals which would not be cost effective in the opinion of the HCTRM.

³ In the case of a Part 3 review the preliminary proposal is devised (not put) (s.86(4)) and the substantive proposal is adopted (not put) (s.89) but consultation is still required (s.85).

⁴ Stage 6 will only occur if the tenure review goes through to this point. If it does not, the cost data should be deleted from the data base (see para. 3.6) by the HCTRM.

Stage	Who Does It	What Happens
8	Agent	Informs HCTRM of acceptance of substantive proposal.
9	HCTRM	Briefs Area Manager(s) on the accepted proposals relevant to DOC.
10	Area Manager	Revises the cost estimate, in accordance with the accepted proposals, and provides revised data to the HCTRM.
11	HCTRM	When satisfied with the cost estimates, makes changes to the data base.
12	Agent	Sends the HCTRM the notices from the CCL following registration of the approved plan (s.64 or s.90(2)(c) CPLA).
13	HCTRM	Undertakes the processes in sections 2-H and 2-I of this Manual
14	Area Manager	Makes the usual bidding arrangements for funding of management of the land in accordance with business planning procedures.

3. Standards

- 3.1 The assessment by the **Area Manager** at Stage 2 is to cover the cost of core management activities (i.e., the unavoidable costs of conservation management) relevant to each of the proposals being considered. Priorities are to be established in accordance with current DOC strategies e.g. the Strategic Plan for Managing Invasive Weeds.
- 3.2 Estimates are to be based on the likely costs (of efficiently meeting the applicable QCM standards for relevant activities) on an annual basis, as a five-year forecast.
- 3.3 The potential relevant activities are in each case:
- landholder liaison – includes neighbour and public enquiries;
 - fence maintenance (where boundaries are to be fenced or are fenced);
 - track/access maintenance – foot/4WD tracks and ancillary facilities e.g., stiles, signs, markers etc., if appropriate;
 - animal pest control;
 - wild animal control;

- fire control (costs of maintaining fire breaks, unrecoverable F & RFA costs etc);
- weed control;
- monitoring (re-measurement only, not initial establishment);
- concession administration (arising out of tenure review); if not cost-recoverable from the concessionaire;
- other (e.g. unavoidable costs to prevent specific conservation features from permanent loss where they are under immediate threat);

3.4 Costs are to be based on hours (for staff time) and \$ (for outgoings).

3.5 Costs to be excluded are those that:

- can be cost-recovered
- are the responsibility of the concessionaire (concession) or covenantor (covenant) or grantor (easement);
- include the share of the adjoining owner (e.g., half share of boundary fence maintenance).

3.6 Costs are to be assessed, updated, and recorded for each individual proposal as presented at the various stages of the above process. Records are to be deleted by the **HCTRM** for abandoned proposals.

3.7 Stage 14 must be left by the **Area Manager** until the bidding round for the financial year in which the particular area or areas will be handed over (see Section 2-I of this Manual).

4. Legislation

4.1 This is not a statutory process although associated with action under Part 2 and Part 3 of the CPLA.

5. Delegations

5.1 This process does not involve the direct exercise of a statutory delegated authority.

5.2 The procedure is associated with the exercise of delegated authority (see Sections 2-C to 2-G of this Manual).

5.3 The **Area Manager** and the **HCTRM** concerned are responsible for meeting the standards set out above.

6. References

DOC strategies e.g. Department of Conservation Strategic Plan for Managing Invasive Weeds. October 1998.

7. Cross References

7.1 See other procedures in this manual, in particular Section 1-B, Sections 2-A or 3-E, Section 2-G and Section 2-I.

8. Implementation

8.1 The process is activated by the **HCTRM** each time a conservation resource report is prepared in accordance with sections 2-A or 3-E of this Manual.

8.2 The **RGM** (Southern) is responsible for setting up and **HCTRM** for maintaining, a “costs database” which meets the above standards. Part 2 and Part 3 reviews must be separated in this database, as Part 3 reviews are not covered by the Land Tenure Reform Account.

8.3 If the means is available for Area Managers to make a direct input of information into the database, that mechanism is to be preferred to paper reporting.

8.4 Cost-effectiveness, and sustainability, based on revision of the original estimate (where needed) is to be a factor taken into account by the **HCTRM** in formulating views to be submitted (in consultation) to the CCL (see Section 2-G of this Manual).

8.5 The **HCTRM** is accountable for ensuring (as a step in Stage 13) that sufficient notice is given to enable the **AM(s)** to take timely action at Stage 14 of the above process.

SECTION 2-C

HOW TO DEAL WITH CONSENT TO A CONCESSION IN REVIEWS UNDER PART 2 OF THE ACT

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SECTION 2-C

HOW TO DEAL WITH CONSENT TO A CONCESSION IN REVIEWS UNDER PART 2 OF THE ACT

1. Background

1.1 The CPLA (s.41) requires the CCL to have the provisional consent of the Minister of Conservation to the following “designations” (**in a preliminary proposal under Part 2**) being made subject to the granting of a concession:

- land to be restored to or retained in Crown control as conservation area or reserve (s.35)
- land to remain conservation area or reserve (s.37 or s.38)

NB. In the case of reviews under Part 3 of the Act there is no provision for concessions to be granted.

1.2 The CPLA (s.48) requires the CCL to have the prior written consent of the Minister of Conservation before including the above designations (subject to the granting of a concession¹) in a **substantive proposal**.

1.3.1 The CPLA has a range of concession provisions, which are based on those in the Conservation Act 1987.
(You will find “cf.” abbreviations in the relevant sections of the CPLA to compare the similar provisions in the 1987 Act.)

1.3.2 The CPLA provisions do not follow the same sequence as the provisions in the 1987 Act, and there are some wording and process differences.

1.3.3 Concession SOPs applicable to the Conservation Act and Reserves Act will not be directly applicable to the CPLA (see para 3.4.1 below).

1.4

The purpose of this procedure is to outline the process, standards, and accountabilities for staff involved in consents relating to concessions, in tenure reviews under Part 2 CPLA.

2. Process

2.1 The process for consents to designations, in a tenure review, involving concessions is shown in this table.

Cont'd over

1 Concessions means -

- (a) Concession granted directly under Part IIIB of the Conservation Act 1987; or
- (b) Concession granted under Part IIIB of the Conservation Act by virtue of s.59A of the Reserves Act 1977; or
- (c) Lease under s.73 of the Reserves Act, granted by virtue of ss.(3A)(b) of that section, under Part IIIB of the Conservation Act. [Only applies to an existing reserve if it has no administering body (s.38(2) CPLA) and only applies to a reserve or proposed reserve for recreation purposes (farming, grazing or afforestation use).]

Stage	Who Does It	What Happens
1	Agent ² (see para. 8.4)	<ul style="list-style-type: none"> • Consults affected parties (including the HCTRM)³ in the development of a draft preliminary proposal involving concession(s) [see Section 2-G of this Manual] • Seeks consent (s.41(1)(a) or s.41(1)(b) CPLA) [after CCL has accepted the draft preliminary proposal]
2	CRM (see para. 3.2)	Makes recommendation(s) to the Delegatee in the appropriate conservancy(s) on each concession in the draft preliminary proposal.
3	Delegatee (see para. 8.2)	Makes a decision on the recommendation(s)
4	HCTRM	Conveys a copy of the report and decision to the Agent ⁴
5	Agent	<ul style="list-style-type: none"> • Consults affected parties (including the HCTRM) in the development of a draft substantive proposal involving concession(s) [see Section 2-G of the Manual] • Seeks consent (s.48) and provides information from public process (s.45) and, any additional information that is required (s.50).
6	CRM (see para. 3.3)	Makes recommendation(s) to the Delegatee in the appropriate conservancy(s) on each concession in the draft substantive proposal.
7	Delegatee	Makes a decision on the recommendation(s) ⁴
8	HCTRM	Conveys a copy of the report and decision to the Agent

3. Standards

3.1 Stage 2 and 3 (Preliminary Proposal)

3.1.1 Provisional consent must not be given to a designation in a preliminary proposal unless the **Delegatee** is satisfied that it is reasonably likely that consent would be given to a substantive proposal providing for the concession [s.41(2) CPLA].

2 Agent means the contractor acting for the Commissioner of Crown Lands.

- 3 HCTRM means the High Country Tenure Review Manager at either Christchurch or Dunedin.
- 4 If a consent is not given at Stage 4 (to a concession) the CCL may ask for a review of the decision. If provisional consent is declined the process will stop at Stage 4.

3.1.2 As a consequence of the above standard, the **CRM** (in association with the HCTRM) and the **Delegatee** must meet all the following statutory standards at Stages 2 and 3:

- be able to provide to, or compile with, the Agent the information specified in s.39 CPLA for each concession, as an attachment to any provisional consent.
- be satisfied with the information provided by, or compiled with, the Agent (s.50 and s.51(3)(a) CPLA) for the consent request.
- not consent to an easement if another type of concession would be more appropriate (s.49).
- prefer a marginal strip manager appointment to a concession over a marginal strip (s.52)
- not consent to a concession over a marginal strip for (or incidental to) farming or forestry purposes (s.52)
- the limitations on granting a lease over a marginal strip (s.52)
- the limitations on the length of term of a concession (s.55)
- refuse consent unless satisfied on the matters specified in s.51, s.53, s.54, CPLA or (if a lease under s.73 Reserves Act) s.58(2) CPLA. (see Appendix B to this section).

3.2. Stages 6 & 7 (Substantive Proposal)

3.2.1 At these stages (if there is any variation, in the substantive concession proposal, from the preliminary concession proposal) the same standards apply as set out in 3.2.2 above, except for the first bullet point.

3.3 General Concession Standards

3.3.1 To the extent that they are not inconsistent with this SOP (see para. 4.2 below) any standards in general Concession SOP(s) apply to the giving of consent, as if it was an approval under Part IIIB of the Conservation Act. Standard concession documents are to be used.

3.3.2 Additional guidelines associated with grazing concessions are set out in Appendix A to this procedure. However, this does not limit other types of concessions being granted where appropriate and consistent with statutory requirements.

3.3.3 If a concession proposal arises out of a review under Part 3 CPLA it must be treated separately as a normal concession application under the Reserves Act or Conservation Act, and must not be dealt with under the CPLA.

3.4 Cost Recovery

3.4.1 The costs of consent are met through the appropriation for tenure review participation as a charge against the Land Tenure Reform Account and not by the prospective concessionaire.

3.4.2 The concession document should provide for any future charges associated with the terms and conditions of the concession. To the extent that they are not inconsistent with this SOP, any standard in general SOP(s) on cost recovery from the concessionaire apply to such terms and conditions.

3.5 Consent format

3.5.1 The statement of consent (if given) must be in writing. It must include the terms and conditions on which the consent is given (e.g. see first bullet point of para. 3.2.2).

3.5.2 See also para. 8.2 below.

3.6 Submission formats

3.6.1 The submission report formats to be used for consent applications are shown in Appendices C and D in this Section.

4. Legislation

4.1 Sections 41 and 48 CPLA.

4.2 Note that s.17Q(2), 17R to 17Z and 17ZJ of the Conservation Act do not apply to the grant of concessions under the CPLA. Corresponding provisions are in the CPLA. However, sections 17O to 17Q(1) and (3) and 17ZA to 17ZI Conservation Act do apply except s.17X(c) (s.53 and s.70 CPLA).

4.3 The above exemptions are provided for in sections 66, 68, 70 and 72 of the CPLA

4.4 Section 17ZD(1) of the Conservation Act applies as if the reference in it to any applicant for a concession who has been granted a concession were a reference to the person concerned (s.66(c), s.68(d), s.70(c), and s.72(c) CPLA).

4.5 In the case of a lease under s.73 Reserves Act (recreation reserves only) the Minister does not have to comply with s.73(4) of that Act.

5. Delegation

- 5.1 The Minister has delegated the consent authority.
- 5.2 The **CRM**, **HCTRM** and the **Delegatee** are accountable for meeting the standards set in this Procedure relevant to their responsibilities.
- 5.3 The general conditions and provisions of the delegation apply.

6. References

- McKendry, P J and O’Conor, K F 1990. The Ecology of Tussock Grasslands for Production and Protection. Unpublished report for the Department of Conservation.
- Parliamentary Commissioner for the Environment 1991. Sustainable Land Use for the Dry Tussock Grasslands in the South Island: Final Report of Review of the Rabbit Land Management Programme.
- Department of Conservation. Draft Grazing Policy (Unpublished).
- PLMT papers on file PAS 0042.

