Minerals West Coast submission to the Department of Conservation on "Proposals to modernise conservation"

28 February 2025

To: Modernising conservation land management consultation submissions,

landlegislation@doc.govt.nz,

From: Patrick Phelps, manager, Minerals West Coast

INTRODUCTION

[1] Minerals West Coast is an industry organisation representing the shared and collective interests of people and businesses operating in the minerals sector of the West Coast region and elsewhere in New Zealand.

[2] Our membership is diverse, spanning individuals engaged in part-time or fulltime mining operations and associated services, through to small and medium-sized, family-owned enterprises, all the way through to large companies with international shareholdings.

[3] Miners on the West Coast and throughout New Zealand produce a variety of minerals via a range of methods. This includes gold from alluvial and hard rock deposits, sub-bituminous coal as a source of energy for food production and space heating, bituminous coal for steelmaking, aggregates and gravels for roading and construction, limestone for fertiliser, pounamu (often as a by-product of gold mining), and mineral sands producing industrial minerals and rare earth elements.

[4] In 2024 the GDP of the West Coast region was about $2.7 billion. When breaking this down by sector (using the ANZSIC system) mining was the third largest source of GDP in the region, accounting for $311,200,000, or 10.5% of the total.

[5] Mining is among the highest-paid sectors in the New Zealand economy. In most of the past 15 years it has ranked highest paying sector in the country. In 2024 the annualised median earnings for the sector were $103,740, the highest of all sectors.

Introduction to the present public consultation

Conservation Minister Hon Tama Potaka released on 15 November 2024 two discussion documents (DDs), containing proposals to modernise the management of public conservation land (PCL).

> Proposals to modernise conservation released | Beehive.govt.nz
>
> FINAL Modernising conservation land management_.pdf

The following statements from the Minister are relevant to his purpose:

- "The Government is consulting on proposals to modernise New Zealand's conservation management system, aiming to protect relevant natural areas while supporting sustainable growth in tourism and regional economies."
- "By updating the legislation, we aim to create a conservation system that protects New Zealand's natural heritage, supports sustainable tourism, builds economic resilience, and strengthens partnerships with local Iwi."

The Government's 4 priorities for modernising conservation are:

- Fix concession processes
- Generate new revenue and recalibrate costs
- Strengthen relationships with iwi and hapū for better conservation outcomes
- Target investment into high-value conservation outcomes

The Minerals West Coast submission addresses directly the issues raised, concentrating on those relevant to the minerals exploration and mining industries.

The separate consultation document on whether and how to charge international visitors for access to public conservation land (PCL) is out of scope.

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Conservation is under-funded; a top priority for government should be to optimise existing spending on the conservation of natural and historic resources and find new funding streams to expand this work. Instead of wasting money on reviewing conservation management strategies, as an example, resources could go instead into funding pest control over a wider area of public conservation land (PCL).

The Department of Conservation has shown reluctance, at times, to openly working in partnership with business and other users of PCL. This carries substantial opportunity cost if the potential for increased funding from commercial activities, including mining, on PCL are not realised. Such funding is sorely needed to protect indigenous species from introduced pests and predators.

Minerals West coast urges the Government to remove minerals activities entirely from the concessions system, because this sector is already subject to access arrangements under the Crown Minerals Act 1991 (not discussed in the DD, a significant omission).

All minerals activities on PCL are subject to access arrangements, which supplant any need for concessions, as a comparison between relevant provisions of the Crown Minerals Act and the Conservation Act readily shows.

The main event for regulating activities on PCL for minerals companies should be access arrangements, and these should be simplified and streamlined to be cost-effective and fit for purpose.

In the spirit of removing unnecessary and wasteful regulatory duplication, Minerals West Coast also supports the repeal of the Wildlife Act 1953, because it is archaic, and has been superseded by multiple other pieces of legislation.

That said, Minerals West Coast acknowledges that minerals activity, like any other land-use activity, has adverse effects on the environment, including conservation values. To improve the effectiveness of regulation, a review is needed of previous work on the “effects management hierarchy” for workability, and fitness for purpose.

Ideally, the Government would abolish conservation land management planning, as a waste of time and money, and because there are already general policies for conservation, and spend the resources instead on achieving direct conservation outcomes.

In stark contrast to the previous government’s views on mining, the extraction of minerals benefits New Zealand and the world in many ways, as demonstrated by the minerals strategy for New Zealand to 2040, a Critical Minerals List for New Zealand, and spoken commitments from our Prime Minister to grow this country’s economy, and for mining to play a part in that growth.

The Government, including DOC has a role to proactively communicate the benefits of the minerals sector.