7. Cross References

- 7.1 See other procedures in this Manual and SOP VC1013 on processing concession applications (but note para. 1.3.3 and 3.4 above).
- 7.2 See also the SOP’s on Cost Recovery (VC1011) and Setting Concession Fees (VC1012).

8. Implementation

- 8.1 This procedure is to be implemented by **HCTRMS** as part of the overall tenure review process.
- 8.2 If the concession is to be over freehold land, which is to be restored to the Crown, then the following additional implementation steps are required:
 - the terms and conditions of the concession must be set out in full in the accepted proposal which is registered by the CCL (s.64). [This creates an obligation to enter into the concession in that form.]
 - the concession document should be executed at the time of transfer of the freehold land to the Crown.

- 8.3 The **HCTRM** is to draw the requirements in para. 8.2 to the attention of the Agent when any consent affecting freehold land is given.
- 8.4 Note that if the proposed concession area is in the Ngai Tahu Rohe and if the term (including renewals) is or could be for 50 years or longer then Part 9 of the Ngai Tahu Claims Settlement Act 1998 applies in terms of a Right of First Refusal. The **HCTRM**, when consulted about such a proposal at Stage 1, must draw the requirement to the attention of the Agent and request that the CCL give notice to Te Runanga o Ngai Tahu. The HCTRM is to copy the correspondence to the CRM.

APPENDICES

APPENDIX A: Guidelines Associated with Licence/Permit Concessions for a Grazing Activity

1. The Department will apply the following **principles** when considering continued grazing, or retirement from grazing, of areas to be allocated to the Department of Conservation:
 - 1.1 Grazing may be an appropriate concession activity in the following circumstances:
 - (a) the effects of the activity (and of any methods applied to avoid, remedy, or mitigate the adverse affects) on any significant inherent value are able to be assessed;
 - (b) there are adequate methods for remedying, avoiding, or mitigating any adverse effects of the activity on any significant inherent value;
 - (c) the activity is not contrary to the purposes for which the land is to be held.
 - (d) the considerations in s.51 CPLA have been satisfied.
 - 1.2 The rental, fee or royalty for the concession should generally be fixed at the market value (but see s.54 CPLA).
 - 1.3 The concessionaire should carry all the responsibilities normally placed on the legal occupier of land (e.g. rates, fencing, weed control, payment of rent).
 - 1.4 The terms and conditions of the concession must allow the unfettered application of s.17ZC Conservation Act in relation to changing conditions.
 - 1.5 The public is to have the same rights of access (wander at will) over land held under a permit or licence as they would have if the land was not the subject of a concession.
[It should be noted that those public rights can be restricted or limited in accordance with the Act concerned.]

2 The Department will also apply the following **guidelines**:

2.1 Grazing Strategies

- 2.1.1 The relevance and utility of the Concessionaire's proposed grazing strategy must be considered in the landscape system to which it is to be applied [see first reference in para.6 above].

2.1.2 Such strategies must take into account among other things:

- (i) the different grazing impacts of different types of animals;
- (ii) the effects of grazing on reasonable public access for established and likely future recreational uses;
- (iii) the protection of pockets of fragile natural areas (e.g. fish spawning areas, wetlands, forest margins);
- (iv) controls on adverse change to the land (e.g. over-sowing, topdressing, burning).

2.2 Stock Limitations

2.2.1 Enforceable stock limits on an annual basis will be set, with the right of the Department to reduce numbers or change the stock type or destock part of the land, subject to compensation or rental adjustment where consistent with s.17ZC Conservation Act;

2.2.2 Stock limits will also have a seasonal requirement, when necessary, to achieve the principles listed in the box above.

2.3 Management Prescription

2.3.1 [If the concession is for term exceeding 10 years, including rights of renewal]. A management prescription in the concession conditions will provide, over the full term: the specific goals of management of the land consistent with the nature of the concession activity (covering vegetation, landscape, historic, public recreation, soil and water); a description of how the goals are to be met; a detailed description of the type and condition of the vegetation at the commencement; a description of the monitoring programme (of activity effects) to be carried out (for vegetation and historic features); a specification concerning grazing systems, including identification of vegetation trends and how that will affect the grazing systems.

2.4 Concession Boundaries

2.4.1 The physical boundaries for a concession area will be set by effects-based considerations prescribed for concessions in the CPLA. For example, they need to be chosen so that the movement of stock onto adjoining conservation estate areas is prevented by natural barriers, or by fencing which does not detract from significant landscape and habitat values, and public access opportunities.

2.5 Effect on Public Access

2.5.1 Public actions, and the control of animals (e.g. dogs) in concessions areas are prohibited, restricted, or controlled only in accordance with the relevant statutory provision [generally by the regulation or offence requirements of the Conservation Act or the Reserves Act] where not inconsistent with CMP or CMS provisions or statutory rights.

2.6 Administrative Considerations

2.6.1 Concession contracts will be based on DOC models and provide for terms and conditions which apply the principles specified in para.1 above.

2.6.2 A concession will not be registerable unless it is over the whole of a surveyed allotment of land. Registration after completion of the tenure review will only take place at the request and cost of the tenant [e.g. s.17ZA Conservation Act].

2.6.3 A five year permit (or one for a lesser term) is preferred unless a longer term licence is essential to enable the grazing activity to be carried on (such as to achieve adequate investment and maintenance - see s.55 CPLA). Any intention to retire land from grazing, after a period, is to be stated when a concession is first entered into.

2.6.4 Any other relevant statutory requirements are to be complied with.

APPENDIX B: A checklist of information requirements associated with consent to concession designations

1. This checklist is designed to assist the HCTRM at Stage 3 of the process set out on page 2-A-1 of this Manual, if proposing a concession.
2. It can also be used with this procedure (2-C) if the proposal has not been dealt with in detail at an earlier time.
3. These are the information requirements of **s.39 and s.54 CPLA.**
 - Type of concession (lease, licence, permit or easement.¹)
 - Term (reasons for proposed duration) (see s.55)
 - Activity(s) proposed to be carried out
 - Proposed grantee (and ability to carry out activity(s))
 - Places where each proposed activity is to be carried out and status/proposed status (purpose) of each place.
 - Potential effects and actions proposed (if any) to avoid, remedy, or mitigate any adverse effects (see also s.51(3)(a)).
 - Rent, fees, royalties and review periods (s.54)
4. These are the following **additional information requirements if the listed circumstance applies.**

Circumstance	Information - Reason why ...	Section
Proposal to build structure or facility	any of the activities cannot be undertaken in another location (see Act)	51(5)
Proposal to extend existing structure or facility	existing structure or facility is deficient	51(5)
Proposed lease or licence includes an area or areas around any structure or facility	it is necessary to include the area or areas	51(6)
Proposed lease	exclusive possession is warranted	51(7)
Proposed concession over marginal strip	it is more appropriate than an agreement or arrangement under s.24H Conservation Act	52

Cont'd over

¹ An easement may not be granted if a lease, licence or permit would be more appropriate (s.49).

Circumstance	Information - Reason why ...	Section
Rent fee or royalty proposed is not at market value	less than market value	54
Proposed grant of a s.73 Reserves Act lease over a recreation reserve	<ul style="list-style-type: none"> • the land is not for the time being required for the purpose of the reserve; or • it is in the public interest or • it is desirable to farm, graze or afforest the reserve. 	58(2)

5. **There is an information requirement in s.53 CPLA** for the consent of the Minister to specify conditions (where applicable) relevant to:

- the activity and places where it may be carried out
- payment of compensation for adverse effects (unless provided for in setting of rent)
- provision by concessionaire of bonds
- waiver or reduction of any rent, compensation or bond
- restoration of the site and removal of any structure or facility at the end of the term
- periodic reviews of terms and conditions
- transfer, sublease, sub-licence or assignment
- payment of any fees (but see para 3.5 of this section).

See also s.17X Conservation Act (except para.(c)).



APPENDIX C: Consent To Preliminary Proposal

..... Conservancy

[Option 1]

Report to Minister of Conservation (Delegated to Conservator) on Application by the Commissioner of Crown Lands for a Provisional Consent to Designate Any Land to Which section 35 Crown Pastoral Land Act 1998 applies as Land to be Restored to or Retained in Crown Control as a [*Conservation Area/Reserve*] Subject to the Granting of a Concession.

[Option 2]

... Designate Any [*Conservation Area/Reserve*] as Land to remain [*Conservation Area/Reserve*] Subject to the Granting of a Concession.

1. Application

- 1.1 The application has arisen as a result of the tenure review of the [name] pastoral lease contained in certificate of title Volume folio ... under Part 2 CPLA.
- 1.2 Name of person to be specified in the designation:
[enter name of person or company]
- 1.3 Type of concession to be specified in the designation – s.39(d):
[enter *lease/licence/permit/easement* as appropriate]
- 1.4 The purpose [*Proposed purpose*] of the [*conservation area/reserve*] is – s.39(b):
[enter purpose]

2. Information About the Designation¹ - section 39(a)

- 2.1 Description of the Proposed Activity – section 39(a).
[describe each activity to be carried out under the proposed concession]

Cont'd over

¹ If sufficient information is not available to satisfy the Minister, in terms of s.51, that it is both appropriate to grant the concession and lawful to grant it then provisional consent may be refused.

Relevant information that may be withheld from any person in accordance with the Official Information Act 1982 or the Privacy Act 1993 will be had regard to (with other information) in the making of a consent decision (s.51(2)(f)).

- 2.2 Description of places - section 39(b).
[identify the places where each activity is proposed to be carried out. This may be done in part through attaching a copy of the plan illustrating the tenure review proposal.]
- 2.3 Description of potential effects - section 39(c).
[describe the potential effects of each proposed activity and any actions the specified person proposes to take to avoid, remedy or mitigate any adverse effects. An EIA – with audit or review - may be warranted in some cases - s.51(2)(d)]
- 2.4 Proposed duration of the concession - section 39(e).
[state the proposed duration and the reasons supporting it]
- 2.5 Information about proposed grantee – section 39(f)
[include information relevant to the specified person’s ability to carry out each proposed activity and any other relevant information]

3. Other Matters for Consideration – sections 51 to 55

3.1 Checklist of the proposal (considerations - all concessions)	Yes	No
• Complies and consistent with the relevant provisions of Act		
• Complies and consistent with CMS or CMP ²		
• Information available is sufficient to assess effect of activities		
• Information available is sufficient to assess the affects of any proposed methods to avoid, remedy or mitigate the adverse effects of any activity.		
• There are adequate and reasonable methods for remedying, avoiding, or mitigating the adverse effects of an activity proposed to be carried on, or facility proposed.		
• Consistent with the purposes for which the land concerned is [to be] held.		
• Proposed conditions are appropriate for any proposed activity or facility (including but not limited to any matters in s.17X but excluding s.17X(c) Conservation Act) – see draft concession document attached.		
Cont'd over		

² Only applicable to an existing conservation area or a reserve without an administering body. If not one of these then put “N.A.” in the “Yes” box.

Checklist of the proposal (considerations - all concessions)	Yes	No
• Rent, fees and royalties proposed are in accordance with s.54 CPLA – see draft concession document attached.		
• The term proposed is consistent with s.55 CPLA – see draft concession document attached.		

[Add appropriate items if and when any of the following considerations apply]

3.2 Checklist of the proposal (additional considerations)	Yes	No
(i) <u>If</u> the intention is to build a structure or facility (s.51)(5)(a)) - Activities could reasonably be undertaken in another location		
(ii) <u>If</u> the intention is to extend or add to an existing structure or facility (s.51(5)(b)) – Activities could reasonably use an existing structure or facility without an extension or addition.		
(iii) <u>If</u> the concession type is a lease or licence, contains 1 or more fixed structures and facilities (not being any track or road unless an integral part of the larger structure or facility) (s.51(6)(a)) <u>and</u> it includes an area or areas around any structure or facility (s.51(6)(b)) – (a) Inclusion of the surrounds is essential to enable any activity proposed to be carried on under the concession. (b) Inclusion of the surrounds is necessary either: (bb) - for the purposes of the safety or security of the site, structure or facility; or (bc) - because it is an integral part of any activity proposed to be carried on.		
(iv) <u>If</u> the concession type is a lease (s.51(7)) – Exclusive possession of the land concerned is necessary for: (a) - the protection of public safety; or (b) - the protection of the physical security of any activity proposed to be carried on; or (c) - the competent operation of any activity to be carried on (including the necessity for the activity to achieve adequate investment and maintenance) – s.51(8)).		

Cont'd over

<p>(v) <u>If</u> the concession is over a marginal strip or proposed marginal strip (s.52) –</p> <p>(a) It is more appropriate to enter into an agreement or arrangement under s.24H Conservation Act;</p> <p>(b) Would authorise the owner of adjoining land to use the marginal strip for farming or forestry purposes or any associated or incidental purpose.</p>		
<p>(vi) <u>If</u> the type of concession is to be a lease over a marginal strip or proposal marginal strip (s.52) –</p> <p>(c) Formalises an occupation of the land that existed before 10 April 1990; and</p> <p>(cc) Would be permitted by Part IIIB Conservation Act; and</p> <p>(cd) Activities require the use of the land and the adjacent water; and</p> <p>(cc) Land and facilities are essential to carrying out of activities.</p>		

Comment: [Include any information relevant to the above checklist assessment, which you consider necessary to explain your answers.]

4. Other relevant considerations (not set out in the Act)

4.1 [State]

5. Consultation

5.1 The CCL has consulted with the HCTRM (under delegated authority from the DGC) in devising the preliminary proposal to be put to the holder. The HCTRM [insert a summary of the advice given].

5.2 The CCL has consulted with the holder of the pastoral lease about the draft preliminary proposal.

6. Conclusion

[Draw together the different threads into a narrative statement making a judgement on the application].

Cont'd over

7. CCL's Comments (if recommendation is to refuse)

The CCL was sent the draft report for comment on
Comments were received on The comments and the CRM's response are set out in an attachment.

8. Recommendation

8.1 You note that you must not consent provisionally to a designation in a preliminary proposal unless satisfied that it is reasonably likely that the Minister would consent to a substantive proposal containing the designation (s.41(2)).

8.2 [Option 1]

That pursuant to section 41(a) CPLA you give written provisional consent to designate the above described land as land to be restored to or retained in Crown control as a [*conservation area/reserve*] subject to the granting of a concession on the attached terms and conditions.

[Option 2]

That pursuant to section 41(b) CPLA you give written provisional consent to designate any [*conservation area/reserve*] to remain [*conservation area/reserve*] subject to the granting of a concession on the attached terms and conditions.

[Option 3]

That pursuant to section 41[(a) or (b)] CPLA you refuse consent to the proposed designation for the following reason(s)³:

Signed:

³ Grounds for refusal would arise from:
(i) a "no" answer to any of the bullet point items in the 3.1 checklist.
(ii) If relevant – (the 3.2 checklist):
- a "yes" answer to item (i).
- a "yes" answer to item (ii).
- a "no" answer to (iii) (a) or to both (bb) & (bc)
- a "no" answer to all items in (iv) [ok if only one gets a "yes"]
- a "yes" answer to any item in (v)
- a "no" answer to any item in (vi)

Refusal is mandatory if the above answers apply.

Community Relations Officer (Concessions or SLM)

Date:

Cont'd over

Conservancy Solicitor comments:

Signed:Date:

HCTRM comments:

Signed:Date:

9. Decision

9.1 Recommendation Approved/Declined.

Conservator Conservancy

Date: / /

APPENDIX D: Consent To Substantive Proposal

.....Conservancy

[Option 1]

Report to Minister of Conservation (Delegated to Conservator) on Application by the Commissioner of Crown Lands for a Consent to Designate Any Reviewable Land as Land to be Restored to or Retained in Crown Control as a [*Conservation Area/Reserve*] Subject to the Granting of a Concession.

[Option 2]

... Designate any [*Conservation Area/Reserve*] as Land to remain [*Conservation Area/Reserve*] Subject to the Granting of a Concession.

1. Introduction

1.1 On / / you gave provisional consent to a concession designation in the preliminary proposal for the review of the Pastoral Lease. A copy of that decision is attached.

2. Matters of Relevance

2.1 [Outline any new information which may have become available since the provisional consent was given and state whether or not (and if so, how) it changes the answers to the checklist in the report on the provisional consent. Take into account information provided by the CCL – see next heading.]

2.2 The CCL has consulted the HCTRM (under delegated authority from the DGC) in developing the substantive proposal. The HCTRM [summarise advice given at that stage.]

3. Information Provided by CCL

3.1 Information provided by the CCL under the provisions of s.45 CPLA is tagged for your reference on file It consists of:

- copies of all written submissions on the preliminary proposal for this tenure review.
- a summary of all matters raised by an iwi authority during consultation on the preliminary proposal.
- a statement as to the extent to which objections to and comments on the proposal raised during the consultation have been allowed or accepted, or disallowed or not accepted by the CCL. [Also note para. 8.4 of this Section of the Manual as to Ngai Tahu.]
- A statement as to the extent to which objections to and comments on the proposal contained in the written submissions have been allowed or accepted, or disallowed or not accepted.

4. Conclusions

- 4.1 [Indicate whether or not any changes proposed to be made by the CCL to the original designation are consistent with the requirements of the Act. If not, then detail here the reasons why they do not comply.]

5. CCL's comments (if recommendation is to refuse)

- 5.1 [If the draft report does not recommend the giving of consent then obtain and attach the CCL's comments with the CRM's response.]

6. Recommendation

- 6.1 That pursuant to Section 48[(1)/(2)] CPLA it is recommended that you:

- (a) Note that you gave provisional consent on the basis that it was reasonably likely that the Minister would consent to a substantive proposal containing the designation (s.41(2)CPLA).

- (b) [Option 1]

Give written consent to the proposed designation in the substantive proposal on the [amended] terms and conditions attached.

[Option 2]

Refuse consent to the proposed designation in the substantive proposal for the following reasons.⁴

Signed:

Community Relations Officer (Concessions or SLM)

Conservancy Solicitor comments:

Signed:Date:

HCTRM comments:

Signed:Date:

7. Decision

7.1 Recommendation Approved/Declined.

Conservator Conservancy

Date: / /

⁴ Itemise, based on paras. 2 and 4 of the report.

SECTION 2-D

HOW TO DEAL WITH CONSENTS TO PROTECTIVE MECHANISMS

1. Background

1.1 Part 2 CPLA Tenure Reviews

1.1.1 The CPLA requires (s.41) the CCL to have the provisional consent of the Minister of Conservation to the “designation” of any land in a **preliminary proposal** as land to be disposed of to a specified person, or that may be disposed of to any person, subject to the creation of a “protective mechanism.”

1.1.2 The CPLA (s.59) requires the CCL to have the prior consent of the Minister of Conservation to the designation of any land in a **substantive proposal** as land to be disposed of subject to the creation of:

- (i) an **easement** under s.12 Reserves Act, s.7(2) Conservation Act, or s.8 NZ Walkways Act; or
- (ii) a **covenant** under s.77 Reserves Act, or s.27 Conservation Act [s.59 CPLA]

Existing easements may also continue in force s.36(3)(c) CPLA.

1.1.3 In the case of Part 2 reviews the provision for designation of sustainable management covenants is in s.36(3)(a) and other protective mechanisms in s.40(1) of the Act.

1.2 Part 3 CPLA Reviews

1.2.1 The CPLA (s.87) requires the CCL to have the prior written provisional consent of the Minister of Conservation to the designation of any land in a **preliminary proposal** as land to be disposed of subject to a protective mechanism.

1.2.2 The CPLA (s.91) requires the CCL to have the prior consent of the Minister of conservation to the designation of any land in a **substantive proposal** as land to be disposed of subject to a protective mechanism (all types).

1.2.3 In the case of Part 3 reviews the provision for designation of sustainable management covenants is in s.86(6)(a) and for other protective mechanisms in s.88(a) of the Act. An existing easement may also continue in force s.86(6)(b) of the Act.

1.3 In carrying out this procedure the Department may be dealing with consents to covenants to be entered into by **other organisations**, as well as the Minister of Conservation, namely:

- The Queen Elizabeth the Second National Trust (open space covenants) - preliminary proposal only, if it is a Part 2 review.
- NZ Historic Places Trust (Pouhere Taonga) (heritage covenants) - preliminary proposal only, if it is a Part 2 review.
- NZ Fish and Game Council (a covenanting body approved by the Minister of Conservation under s.77(1) Reserves Act)
- Local authorities (empowered by s.77(1) Reserves Act)
- Other bodies (approved from time to time by the Minister of Conservation under s.77(1) Reserves Act)
- CCL (sustainable management covenants under s.97(1) CPLA) – preliminary proposal only, if it is a Part 2 review.

1.4 The purpose of this procedure is to outline the process, standards, guidelines and accountabilities for staff involved in consents to protective mechanisms under the CPLA.

2. Process

2.1 The process for consents to protective mechanisms is shown in this table.

Stage	Who Does It	What Happens
1	Agent	<ul style="list-style-type: none"> • Consults affected parties (including HCTRM) in the development of a draft preliminary proposal where a designation or designations will involve protective mechanisms (see Section 2-G for this process). • Seeks consent (s.41(1)(h) or s.87 CPLA). [after CCL has accepted the draft preliminary proposal]
2	CRM	Makes recommendation(s) to the Delegatee in the appropriate conservancy(s) on each mechanism in the draft preliminary proposal.

3	Delegatee	Makes a decision on the recommendation(s). Cont'd over
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Stage	Who Does It	What Happens
4	HCTRM	Conveys a copy of the report and decision to the Agent. ¹
5	Agent	<ul style="list-style-type: none"> • Consults affected parties (including HCTRM) in the development of a draft substantive proposal where designation or designation(s) will involve protective mechanism(s) (see Section 2-G). • Seeks consent (s.59 or s.91 CPLA)² and provides information (s.45 or s.88(d) CPLA).
6	CRM	Makes recommendation(s) to the Delegatee in the appropriate conservancy(s) on each mechanism in the draft substantive proposal where consent is required.
7	Delegatee	Makes a decision on the recommendation(s).
8	HCTRM	Conveys a copy of the report and decision to the Agent. ¹

2.2 In seeking consent to a covenant or easement (Stage 1) where a body other than the Minister of Conservation will be the beneficiary of the protective mechanism, the Agent is expected to provide information to the HCTRM on the proposed terms and conditions (see also paras. 3.4 and 3.5 below).

3. Standards

3.1 Provisional consent must not be given to a designation in a preliminary proposal unless the **Delegatee** is satisfied that it is reasonably likely that consent would be given to a substantive proposal containing the designation [s.41(2) or s.87(2) CPLA].

3.2 A protective mechanism (s.24 or s.83) must:

- promote management of the land in an ecologically sustainable way; and (in the case of covenants & easements, in reviews under Part 2 of the Act):
- be preferable to restoration of the land concerned to full Crown ownership and control; and:

¹ If consent is not given at Stage 3 or 7 (to a designation with a protective mechanism) the CCL may ask for a review of the decision. Unless consent is given the designation with a protective mechanism will drop out of the preliminary or substantive proposal put to the holder or holders (s.34 or s.46 CPLA). Proceed to Stage 5 only if one or more designations with a protective mechanism is consented to provisionally.

² Not required except for protective mechanisms listed in para. 1.2 above.

- enable the adequate protection of significant inherent values; or (in the case of easements):
 - adequately secure public access and enjoyment.
- 3.3 The type of protective mechanism must be the one appropriate (on the merits of the case) to meet these standards. The table in Appendix 1 will help the **CRM** and **Delegatee** select the correct type of covenant to protect significant inherent values.
- 3.4 The statement of consent (if given) by the **Delegatee** must be in writing. It must include the terms and conditions on which the consent is given.
- 3.5 If the Minister of Conservation is to be the beneficiary of the protective mechanism (and consent is given) the Agent is to be provided by the **HCTRM**:
- at Stage 4 with all the terms and conditions which would be included in the protective mechanism.
 - at Stage 8 with a draft document in the form in which the covenant or easement will be signed (if the substantive proposal is accepted) when a land appellation is available (see Appendices in Part 5 of this Manual).

These documents will be attached to the written consent.