Having understood the benefits of minerals activities, including on PCL, there is a compelling case for overturning Supreme Court case law on land exchanges

involving stewardship land and other land. Provided there is an overall enhancement in conservation values for New Zealanders, land exchanges should be facilitated, rather than prevented.

Consistent with the foregoing, Minerals West Coast would support a halt to the review of stewardship land, because it is unnecessary and consumes scarce and much needed resources that would be better spent directly on conservation outcomes.

RECOMMENDATIONS

Minerals West Coast recommends the Government to:

1. Apply lateral thinking to resourcing biodiversity conservation, on how to involve wider society via well-designed economic incentives.
2. Take a strategic approach to applying revenue from exploration and mining access arrangements nature conservation outcomes.
3. Communicate proactively the contribution made by the minerals, mining and quarrying industries to nature conservation.
4. Eliminate any need for minerals activities on PCL to be subject to concessions, because they are already subject to access arrangements.
5. Simplify and streamline access arrangements for minerals companies to operate on PCL, to avoid unnecessary bureaucratic complexity.
6. Repeal the Wildlife Act 1953 because it is archaic and superseded by subsequent legislation.
7. Develop a workable and fit-for-purpose effects management hierarchy for managing the effects of economic development on biodiversity.
8. Abolish conservation land management planning, and focus instead on achieving direct conservation outcomes.
9. Support a replacement General Policy for the two existing general policies, to clarify a place-based approach to managing PCL.
10. Note a positive role for minerals prospecting, exploration and mining on PCL, provided this is suitably regulated.
11. Communicate the above.
12. Support a return to Parliament's intent of allowing exchanges of stewardship land with other land subject to an overall enhancement of conservation values.
13. Stop the review of stewardship land because it is an unnecessary waste of money and effort, and also because the General Policies already apply to stewardship land.

MINERALSWESTCOAST

A BETTER BANG FOR THE CONSERVATION DOLLAR

Conservation work in New Zealand is under-resourced for the scale of the task at hand. Namely, protecting 4,000 at-risk species from a host of introduced pests and predators over PCL covering one-third of New Zealand's land area, plus areas of biodiversity on private land.

As recently as March last year DOC Director-General Penny Nelson told a Parliamentary select committee the department is only able to actively manage 7.5% of PCL for nature conservation. DOC operates on 0.49% of all Crown spending (see Appendix 1), ranking 22nd on the list of 48 Crown funding allocations.

Appendix 2 shows there has been little fluctuation in total funding for DOC through Labour-led and National-led governments over the years, with governments of all stripes largely neglecting conservation spending, we imagine, due to sheer lack of funds.

Even allowing for potential optimisation of existing spending, it is clear additional funding is needed if the necessary level of conservation spending as a percentage of Crown spending or a percentage of GDP is to be achieved. This can be achieved by either raising higher taxes on the people of New Zealand to harvest the funding necessary for conservation, or by diverting spending from other portfolios such as social development, health, education, transport, defence etc. Given relatively few parties have campaigned for votes (much less received them) on such a platform, one can assume there is not a great deal of political profit and therefore public support for either approach.

Increased revenue through optimised commercial use of public conservation land, including for mining, is one option worthy of consideration (see Appendix 3).

This reform is an opportunity to apply lateral thinking to resourcing biodiversity conservation – how to involve wider society via well-designed economic incentives.

One proposal would be to establish "partnerships" between DOC and, for example:

- Fish and game enthusiasts: already do some wetland conservation
- Extractives industry: a strategic approach to spending compensation payments under access arrangements on high-priority conservation outcomes
- Arrow squid fishery: levy for sealion conservation
- Wapiti hunters: to resource red deer control in Fiordland
- Pig hunters in kiwi habitat: to support kiwi conservation
- Whitebait/inanga fishers: levies for riparian conservation
- Commercial tuna/eel fishers: levies for freshwater conservation

At present minerals explorers, miners and quarry operators on PCL pay compensation for "injurious affection" (s76, Crown Minerals Act 1991). This is not strategic. Payments are ad hoc and are required for multiple bureaucratic processes (access arrangement, annual authority to enter and operate, and for "industrial intrusion"). Furthermore, it is not clear how DOC spends the funds. If such payments were pooled, and oversight of spending done strategically on

DOC's top conservation priorities, the sum of the whole would be – surely – greater than the sum of the parts.

It's time for DOC and the Government to think outside the square and consider other ways than those already aired of enhancing its revenue base, and, importantly, optimising how it spends this revenue.

DOC could also proactively advertise the contribution made by the minerals, mining and quarrying industries (and others) to nature conservation to secure understanding and buy-in from the wider public.