- 3.6 If the Minister of Conservation is proposed to be the covenantee the **CRM** and the **Delegatee** are to have regard to the Chief Executive's responsibilities under s.32 State Sector Act 1988 and the Public Finance Act 1989 [see Sections 1-A and 2-B] in considering the terms and conditions of the covenant.

4. Guidelines

- 4.1 There are guidelines for securing public access in Procedure 2-A, Appendix 5. Generally, a contractual right of public use of a covenant area (where the Minister of Conservation is the covenantee) will be included as a covenant condition where that is necessary for its enjoyment, and it is justified on a cost-benefit basis (but see Appendix 1 on pg. 2-D-6).
- 4.2 Covenants should be consented to sparingly, and only if the covenant could be helpful in securing beneficial outcomes to tenure review for all stakeholders.
- 4.3 Covenants may meet the standards set out in para. 3.2 and 3.3 above when proposed owners, and subsequent ones, need to be bound by management conditions which cannot otherwise be enforced, and the proposed covenant area is:

- (i) surrounded by fully developed land, or land to be fully developed, for economic use and needs little conservation or visitor management to preserve its values or allow public enjoyment;
- (ii) a small accessible area which provides recreational opportunities of interest to the public, but which does not need to be owned by the Crown.
- (iii) protects other values that contribute to public enjoyment (e.g. human-induced landscape with a low indigenous component).

Note: Covenant conditions for landscape protection may typically include - no plantation forestry, discrete siting of buildings, no bulldozed fence lines, no further subdivision of existing blocks.

4.4 Existing covenants that are interests in land, and registered against a pastoral lease or pastoral occupation licence, will be extinguished over land restored to Crown ownership as a conservation area or reserve (s65(1)(e) CPLA).

5. Legislation

5.1 Sections 41, 45, 59, 87, and 91 CPLA.

6. Delegation

6.1 The Minister has delegated the consent authority.

6.2 The **CRM**, **HCTRM** and the **Delegatee** (in association with Statutory Land Management staff) are accountable for meeting the standards set in this Procedure, and applying the guidelines on the merits of each case, where consent is applied for by the CCL's Agent.

6.3 The general conditions and provisions of the delegation apply.

7. References

7.1 Crown Pastoral Lands: Proposal to Amend the Land Act 1948. Minister of Lands. February 1995.

8. Cross References

8.1 See the other procedures in this Manual and any related general SOPs on covenants and easements.

9. Implementation

9.1 This procedure is to be implemented as part of the overall tenure review process.

9.2 The costs of consent are met through the appropriation for tenure review participation as a charge against the Land Tenure Reform Account.

- 9.3 The existence of an easement registered against the existing title of land included in tenure review will lead to additional considerations in the above process (eg s.36 CPLA).
- 9.4 The format of submissions for consents is shown in Appendices 2 & 3 of this Section.

APPENDIX 1

COMPARISON OF STATUTORY COVENANTS					
Type	Parties: Owner and	Purposes	Right of Public Use⁴	Term	Act Offence Provisions Apply⁵
Conservation	Minister of Conservation or local authority or other body approved by Minister.	Reserves Act - preserve the natural environment, or landscape amenity, or wildlife or freshwater-life or marine-life habitat, or historical value.	Depends on the conditions of the covenant.	In perpetuity or any specific term.	All Reserves Act covenants.
	Minister of Conservation only	Conservation Act - preserve and protect 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 further generation.	”	”	None
Heritage	NZ Historic Places Trust	Protect, conserve, and maintain any historic places, historic area, wahi tapu or wahi tapu area.	Depends on the condition of the covenant.	In perpetuity or for any specific term or on the happening of a specified event or events.	All covenants - covering destruction, damage, or modification.
Open Space	QEII National Trust	Maintain any area of land or body of water that serves to preserve or facilitate the preservation of any landscape of aesthetic, cultural, recreational, scenic, scientific or social interest or value.	Depends on the condition of the covenant.	In perpetuity or any specific term.	All covenants

⁴ A covenant under the Reserves Act – As a matter of contract there are probably no limits to what can be agreed upon between the parties. However, if the scope of the agreement goes beyond what is contemplated by s.77 there may be doubts about its registerability under the L.T. Act and it may be impossible to apply the offence provisions for matters which are beyond the scope of s.77. Generally providing for the public to enjoy the covenant area is not required by the purposes of s.77. A right of access across the covenant area to other land has no connection with the purposes of s.77.

A covenant under s.27 Conservation Act – As a covenant purpose may be “appreciation and recreational enjoyment of the land” the above limitations do not apply. [See Ho file LEG 0004 of 13.2.97 and 24.2.97].

⁵ Where offence provisions apply the owner may be exempted by the covenant agreement from specified provisions.

APPENDIX 2 CONSENT TO PRELIMINARY PROPOSAL

..... Conservancy

Report to the Minister of Conservation (Delegated to Conservator) on an Application by the Commissioner of Crown Lands for a Provisional Consent to Designate any Land to which s.35 CPLA Applies as Land to be Disposed of to [a Specified Person/Any Person] Subject to the Creation of a Protective Mechanism.

1. Protective Mechanism Proposal

- 1.1 The designation is proposed in the Part ... CPLA review of ...[name].....lease contained in certificate of title Volume folio
- 1.2 Type of mechanism: [The options are:
- (i) easement under s.12 Reserves Act (for public access)
 - (ii) easement under s.7(2) Conservation Act (for public access)
 - (iii) easement under s.8 NZ Walkways Act (for public access)
 - (iv) covenant under s.22 QEII National Trust Act (open space)
 - (v) covenant under s.77 Reserves Act (see Appendix 1 - specify body involved if not MOC)
 - (vi) covenant under s.27 Conservation Act (see Appendix 1)
 - (vii) covenant under s.6 Historic Places Act (see appendix 1)
 - (viii) sustainable management covenant under s.97(1) CPLA]
- 1.3 The CCL's request for consent (through the Agent) was made on / /
- 1.4 See attached plan showing the area involved in the proposed designation in relation to the over all tenure review.

2. Terms and Conditions

2.1 The proposed [land owner/lessee] is: [name if specified person or otherwise put "NA"]

2.2 [Option 1 – where the MoC will be the covenantee/grantee of the mechanism]

The terms and conditions will be the same as the model [covenant or easement] in Appendix [2or 3] in Part 5 of this Manual but with the following variations: [detail and justify]

[Option 2 – in other cases]

The terms and conditions of the covenant are set out in the attached proposal provided by [enter name of proposed covenantee].

2.3 The purpose of the covenant is

3. Significant Inherent Values etc.

3.1 [identify the significant inherent values and the natural/historic resources affected – refer to the CRR - and/or any of the other matters specified in s.40(2) CPLA]

4. Justification

4.1 [Address the standards in para 3 of this Section of the Manual – including the efficiency, effectiveness and economy of future management of the mechanism if the Minister is to be the covenantee/grantee]

4.2 The CCL has consulted the HCTRM (under delegated authority from the DGC) in developing the preliminary proposal. The HCTRM [summarise advice given at that stage.]

5. Conclusion

5.1 [Make judgement of whether or not standards are met]

6. CCL's Comments (if recommendation is to refuse)

6.1 The CCL's was sent a draft report for comment on Comments were received on The comments and the CRM's response are set out in the attachment.

7. Recommendation

7.1 [Option 1 – only for the mechanisms where the MoC will be the grantee/covenantee, or in a Part 3 review.]

You note that you must not consent provisionally to this designation unless satisfied it is reasonably likely that the Minister would consent to a substantive proposal containing the designation (s..... CPLA).

[Option 2 – in other cases]

You note that this will be your final consent, as the Minister's consent to the designation is not required at the substantive proposal stage of the tenure review.

7.2 [Option 1]

That pursuant to s..... CPLA you give written provisional consent to the proposed designation on the terms and conditions specified.

[Option 2]

That pursuant to s. CPLA you refuse to give provisional consent to the proposed designation for the following reasons:

[specify, based on paras. 4 & 5 above]

Signed:

Community Relations Officer (SLM)

Conservancy Solicitor comments:

Signed:

Date:

HCTRM comments:

Signed:

Date:

8. Decision

8.1 Recommendation

Approved/Declined

Conservator Conservancy

Date: / /

APPENDIX 3 CONSENT TO A SUBSTANTIVE PROPOSAL

..... Conservancy

Report to the Minister of Conservation (Delegated to Conservator) on an Application by the Commissioner of Crown Lands for a Consent to Designate any Land to which s.35 CPLA Applies as Land to be Disposed of to [a Person/Any Person] Subject to the Creation of a Protective Mechanism.

1. Introduction

- 1.1 On / / you gave provisional consent to a [specify type of protective mechanism] in the preliminary proposal for the tenure review under Part CPLA oflease held by A copy of the decision is attached.
- 1.2 The CCL's request for consent (through the agent) was made on / /

2. Matters of Relevance

- 2.1 [Outline any new information which may have become available since the provisional consent was given and state whether or not it changes the justification for the proposal. Take into account information provided by the CCL – see next heading]
- 2.2 The CCL has consulted the HCTRM (under delegated authority from the DGC) in developing the substantive proposal. The HCTRM [summarise advice given at that stage.]

3. Information Provided by CCL

- 3.1 Information provided by the CCL under the provisions of s.45 CPLA is tagged for your reference on file

It consists of:

- copies of all written submissions on the preliminary proposal for this tenure review.
- a summary of all matters raised by an iwi authority during consultation on the preliminary proposal.

- a statement as to the extent to which objections to and comments on the proposal raised during the consultation have been allowed or accepted, or disallowed or not accepted by the CCL.

- a statement as to the extent to which objections to and comments on the proposal, contained in the written submissions, have been allowed or accepted or disallowed or not accepted by the CCL.

4. Conclusions

4.1 [Make judgment about whether or not consent should be given and state reasons].

5. CCL's comments (if recommendation is to refuse)

5.1 The CCL's was sent a draft report for comment on Comments were received on The comments and the CRM's response are set out in the attachment.

6. Recommendation

6.1 That pursuant to s. CPLA it is recommended that you:

- (a) Note that you gave provisional consent on the basis that it was reasonably likely that the Minister would consent to a substantive proposal containing the designation (s. CPLA).
- (b) [Option 1]

Give written consent to the proposed designation in the substantive proposal on the [amended] terms and conditions attached.

[Option 2]

Refuse consent to the proposed designation in the substantive proposal for the following reasons:

[specify based on paras 2, 3 & 4 above]

Signed:

Community Relations Officer (SLM)

Conservancy Solicitor comments:

Signed:

Date:

HCTRM comments:

Signed:

Date:

7. Decision

7.1 Recommendation

Approved/Declined

Conservator Conservancy
Date: / /

SECTION 2-E

HOW TO DEAL WITH AGREEMENT TO THE INCLUSION OF A CONSERVATION AREA OR A RESERVE IN A TENURE REVIEW

1. Background

1.1 The Commissioner may, with the prior written agreement of the Minister of Conservation, include in a tenure review of a reviewable lease under Part 2 of the Act any neighbouring:

- conservation area (including an existing marginal strip)
- reserve
[s. 31 CPLA]

1.2 Up until the passing of the CPLA it was not possible to deal with such reserves and conservation areas in the tenure review process in an integrated way (e.g. by way of an exchange).

1.3 The outcome of including a conservation area or reserve in a tenure review will not necessarily be its disposal by way of exchange for land in the reviewable lease (see Section 2-F of this Manual). It may be retained by the Crown (see para. 3.4 below).

1.4

The purpose of this procedure is to outline and document the process, standards and accountabilities that affected DOC staff will follow when dealing with existing conservation area and reserve land in a Part 2 CPLA tenure review.
--

2. Process

2.1 The process to be followed is shown in the table below.

Stage	Who Does It	What Happens
1	HCTRM	As part of the process covered in Section 2-G of this Manual ¹ , submits views on inclusion of a conservation area or reserve in a tenure review.
2	Agent	Seeks the written agreement of the Delegatee ¹

¹ If this does not occur as part of the consultation process described in Section 2-G of this Manual then Stage 2 may be initiated at any time before a preliminary proposal is put to the holder or holders [s.34].

Stage	Who Does It	What Happens
3	CRM	Makes a recommendation to the Delegatee.
4	Delegatee	Makes a decision on the recommendation.
5	HCTRM	<ul style="list-style-type: none"> • Conveys a copy of the report and decision to the Agent². • Arranges for the reserve/conservation area to be reported on³. • Ensures the reserve/conservation area is included in other processes leading to development of preliminary and substantive proposals. [See other Sections in this Part of the manual.]

3. Standards and Accountabilities

3.1 Agreement to include a conservation area or reserve, if given, is to be put in writing, and signed by the delegatee, with either an accurate plan of the reserve or conservation area attached, or its accurate legal description incorporated.

3.2 The conservation area or reserve must be adjacent to or near to the other land being reviewed.

3.3 Agreement must only be given if:

- (i) inclusion of the Conservation Area or reserve is likely to achieve a result consistent with promoting the purposes of the Conservation Act or Reserves Act as appropriate.
- (ii) (where the reserve has an administering body) the administering body is agreeable to its inclusion.

3.4 In considering a s.31 decision the **Delegatee** must keep in mind that the tenure review may lead to a designation proposal for an exchange, or concession, or marginal strip manager appointment; or to a proposed designation that all or part of the land is to be retained as conservation area or reserve. The objects of tenure review in the CPLA are irrelevant to the Delegatee’s decision as they apply only to “reviewable land”.

² The further stages will only occur if written agreement is given.

³ Reporting (if not already anticipated has to be done in accordance with section 2-A of this Manual to provide a CRR and PDR for, or which incorporate, the reserves or conservation area included in the review.

4. Marginal Strips

4.1 Existing marginal strip(s) should generally be included in a tenure review. This will facilitate designations in preliminary proposals, where appropriate, for:

- appointment of a manager (s.37(2) CPLA)
- exchange of surplus fixed strips where the water boundary has shifted (s.37(1)(c)).
- grant of a concession (e.g. an easement; s.37(1)(b)).

4.2 Refer to Section 3-A of this Manual for further details.

5. Cost Recovery

5.1 The cost of considering agreement to inclusion of a reserve or conservation area is met through the appropriation for tenure review participation, as a charge against the Land Tenure Reform Account.

6. Legislation

6.1 Section 31 CPLA.

7. Delegations

7.1 The authority to enter into an agreement has been delegated by the Minister.

7.2 The general conditions and provisions of the delegation apply.

7.3 The **Delegatee**, the **CRM** and the **HCTRM** are accountable for meeting the standards set in this Procedure.

8. Cross References

8.1 Section 2-F, 2-G, 3-A and other relevant Sections of this Manual.

9. Implementation

9.1 This procedure will be implemented as part of the overall tenure review process.

- 9.2.1 Working through the CRM with the SLM officer for the Conservancy affected, the **HCTRM** is to ensure that Stage 1 of the process includes the step of checking the status of the land concerned to ensure that it is either that of a conservation area subject to the Conservation Act 1987 or reserve subject to the Reserves Act 1977 and, in the latter case, to determine the current purpose of the reserve, and whether or not there is an administering body. It is also necessary to determine if there are any encumbrances over the land (eg an existing concession).
- 9.2.2 In the case of the land being “deemed” under the provisions of s.61 or s.62 of the Conservation Act the **HCTRM** is to record the information (in his records for the review) in a way that it will be picked up if an exchange is later proposed (see para. 7.2 of Section 2-F of this Manual).
- 9.3 If the reserve has an administering body the **CRM** (if the HCTRM has not already done so) will need to consult with that body before making a recommendation at Stage 3 of the above process.
- 9.4 The format of submissions for agreement to include a conservation area or reserve is shown in the Appendix to this Section.
- 9.5 See section 1-A of this Manual as to the **Delegatee’s** responsibility under section 4 Conservation Act.
-

APPENDIX: Report on inclusion of conservation area or reserve.

.....Conservancy

Report to Minister of Conservation (Delegation to Conservator) on Application by the Commissioner of Crown Lands for Agreement to Include a Neighbouring [Conservation Area/Reserve] in the Tenure Review under Part 2 CPLA of a Reviewable Lease.

1. Application

- 1.1. The application has arisen as a result of the tenure review of the [name the lease and type] contained in Certificate of Title Volume....Folio.....
- 1.2. Location: [describe the proximity of the conservation area/reserve in relation to the pastoral lease/special lease.]
- 1.3. Reason for the inclusion: Possible [e.g. exchange/retention as conservation area/reserve subject to a concession/appointment of a marginal strip manager. Relates to reason for inclusion initiated by the CCL, HCTRM or the holder of the reviewable lease.]

2. Land Status of [Conservation Area/Reserve]

- 2.1. Legal description:
- 2.2. Area: ha
- 2.3. Purpose: [e.g. stewardship area s.7 Cons Act Gazette 19... Pg.../managed as if stewardship area s.62 Cons Act/recreation reserve classified for purposes of s.17 Res Act Gazette 19.... Pg / unclassified recreation reserve etc.]
- 2.4. Existing rights and encumbrances over the land: [detail concessions etc. if any]
- 2.5. Uncompleted land transactions and potential liabilities: [list, if any]
- 2.6. Administering Body: [Reserve only; if such a body then provide name, Gazette reference etc].

2.7 The above information was certified correct by..... on: /.../..

2.8 Description of resources and public use: [describe]

3. Standards

3.1 The inclusion of the [conservation area/reserve] [is/is not] likely to achieve a result consistent with promoting the purposes of the [Conservation Act/Reserves Act] for the following reason(s): [state reason e.g. it will provide a potential opportunity for the appointment of an appropriate marginal strip manager].

3.2 [Optional] Views of consulted external parties: [summarise].

3.3 [Summarise any relevant provision in CMS or CMP.]

4. Consultation

4.1 The CCL has consulted with the HCTRM (under delegated authority from the DGC) about undertaking the review (s.26). The HCTRM [state whether or not the HCTRM supported the inclusion of the conservation area/reserve in the review at the time of this consultation.]

4.2 [Optional] The [HCTRM/CRM] has consulted with the [reserve administering body/other affected parties.] See para 3.2 above.

4.3 [Cover s.4 Conservation Act aspects.]

5. CCL's Comments (if recommendation is to refuse)

The CCL was sent a draft report for comment on Comments were received on The comments and the CRM's response are set out in the attachment. [NB. One ground for refusal would be if the only likely outcome of the inclusion of the land would be that the land would be designated under s.37 or s.38 as land to remain conservation or reserve area without otherwise being dealt with. This would happen if any alternative designation was likely to be refused consent by the Minister of Conservation].

6. Recommendation

6.1 You note that, if you agree to inclusion of the above described [conservation area/reserve] and the land is proposed to be designated by the CCL for a concession, or exchange, or marginal strip manager appointment, then your consent to the designation will be required before it can proceed.

6.2 [Option 1]

That pursuant to s.31CPLA you give prior written agreement to the inclusion of the above-described [conservation area/reserve] in the review of.....

[Option 2]

That pursuant to s.31. CPLA you refuse to give consent to the inclusion..... for the following reason(s):

Signed:

Community Relations Officer (SLM)

Date:

Conservancy Solicitor Comments:

Date:

HCTRM comments:

Date:

7. Decision

7.1 Recommendation Approved/Declined

Conservator..... Conservancy
Date: / /

SECTION 2-F

HOW TO DEAL WITH CONSENT TO DESIGNATION OF ANY CONSERVATION AREA OR RESERVE AS LAND TO BE DISPOSED OF BY WAY OF EXCHANGE

1. Background

- 1.1 A preliminary proposal under Part 2 of the Act may not, without the prior written provisional consent of the Minister of Conservation, designate any conservation area (s.41(1)(c)) or reserve (s.41(1)(e)) as land to be disposed of by way of exchange.
- 1.2 A substantive proposal must not designate any conservation area (s.56) or reserve (s.58(1)) as land to be disposed of by way of exchange without the prior written consent of the Minister of Conservation.
- 1.3 The CCL may also apply other designations (under the CPLA) to an existing reserve or conservation area in a tenure review and require consents (see Sections 2-C & 3-B of this Manual).
- 1.4 The CCL may also designate an existing conservation area or a reserve as land that is to remain a conservation area (s.37(1)(a)) or reserve (s.38(1)(a)) without consent being required.
- 1.5

The purpose of this procedure is to outline and document the process, standards and accountabilities that affected DOC staff involved in consents under sections 41 or 56 or 58 CPLA will follow.

2. Process

- 2.1 The process to be followed if an exchange is proposed is shown in the table below.

Stage	Who Does It	What Happens
1	HCTRM	Develops exchange proposal with Agent (and if it affects a reserve with an administering body, that administering body)
2	Agent	Seeks consent (s.41 CPLA) [following consultation – see Section 2-G - and after the CCL has accepted the draft preliminary proposal].

Cont'd over

Stage	Who Does It	What Happens
3	CRM	Makes recommendation(s) to the Delegatee in the appropriate conservancy(s) on the draft preliminary proposal designation(s).
4	Delegatee	Makes a decision on the recommendation(s). ^{1,2}
5	HCTRM	<ul style="list-style-type: none"> Conveys a copy of the report and decision to the Agent. Develops a substantive proposal with Agent (and if it affects a reserve with an administering body, that administering body) – see Section 2-G.
6	Agent	Seeks consent (s.56 and/or s.58 CPLA) and provides information (s.45 CPLA).
7	CRM	<ul style="list-style-type: none"> (If a reserve with an administering body), obtains formal resolution from administering body (s.58(1) CPLA). Makes recommendation(s) through the CRM to the Delegatee in the appropriate conservancy(s) on the draft substantive proposal designation(s).
8	Delegatee	Makes a decision on the recommendation(s). ²
9	HCTRM	Conveys a copy of the report and decision to the Agent.

3. Standards and Accountabilities

3.1 The **Delegatee** must be satisfied that it is reasonably likely that consent would be given at Stage 8, to a substantive proposal containing the designation before giving consent to a designation in a preliminary proposal at Stage 4. [s.41(2) CPLA].

3.2 The **CRM**, before making a recommendation, must be satisfied that:

- the land was properly included in the tenure review (see Section 2-E of this Manual).
- each part of the reserve or conservation area included in the tenure review has been appropriately designated as to future status (if the whole is not included in the exchange).

¹ See para. 3.1 below.

² If consent is not given at Stage 4 or 8 to the designation it will be necessary to inform the Agent of the reasons and, if necessary, enter into a dialogue before the decision is made. The CCL may ask for a review of the decision. Unless consent is given the designation will drop out of the preliminary or

substantive proposal put to the holder or holders (s.34 or s.46 CPLA). Proceed to second part of Stage 5 only if one or more of the designations is consented to provisionally.

- the exchange will achieve the purposes of the Conservation Act or Reserves Act, as appropriate, considering (in the latter case) section 3 Reserves Act and whether or not the reserve land could still be required and be used for Reserves Act purposes.
- there are no impediments to the exchange in terms of s.5 Reserves Act (if applicable).
- a supporting resolution has been obtained from the administering body (if required - see Stage 7).
- other land has been designated in the preliminary proposal to become a reserve for the same purpose (if it is to be a Reserves Act exchange) or a conservation area (if it is to be a Conservation Act exchange). This is essential to the implementation of the exchange if it proceeds (s.77 or s.79 CPLA).

The **Delegatee** must give sufficient weight to the purposes of the CPLA when weighing considerations under the Conservation Act or Reserves Act.

3.3 The statement of consent to the designation(s) (if given by the Delegatee) must be sent to the Agent in writing. [See also para. 7.2]

3.4 Cost-recovery for the consent will be met through the appropriation for tenure review participation as a charge against the Land Tenure Reform Account.

4. Legislation

4.1 Section 41, 56 and 58 CPLA.

5. Delegations

5.1 The Minister has delegated the consent authority.

5.2 The general conditions and provisions of the delegation apply.

5.3 The **Delegatee**, **CRM** and **HCTRM** (in association with Statutory Land Management staff) are accountable for meeting the standards set in this procedure.

5.4 The objects of tenure review in the CPLA are irrelevant as they apply only to reviewable land.

6. Cross-reference

6.1 Section 2-G - and other relevant sections in this Manual.

- 6.2 Any standard operating procedure dealing with the exchange of conservation areas or reserves.

7. Implementation

- 7.1 This procedure will be implemented as part of the overall tenure review process. The format of submissions for consent to an exchange is shown in Appendices 2 and 3 of this Section.
- 7.2 The **HCTRM** is to brief the CRM at Stage 7 on action³ to be taken under s.7 Conservation Act (if required on advice of the SLM officer). The **CRM** is accountable for completing the action once the survey plan is approved (see s.62 CPLA). The **CRM** is to ensure that any related consent (see para. 3.3 above) is made conditional⁴ on that action being completed.
- 7.3 The **HCTRM** is to notify the CRM of plan approval, in the event of para 7.2 applying, and the **CRM** is to ensure that the s.7 action is completed before the Commissioner registers the tenure review plan (s.64).
- 7.4 See Section 1-A of this Manual as to the responsibilities of the **Delegatee** under s.4 Conservation Act.
- 7.5 The arrangements for financial adjustments are set out in appendix¹ on Pg. 2-F-5 and are to be followed by the **CRM** and **BSM** concerned.
-

³ This action is required if the conservation area is “deemed” under the provisions of sections 61 or 62 Conservation Act. An area held under either section may not be disposed of, nor any interest in it (except a concession), until it is declared under s.7 of the Act, to be held for conservation purposes (see s.61(9) and s.62(1)(d)).

- ⁴ Section 51 Conservation Act allows the Minister of Conservation to give conditional consents in respect of any conservation area.

APPENDIX 1

FINANCIAL ADJUSTMENTS FOR AREAS DISPOSED OF UNDER SECTIONS 77 AND 79 CROWN PASTORAL LAND ACT

1. This implementation arrangement affects conservation area or reserve land included in an accepted substantive proposal (under s.60 CPLA) as land to be disposed of by way of exchange under s.77 or s.79.
2. On the giving of consent in accordance with Section 2-F of this Manual the **HCTRM** will record the need to follow up with the CCL, at the point of acceptance of the substantive proposal, the transfer of the land to LINZ.
3. At the point of acceptance of the substantive proposal the **CRM**, at the request of the **HCTRM**, will provide the following information to the Business Services Manager in the conservancy responsible for the land:
 - (a) legal description (subject to survey)
 - (b) area (ha)
 - (c) name/location
 - (d) C.T. reference or Gazette notice which establishes Crown ownership
 - (e) local body
 - (f) annual rates
 - (g) valuation reference, land value and value of improvements and date of valuation
 - (h) transfer value
 - (i) tenancy details (if any)
 - (j) details of any known liabilities associated with each property arising from the Crown's ownership of the land.
4. The Conservancy **Business Services Manager** will (at the request of the **CRM**) arrange the transfer of the land to LINZ in accordance with Treasury Circular 1993/16.
5. Payment for a conservation area is to be treated as a receipt of equality of exchange under the provisions of s.16A(4) Conservation Act.
6. Payment for a reserve is to be treated as a receipt of equality of exchange under s.83 Reserve Act.

H.O. File reference: PAS 0035

APPENDIX 2 Consent to Preliminary Proposal

..... Conservancy

Report to the Minister of Conservation (**Delegation to Conservator**) on an Application by the Commissioner of Crown Lands for a Provisional Consent to Designate a [Conservation Area/Reserve] as Land to be Disposed of By Way of Exchange in a Tenure Review Under Part 2 CPLA.

1. Introduction

- 1.1 On / / you agreed to the inclusion of a [conservation area/reserve] in the review of the A copy of the decision is attached.
- 1.2 On / / the CCL (through the agent) sought consent to a designation of the [whole/part] of the [conservation area/reserve] for exchange.

2. Land & Status

- 2.1 Details of [reserve/conservation area]: See attached copy of earlier decision [Section 2-E refers]. Area involved in proposal:ha. Proposed transfer value: [an approximation will do if not known at this stage].
- 2.2 Details of land to be restored to Crown in exchange:

Legal description:
Area:
Purpose: [NB. if to become reserve, purpose must be the same as for the area described in para. 2.1]
Description of resources and potential public use:
Existing rights and encumbrances:

3. Other Designations

- 3.1 The CCL [has/has not] proposed other designations of the [conservation area/reserve] [as follows:]
[details]
[If appropriate] These [do/do not] require separate consent.

4. Standards

- 4.1 The exchange of the above-described land [will/will not] achieve a public benefit in terms of the [Conservation Act/Reserves Act] for the following reasons:
[details]
- 4.2 [If appropriate] Views of external parties consulted: [summarise]

5. Consultation

- 5.1 The CCL has consulted with the HCTRM (under delegated authority from the DGC) about devising and putting the preliminary proposal (s.26). The HCTRM [summarise advice given at that stage].
- 5.2 [If appropriate] The [HCTRM/CRM] has consulted with the affected parties having an interest in the [conservation area/reserve]. See para 4.2 above.
- 5.3 [Cover s.4 Conservation Act aspects].

6. CCL's Comments (if recommendation is to refuse)

The CCL was sent a draft report for comment on Comments were received on The comments and the CRM's response are set out in an attachment.

7. Recommendation

- 7.1 You note that you must not give provisional consent to the proposed exchange unless satisfied that it is reasonably likely the Minister would consent to a substantive proposal containing the same designation (s.41(2) CPLA).
- 7.2 [If appropriate] You note that the deemed conservation area must be declared under s.7(1A) Conservation Act before the exchange can be completed if this proposal proceeds to that stage.
- 7.3 [Option 1]

That [subject to 7.2 above] pursuant to s.41(1) [(c) or (e)] CPLA you give provisional consent to the proposed exchange designation.

[Option 2]

That pursuant to s.41(1) [(c) or (b)] CPLA you refuse provisional consent to the proposed exchange designation for the following reason(s): [state].

Signed:

Community Relations Officer (SLM)

Date:

Conservancy Solicitor comments:

Signed:

Date:

HCTRM comments:

Signed

Date:

8. Decision

8.1 Recommendation Approved/Declined

Conservator.....Conservancy
Date: / /

APPENDIX 3 Consent to a Substantive Proposal

..... Conservancy

Report to the Minister of Conservation (Delegation to Conservator) on an Application by the Commissioner of Crown Lands for a Consent to Designate a [Conservation Area/Reserve] as Land to be Disposed of By Way of Exchange in a Substantive Proposal Under Part 2 CPLA.

1. Introduction

- 1.1 On / / you gave provisional consent to an exchange of a [conservation area/reserve] in the preliminary proposal for the [Pastoral/Special] Lease. A copy of that decision is attached.

2. Standards

- 2.1 [Outline any new information (e.g. changes to the preliminary proposal) which may have become available since the provisional consent was given and state whether or not it changes the statement of public benefit made at that stage. Take into account information provided by the CCL – see below].
- 2.2 [If appropriate] The reserve administering body has passed a resolution [giving/declining] written consent to the proposal.

3. Consultation

- 3.1 The CCL has consulted with the HCTRM (delegation from the DGC) about devising the substantive proposal. The HCTRM [summarise advice given at that stage].

4. Information Provided by the CCL

- 4.1 Information provided by the CCL under the provisions of s.45 CPLA is tagged for your reference on file

It consists of:

- copies of all written submissions on the preliminary proposal for the tenure review

- a summary of all matters raised by an iwi authority during consultation on the preliminary proposal.
- a statement as to the extent to which objections to and comments on the proposal raised during the consultation have been allowed or accepted, or disallowed or not accepted by the CCL.
- a statement as to the extent to which objections to and comments on the proposal contained in the written submissions have been allowed or accepted, or disallowed or not accepted.

5. CCL's comments (if recommendation is to refuse)

5.1 The CCL was sent a draft report for comment on Comments were received on The comments and the CRM's response are set out in the second attachment.

6. Recommendation

6.1 That pursuant to [s.56 or s.58] CPLA it is recommended that you:

- Note that you gave provisional consent to the exchange designation on the basis that it was likely that the Minister would consent to a substantive proposal containing the designation (s.41(2) CPLA).
- [Option 1]

Give written consent to the proposed exchange designation in the substantive proposal [on the following conditions] [choose as appropriate]:

- The deemed Conservation Area being declared under s.7(1A) Conservation Act before the final tenure review plan is approved under s.63 CPLA.
- The land being transferred to LINZ in accordance with Treasury Circular 1993/16 before the final tenure review plan is approved under s.63 CPLA, and payment received from LINZ for the land.¹

[Option 2]

¹ The accounting treatment for this money is contained either in s.16A(4) Conservation Act or s.83 Reserves Act, as appropriate.

That pursuant to [s.56 or s.58] CPLA you refuse to give consent to the exchange designation in the substantive proposal for the following reason(s):

[state]

Signed:

Community Relations Officer (SLM)

Date:

Conservancy Solicitor comments:

Signed:

Date:

HCTRM comments:

Signed

Date:

7. Decision

7.1 Recommendation Approved/Declined

Conservator.....Conservancy

Date: / /

SECTION 2-G

HOW TO DEAL WITH SUBMITTING VIEWS (IN CONSULTATION) ON ACTIONS THE CCL PROPOSES TO TAKE

1. Background

1.1 The CPLA provides (s.26) that the Commissioner of Crown Lands (CCL) must consult the Director-General of Conservation (DGC) before taking the following actions under **Part 2** of the Act:

- **undertaking a review** under s.27;
- **putting a preliminary proposal** to a person under s.34(1);
- **putting a substantive proposal** to a person under s.46.

1.2 The CPLA also provides (s.85) that the CCL must consult the DGC before taking the following actions under **Part 3** of the Act:

- **undertaking a review** under s.86(1);
- **devising a preliminary proposal** under s.86(4);
- **adopting a substantive proposal** under s.89

1.3 The CCL may consult any person or body the CCL sees fit (including the DGC) about such actions.

1.4 The CCL's agent acts for the CCL in process of consultation on the CCL's behalf. The CCL makes the decision on an action, after considering the views of the DGC and the views of any other person or body under s.26(2) or s.85(2) of the Act whom the CCL has consulted.

1.5

The purpose of this procedure is to outline and document the process, standards and accountabilities that all affected DOC staff will follow when dealing with consultation on tenure review.

2. Process

2.1 The consultation process is shown in the table below.

Stage	Who Does It	What Happens
1	Agent	Seeks HCTRM's views on the proposal to undertake a review.
2	HCTRM	<ul style="list-style-type: none"> • Considers proposal and undertakes dialogue and discussion with the Agent when necessary (links to processes in Section 2-A and 2-E of this Manual).. • Puts views in writing to the Agent.
3	Agent	<ul style="list-style-type: none"> • Invites, and HCTRM participates, in drafting a preliminary proposal. • Seeks HCTRM views on putting the preliminary proposal (Pt 2) or on the proposal devised (Pt 3)
4	HCTRM	<ul style="list-style-type: none"> • Considers proposal and undertakes dialogue and discussion with the Agent when necessary. (links to process in Section 2-B of this Manual) • Puts views in writing to Agent
5	Agent	<ul style="list-style-type: none"> • Invites, and the HCTRM participates, in drafting a substantive proposal. • Seeks HCTRM views on putting a substantive proposal (Pt 2) or adopting a substantive proposal (Pt 3).
6	HCTRM	<ul style="list-style-type: none"> • Considers proposal and undertakes dialogue and discussion with the Agent when necessary (links to process in Section 2-B of this Manual). • Puts views in writing to the Agent.

- 2.2 This process leads to the consent processes found in Sections 2-C, D, & F and Section 3-B of this Manual.
- 2.3 The most significant phases of the process above, from the Department's point of view are those of devising the proposal. They each result in draft instructions for a proposal (with designations) which the Agent will recommend to the CCL for approval.
- 2.4 The **HCTRM** (when being consulted on the putting of proposals) will generally only need to consider expressing a view on matters not resolved or agreed in the drafting of the proposals or on matters changed by the CCL.

2.5 Stage 2 is preceded by Output Class 2 financial planning, for tenure review participation, which is dealt with through the Department's estimates and business planning processes. They are not part of the set of procedures in this Manual.

3. **Matters to be taken into account by CCL**

3.1 In making decisions on a Part 2 tenure review or Part 3 review the CCL is required (s.25 or s.84) to the extent those matters are applicable, to take into account.

- the objects of Part 2 or Part 3 (as appropriate)
- in the case of a Part 2 review, the application of the objects (set out in s.24 CPLA) to all the land held under the reviewable instrument(s) involved
- the principles of the Treaty of Waitangi
- the purpose of any land used or intended to be used by the Crown

The objects are set out in Section 1-A of this Manual.

The CCL will also consider the views of persons consulted

3.2 The CCL must also consider (s.47 or s.90) before putting a substantive proposal:

- all matters raised by the iwi authority during consultation on the preliminary proposal
- all written submissions relating to the preliminary proposal arising out of public notice.

Public notice is provided for in sections 43 or 88 CPLA.

4. **Matters relevant to the consultation**

4.1 The views expressed by the **HCTRM** (under delegation from the DGC) on a review action must be within the scope of matters the CCL can take into account or consider (see also Section 1-A, para.7). The views will be formulated following evaluation of costs: benefit considerations (see para.1 on page 2-B-1) associated with the object of promoting ecologically sustainable management of the land.

4.2 Before Stage 1 the CCL will have completed a pre-tenure assessment and approved a Commencement of Tenure Review Project Plan (see LINZ standards).

4.3 At Stage 2 the **HCTRM** will consider:

- in a Pt 3 review, the desirability of including unused Crown land in the review.

- in a Pt 2 review, the desirability of including land held under a POL (s.28), unused Crown land (s.29), freehold (s.30) or a conservation area (including an existing marginal strip) or reserve (s.31).
- any other relevant matter.

In terms of expressing a view on the inclusion of a conservation area or reserve the **HCTRM** must be guided by Section 2-E of this Manual.

4.4 At Stages 3 to 6 the **HCTRM** will consider, as appropriate:

- the likelihood of any necessary consents being obtained from the Minister of Conservation's Delegatee at both the preliminary and substantive stages.
- the appropriateness of designations that do not require consent by the Minister of Conservation (see Appendix 1 to section 2-A of this Manual).
- compliance with tenure review policy (see section 1-A of this Manual).
- loss or benefit in terms of variation of the recommendations made in Part 4 of the report on the review (see Section 2-A of this Manual).
- the manner in which the CCL intends to deal with iwi and public submissions (s.45).

5. Other Standards/Accountabilities

5.1 Giving Views

5.1.1 **The HCTRM's** is to put his/her views at Stages 4 and 6 in writing to the Agent, framed as proposals, suggestions or comments. Any conservation problems or difficulties, likely to be caused by the proposed action, can be raised.

5.1.2 The **HCTRM** is accountable for the views expressed in consultation and the relevant **Delegatee** for consents. (Consents are dealt with in Sections 2-C to 2-F of this Manual).

5.1.3 In dealing with the Agent the **HCTRM** is to minimise costs for all participants in the process and avoid drawn out debate. The **HCTRM** may use the dealings to tap into collective wisdom, uncover barriers to communication (e.g. hidden assumptions and underlying thought processes) and to evaluate ideas or proposals.

5.2 Decisions and Negotiations

5.2.1 Note that, the CCL's agent does not determine or make decisions about tenure review but undertakes certain agreed services for the CCL.

- 5.2.2 The **HCTRM** has no authority to negotiate with the lessee over entering into a review, or over a preliminary or substantive proposal. The **HCTRM** may support the Agent in carrying out any agreed services on behalf of the CCL. Discussions by the Agent with the holder take place on the express instructions of the CCL.
- 5.2.3 The **HCTRM (or any other officer)** - in a support role to the Agent - must not prejudice the decision-making of the CCL, or Delegatee (for consents) in any dealings with the lessee over the review.
- 5.2.4 A decision of the CCL is final and the **HCTRM** is not authorised to enter into correspondence with the CCL over it, once made. **Any DOC officer** must (within 10 days) refer on to the CCL (for reply) any external questions about the decision. The officer must inform the enquirer that the request has been sent on. Accountability for the decisions referred to in para. 1.1 and 1.2 of this Section rests solely with the CCL.
- 5.2.5 The **DOC position** on these CCL decisions must simply be that the CCL has exercised his/her discretion after considering relevant matters.

5.3 Keeping Others Informed

- 5.3.1 The **HCTRM** is to keep other affected members of staff briefed about the outcome of consultation on each tenure review. This needs to be done only to the extent necessary for them to fulfil their duties under the procedures in this Manual.

5.4 Grazing Permits and Marginal Strips

- 5.4.1 The CCL may propose the designation of land (under s.35) subject to the granting or continuation of a grazing permit (s.36). The **HCTRM** is in those cases to comment on the need to exclude land (as proposed reserves or conservation areas) adjacent to waterways and water bodies. The land will provide for public access and/or protection of significant inherent values. [NB. A marginal strip will not be created on implementation of such a designation, and procedure 3-A of this Manual does not apply.]

5.5 Cost Recovery

- 5.5.1 Consultation costs for Part 2 reviews will be met out of the appropriation for tenure review participation as a charge against the Land Tenure Reform Account. There is no similar funding for Part 3 reviews (see para 2.4 above).

6. Procedure

6.1 These are the key steps the **HCTRM**¹ is to take (where applicable) at the Process Stages shown.

1 “HCTRM” may either be the High Country Tenure Review Manager or a member of his/her staff.

Step	Action
1	STAGE 3 Receive notice of inclusion of properties in the programme for the year’s activity from the CCL.
2	Plan the DOC programme of work for the year.
3	Arrange and hold an early warning meeting for NGO’s, with the Agent.
4	Attend meeting(s) with lessee at the request of the Agent. [DOC may also be invited to participate in iwi inspection]
5	Arrange and co-ordinate the DOC reporting process (see Section 2-A of this Manual in particular).
6	Present resource information at a meeting with the lessee on the request of the Agent.
7	Refer conservation resources report to the Conservation Board for consideration (in committee).
8	STAGE 5 Attend meeting(s) with lessee at the request of the Agent to discuss issues leading to a substantive proposal.

7. Action Concerning Documentation of proposals

7.1 During the process set out in para.2 above, the Agent will consult the **HCTRM** in drafting instructions for a preliminary proposal (Stage 3) and a substantive proposal (Stage 5). [The instructions will be used by the Manager, Legal Services, LINZ in instructing an approved legal agent to produce the draft proposal for the CCL.]

7.2 The drafting instructions will itemise all documentation which would be required if the proposal proceeded through to acceptance and implementation.

- 7.3 The Manager, Legal Services, (LINZ) will liaise with the responsible **HCTRM** to arrange for the availability of any legal instruments (documents) that would be required relating to the functions of the Minister of Conservation.
- 7.4 The **HCTRM** will assist the Agent in identifying documentation requirements at Stage 3 and alert the conservancy solicitor.
- 7.5 On receiving a request from the Manager, Legal Services (LINZ) the **HCTRM** will take action under Section 2-H of this Manual.
- 7.6 The documentation will be part of the preliminary proposal to be put to the holder and will therefore be available at Stage 4 (see pg. 2-G-2). Any revision of the documentation will be part of the substantive proposal to be put to the holder and will therefore be available at Stage 6. (see pg 2-G-2).

8. **Legislation**

- 8.1 Sections 26 or 85 CPLA

9. **Delegations**

- 9.1 The DGC has delegated his responsibilities. Generally the **HCTRM** will exercise the delegation.
- 9.2 The general conditions and provisions of the delegation apply. If the **HCTRM** is of the opinion that the consultation should occur at a higher level of delegation, then the **HCTRM** must:
- notify the Agent
 - provide the paperwork to the next level
 - ensure this is done promptly.

The higher delegatee then assumes responsibility for meeting the standards set in this procedure.

10. **Cross-references**

- 10.1 Other relevant procedures in this Manual. Sections 3-A and 3-B provide the integrative processes in relation to **marginal strips**. Section 3-F has additional

standards and accountabilities for designating **special lease** and **grazing permit** areas.

10.2 See also para. 11.8 below.

11. **Implementation**

11.1 This procedure will be implemented as part of the overall tenure review process.

11.2 The **HCTRM** is to qualify views provided to the Agent as “subject to any **consents** required from the Minister of Conservation” where applicable.

11.3 In giving views on the protection of significant inherent values on freehold land the **HCTRM** is to qualify any advice as “subject to **finance** being obtained.”

11.4 In giving views on the disposal of any conservation area or reserve by way of **exchange** the **HCTRM** is to qualify any advice as “subject to the necessary financial adjustments.”

11.5 If giving views in relation to a proposed **marginal strip** see Section 2-A para 3.2 of this Manual.

11.6 If dealing at Stage 5 of the process (see para 2-1 above) with a “**deemed conservation area**” and an exchange proposal (see para. 7.2 on page 2-F-3) the **HCTRM** is to also qualify any views as “subject to the area to be disposed of being set apart under the provisions of s.7(1A) Conservation Act prior to registration of the approved plan”.

11.7 All **sensitive information** prepared by the **HCTRM** is to have an appropriate endorsement made in accordance with the Department’s August 1996 Information Security Policy and Procedures.

11.8 Chapter 2 of the Standard Operating Procedure Manual QD Code NH/1027 contains best practice for formulating the **purpose** (category) of a **proposed protected area**. This SOP applies to the **HCTRM** giving advice on areas to be restored to or retained in full Crown ownership or control to protect significant inherent values.

SECTION 2-H

HOW TO DEAL WITH NOTIFICATION FROM THE CCL OF TENURE REVIEW IMPLEMENTATION

1. Background

- 1.1 Following the registration of an accepted proposal and approved plan for a **Part 2** tenure review (s.64 of the CPLA) the CCL gives written notice to the Minister of Conservation in certain circumstances (see Appendix A).
- 1.2 In the case of a **Part 3** review only an approved plan is registered (s.90) and the CCL gives notice to the Minister of Conservation over protective mechanisms (s.93) where applicable to the outcome of the review.
- 1.3 On receiving the notice on behalf of the Minister the Delegatee is to take certain actions (as set out in Appendix A).

- 1.4 The purpose of this procedure is to outline and document the process, standards and accountabilities that all affected DOC staff will follow when dealing with actions arising from tenure review implementation, where the CCL gives notice.

- 1.5 This procedure does not apply to implementation of earlier reviews carried out under the Land Act 1948.

2. Process

- 2.1 The process to be followed for this activity is shown in the table below.

Stage	Who Does It	What Happens
1	Agent	Provides the required statutory notice(s) to the HCTRM from the CCL and any associated documents completed from drafts prepared at the earlier phases of the review process, or instructions for documentation.
2	HCTRM	Checks and confirms that the notice(s) and any other documentation are consistent with: (i) the registered approved plan and (ii) (for Pt.2 reviews) the registered

		accepted proposal, and returns it/them to the Agent for correction if necessary.
--	--	--

Cont'd over

Stage	Who Does It	What Happens	
3	HCTRM (see para. 3.6)	Instructs the - (i) conservancy solicitor to have any documents executed by the parties as (appropriate) at Stage 4 (ii) CRM to take any action required under s.51 Ngai Tahu Claim's Settlement Act 1998	
4	Delegatee	Approves the action, signs the document(s) and forwards it/them back to the Conservancy Solicitor for completion.	
5	CRM	If ...	then the CRM...
		the vendor is to lodge the document for registration	returns the document to the vendor's solicitor
		Crown is to lodge the document for registration	sends it to the CCL.
		the document is to be unregistered (e.g. a concession)	provides copy to the other party and arranges custody of DOC copy.
6	CRM	<ul style="list-style-type: none"> Provides a copy of the registered document to the HCTRM or (if document is not to be registered) a copy of the signed document Notifies the agent that any unregistered document has been executed. Arranges with the BSM for any financial adjustments (see Sections 2-F and 3-D of this Manual). 	

3. Standards and Accountability

3.1 All conveyancing to which Stage 3 above applies is to meet the normal standards of legal practice¹; the **conservancy solicitor** is to be satisfied that all documents comply and are fit for registration.

3.2 The **conservancy solicitor** will determine the correct action on any requisition by the District Land Registrar, if a document was prepared for registration by DOC.

¹ As, for example, set out in the NZ Law Society's Conveyancing Practice Guidelines.

- 3.3 The **HCTRM** must not proceed to Stage 3 unless satisfied that the document(s) or instructions to the solicitor are consistent with the approved plan/accepted proposal. It is the HCTRM's responsibility to resolve any difference with the Agent or, if necessary, the CCL.
- 3.4 Completion of Stage 6 by the **CRM** (in association with the SLM officer for the conservancy) will enable the HCTRM to carry out the process set out in Section 2-I of this Manual.
- 3.5 The Department will provide the document(s) where it is the beneficiary of the designation.
- 3.6 When a notice under s.51 Ngai Tahu Claims Settlement Act 1998 is required the **CRM** will provide the required information to Te Runanga o Ngai Tahu and send a copy to the conservancy solicitor (see also para. 8.8.3).

4. Costs

- 4.1 The Department recovers its costs for Part 2 CPLA implementation through the appropriation for tenure review participation, as a charge against the Land Tenure Reform Account.
- 4.2 The Department bears its own costs of Part 3 CPLA implementation.
- 4.3.1 The **CCL** pays the "appropriate costs" of any official action taken by the Chief Surveyor or District Land Registrar (DLR) (s.99 CPLA) for both Part 2 and Part 3 reviews.
- 4.3.2 Hence, at Stage 5, documents to be registered are sent by the **CRM** to the CCL.
- 4.3.3 **Conservancy** will meet the costs in respect of any requisitions by the DLR on documents prepared by DOC and lodged by the CCL.
- 4.4 Should the holder obtain private legal advice before signing a document (or at an earlier stage of the tenure review process) the costs will be at the expense of the holder.

5. Legislation

- 5.1 Sections 66 to 68, 70 to 72, 75 to 81 and 93 CPLA.

5.2 Note that sections 17O to 17Q, and 17ZA to 17ZI of the Conservation Act apply to the grant of concessions.

6. Delegations

6.1 The Minister of Conservation has delegated the responsibility for these actions.

6.2 The general conditions and provisions of the delegation apply.

6.3 Accountability lies with the **Delegatee** in association with the HCTRM, CRM and conservancy solicitor.

7. Cross Reference

7.1 Other related procedures in this Manual in particular Section 2-I and 3-F and (in the case of freehold land) 2-C and 3-D.

7.2 Related procedures in other DOC manuals for land acquisition, disposal, conveyancing and land information - to the extent they are consistent with these procedures.

7.3 Standard Operating Procedure NH/1027 deals with the classification of reserves and categorisation of other protected areas.

7.4 See Section 2-F for financial adjustment relating to action on exchanges under s.77 and s.79 CPLA and Section 3-D-1 for an acquisition under s.81 CPLA.

8. Implementation

8.1 This procedure will be implemented as part of the overall CPLA review processes to the extent applicable to each review.

8.2 Each affected **Conservator** will set up a system for **performance measurement** in accordance with the Department's current standards and arrange for it to be maintained.

8.3 Each affected **HCTRM and CRM** must jointly set up a system for **monitoring action** under this procedure, for each tenure review, to ensure the completion of Stages 2 to 6 of the process in para. 2.1 above.

8.4 Reviewable land that an approved plan designates as land to be restored to Crown ownership vests in the Crown when the plan is registered. If designated as a

conservation area, or a reserve (held for the purpose specified in the plan) it is automatically set apart (s.65 or s.92) and no further statutory implementation action is required apart from **classification of the reserve** under the provisions of s.16 Reserves Act 1977. These areas are **not** notified in the *Gazette* as acquisitions. [NB. For tenure reviews completed prior to 23.6.98 notification in *Gazette* is necessary to bring the area under the Reserves Act or Conservation Act.]

- 8.5 **Freehold areas** to be restored to Crown ownership must be separately transferred to the Crown. If designated as a conservation area the transfer is undertaken under the authority of s.7(2) Conservation Act. If designated as a reserve (for a specified purpose) the transfer is undertaken under the authority of s.12(1) Reserves Act.
- 8.6 For **special lease and grazing permit** qualified designations the statutory responsibility rests with the CCL under sections 73 or 94 CPLA.
- 8.7 For **appointment of manager of a marginal strip** see Section 3-B of this Manual. The letter of appointment will be one of the documents to be prepared in final form at Stage 3 of the process in para. 2.1 above for execution.

- 8.8.1 In the case of a **conservation area** (s.77) to be disposed of by way of **exchange** (including a marginal strip) conveyancing is undertaken under the provisions of s.16A(6) to (8) Conservation Act as if it was part of an exchange authorised under s.16A of that Act.
- 8.8.2 In the case of a **reserve** to be disposed of by way of **exchange** (s.79) conveyancing is undertaken under the provisions of s.15(5) to (8) Reserves Act as if it was part of an exchange affected under Section 15 of that Act.
- 8.8.3 If the exchange transaction is in the **Ngai Tahu Takiwa** the transfer must not take place until at least 10 working days after notice has been given under the provisions of s.51 Ngai Tahu Claims Settlement Act 1998.

APPENDIX A - 1 of 2

**TENURE REVIEW IMPLEMENTATION ACTION TAKEN
BY DOC¹ ON NOTICE FROM CCL UNDER PART 2 THE CPLA**

Section of Act²	Land Status/Statutory Action [after registration of approved plan]	Officer Responsible³
66 or 70 or 75 67 or 71 or 76 77	Conservation Area - <ul style="list-style-type: none"> • grant concession to person concerned • appoint the person manager of the land [marginal strip] • dispose of land [designated to be exchanged] 	Delegatee Delegatee Delegatee
68 or 72 or 78(1) 78(2) 79	Reserve - <ul style="list-style-type: none"> • grant concession to person concerned • grant the lease [under s.73 Reserves Act] (recreation reserve only) • effect the disposal of land [designated to be exchanged] 	Delegatee Delegatee Delegatee
80(1) 80(2) 80(3) 81(a) to (d)	Freehold - <ul style="list-style-type: none"> • accept an easement [for a purpose specified in s.12(1) Reserves Act] • acquire the easement [s.7(2) Conservation Act] • do all acts necessary to enable creation of the easement [s.8 NZ Walkways Act] • Implement agreement for sale to the Crown as reserve or conservation area (conditionally or otherwise) by way of transfer of the land to the Crown for the relevant purpose. 	Delegatee Delegatee Delegatee Res. Act or Cons. Act delegations as appropriate

1 Under s.80(5) CPLA the CCL creates any covenant over the land.
 2. Where more than one section of the CPLA is quoted use the key on the next page to determine the correct authority for a particular action.
 3. The Delegatee is ultimately accountable for the action being completed, but see para. 8.3 above.

Section	Former land status
66	pastoral lease/licence/special lease
70	unused Crown land
75	Conservation area [no status change]
67	pastoral lease/licence/special lease
71	unused Crown land
76	conservation area [no status change]
68	pastoral lease/licence/special lease
72	unused Crown land
78(1)	reserve [no status change]

APPENDIX A - 2 of 2

**TENURE REVIEW IMPLEMENTATION ACTION TAKEN
BY DOC¹ ON NOTICE FROM CCL UNDER PART 3 THE CPLA**

Section of Act	Statutory Action	Officer Responsible
93	<ul style="list-style-type: none">• accept an easement [for a purpose specified in s.12(1) Reserves Act]• acquire an easement [s.7(2) Conservation Act]• do all acts necessary to enable creation of the easement [s.8 NZ Walkways Act]	Delegatee Delegatee Delegatee

1 Note that the CCL creates any covenant, special lease or grazing permit.

SECTION 2-I

HOW TO HAND OVER RESPONSIBILITY TO AREA MANAGERS FOR LAND OR INTERESTS IN LAND BROUGHT UNDER DOC CONTROL THROUGH THE CPLA & ARRANGE RECORDING

1. Background

- 1.1 The statutory review processes under Parts 2 and 3 of the CPLA end with the implementation action set out in Section 2-H of this Manual.
- 1.2 DOC will assume legal responsibility for new areas of land or interests in land, and (in the case of Pt 2 tenure reviews) may surrender responsibility for some conservation areas or reserves which have been used in tenure review exchanges. (For details of effective dates see Section 3-C of this Manual).
- 1.3 On completion of Stage 6 of the process in Section 2-H the HCTRM's delegated statutory responsibilities end. The land (or interest¹) dealt with in 2-H needs to be integrated for normal management (through the Area Office) with existing holdings for which the Department is responsible.
- 1.4

The purpose of this procedure is to outline and document the process, standards and accountabilities that all affected DOC staff will follow to achieve the integration of new protected areas, acquired through CPLA reviews, into the normal management and recording regimes.
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2. Process

- 2.1 The process to be followed for this activity is shown in the table below.

1 "Interest" refers to a conservation covenant entered into by the Minister of Conservation or an easement acquired under s.12 Reserves Act as s.7 Conservation Act, or s.8 NZ Walkways Act. [These are "protective mechanisms" under the CPLA.] Also it refers to the acquisition by the MoC of any fee simple area in the review or to the grant of a concession to another party.

Stage	Who Does It	What Happens
1	HCTRM	Sends a copy of the accepted substantive proposal and the approved plan to the relevant AM(s) on receipt from the Agent.
2	HCTRM	Issues an internal notification (on receipt of notice from the Agent of registration of the approved plan) providing data for recording new conservation areas or reserves in the relevant records (NB notification is to Relevant Officers, including AM(s)).
3	Relevant Officers	<ul style="list-style-type: none"> Amend records to provide for any new conservation areas and/or reserves. AM takes over responsibility for any new area on receipt of the above notice.
4	CRM	Notifies the HCTRM (e.g. at the point of LTO registration) of the completion of conveyancing of any interest (or disposal by way of exchange) and ensures the normal recording is arranged in Conservancy records (see Section 2-H of this Manual).
5	HCTRM	Notifies the relevant AM(s) on the basis of the CRM's notice.
6	AM	<ul style="list-style-type: none"> Issues instructions for recording of information supplied in any Area records which will not be updated through Conservancy Office. Takes over responsibility for any new area on receipt of the above notice.
7	HCTRM	Arranges or holds familiarisation inspections with the AM, and (Part 2 reviews only) introduction to the landowner (former lessee).

2.2 The **HCTRM** will not need to wait for Stages 4 to 6 to be taken if there are no interests in land (e.g. covenants and easements) nor a reserve/conservation area exchange involved, before proceeding to Stage 7.

3. Standards

- 3.1 The date of receipt by the AM of the notice from the HCTRM (at Stages 2 and 5) is to be the agreed handover date for the land or interest concerned. The AM then assumes the ongoing management responsibilities for new land or interest(s) in land, and the AM's responsibilities cease for any conservation area or reserve used in the tenure review exchange.
- 3.2 **DOC officers** are not to agree to take over any land or administration of an interest (or in any way exercise control and management over it) before it becomes subject to the Reserves Act or Conservation Act, unless advance possession is obtained.
- 3.3 The form of notice given to the HCTRM at Stage 2 and 5 is to be the one agreed between the **HCTRM** and the **Conservator** for the conservancy concerned.
- 3.4 The form of notice given to the HCTRM at Stage 4 is to be the one agreed between the **HCTRM** and the **CRM** for the conservancy concerned.
- 3.5 The purpose of the inspection at Stage 7 is to familiarise the AM with his/her new responsibilities, provide background to or discuss any particular issues or aspects of management and identify any outstanding matters. **HCTR staff** are to supply the AM with a copy of any notes with action points agreed for follow-up.
- 3.6 The purpose of the introduction at Stage 7 is to establish an ongoing landholder/DOC neighbour relationship and indicate to the former lessee the transfer of responsibility within DOC and who the new Area Office contacts will be.

4. Delegations

- 4.1 This process does not involve a statutory action. The responsibilities derive from DOC's organisational structure and job descriptions.
- 4.2 The **holders of the named positions** are each accountable for their part in the process and meeting the standards set out above.
- 4.3 The **CRM** and **relevant officers** are the position holders in the conservancy covering the land concerned.

5. Cross-references

- 5.1 Other relevant procedures in this Manual, in particular 2-B, 2-H and 3-C.

6. Implementation

- 6.1 The **HCTRM** and **CRM** are responsible for setting up administrative arrangements in each affected conservancy to enable this procedure to be properly implemented.
- 6.2 Stage 1 of the process is an early warning to the AM concerned. The **AM** is not to take any action which would contravene the standard in paras. 3.2 and 3.3 above.

7. Appendices

- 7.1 Forms agreed in terms of the Standards set in paras 3.4 and 3.5 above. [To be added to the manual as they become available.]

**APPENDIX A FORMS AGREED TO BE USED IN EACH CONSERVANCY
FOR THE PURPOSES OF IMPLEMENTING THIS
PROCEDURE**