CONCESSIONS SYSTEM

When Part 3B was added to the Conservation Act in 1996, to rationalise different approvals for private activities on PCL or the lack of such approvals, the intention always was for minerals activities to be exempt because they were already subject to access arrangements under the Crown Minerals Act 1991. Consider below the first provision of the concessions regime:

> Section 17O Application
>
> (1) This Part applies to every conservation area.
>
> (2) Except as provided in subsection (3) or subsection (4), no activity shall be carried out in a conservation area unless authorised by a concession.
>
> (3) A concession is not required in respect of—
>
> (a) any **mining activity** authorised under the Crown Minerals Act 1991 (including the transitional provisions of that Act); or

This exemption has not been fully observed in practice. For ancillary activities outside of a Crown minerals permit area, a concession is required, because these activities do not fall within a departmental interpretation of mining activity (which is not defined in s2, Cons. Act). Such include access roads, administration areas, and parking lots.

In the case of all aircraft, including helicopter movements, a concession is required (s17F, Cons Act). Refer to the provision below:

> Section 17 ZF Aircraft
>
> (1) No aircraft shall land or take off from any site within a conservation area that is not a certified aerodrome unless—(c) a concession has been obtained for the purpose from the Minister.

Affected companies suffer the imposition of an additional, duplicative, unnecessary, time-consuming, and potentially costly regulatory process.

The solution is to eliminate the need for minerals operators to apply for concessions, as follows:

- to insert definitions of minerals activities into s2, Cons. Act, taking from s2, Crown Minerals Act (refer to Appendix 2), and
- to broaden the scope of s17O, Cons. Act from "mining activity" to "exploration, prospecting, mining, and mining operations", and

- to specify that s17F, Cons. Act (including in relation to drones) does not apply to prospecting, exploration, mining and mining operations, and to
- transfer any permit requirements for research and collection into conditions of access arrangements

ACCESS ARRANGEMENTS

The DD does not mention access arrangements. These are arrived at via a regulatory process under the Crown Minerals Act and cover close to the same ground as does the concessions system (table 1). For this reason alone, minerals companies should not have to apply for concessions of any type.

In response to the legalistic notion that the legal tests are different under different statutes, with respect, that is a lawyer's argument. Kiwi, to pick one lot of indigenous species, do not care what legislation they are managed under, provided they are adequately protected.

Table 1: Comparison between access arrangements and concessions

Conservation Act 1987 concessions	Crown Minerals Act 1991 access arrangements to Crown land	Comment
17U (1) In considering any application for a concession, the Minister shall have regard to the following matters: (a) the nature of the activity and the type of structure or facility (if any) proposed to be constructed: (b) the **effects** of the activity, structure, or facility:	**61 (1AAB)** The appropriate Minister must determine whether or not activities are significant exploration or mining activities for the purposes of this section and, in doing so, must have regard to— (a) the **effects** the activities are likely to have on **conservation values** for the land concerned;	Both require the Minister to have regard to the effects of the activity on the conservation values in the land.
17 U (3) The Minister shall not grant an application for a concession if the proposed activity is contrary to **the provisions of this Act** or **the purposes** for which the land concerned is held.	**61 (2)** In considering whether to agree to an access arrangement, or variation to an access arrangement, in respect of Crown land, the appropriate Minister (in the case of subsection (1)) or the Minister and the appropriate Minister (in the case of subsection (1AA)) shall have regard to— (a) **the objectives of any Act** under which the land is administered; and (b) **any purpose** for which the land is held by the Crown;	Both consider the objectives of applicable legislation, and the purpose for which the land is held.
17W (1) Where a conservation management strategy or conservation management plan has been established for a conservation area and the **strategy or plan** provides for	**61 (2)** In considering whether to agree to an access arrangement, or variation to an access arrangement, in respect of Crown land, the appropriate Minister (in	Both consider relevant land management strategies / policies and plans

the issue of a concession, a concession shall not be granted in that case unless the concession and its granting is consistent with the strategy or plan.	the case of subsection (1)) or the Minister and the appropriate Minister (in the case of subsection (1AA)) shall have regard to— (c)any **policy statement or management plan** of the Crown in relation to the land; and	
17U (1) In considering any application for a concession, the Minister shall have regard to the following matters: (d) any measures that can reasonably and practicably be undertaken to **avoid, remedy, or mitigate** any adverse effects of the activity:	**61 (2)** In considering whether to agree to an access arrangement, or variation to an access arrangement, in respect of Crown land, the appropriate Minister (in the case of subsection (1)) or the Minister and the appropriate Minister (in the case of subsection (1AA)) shall have regard to— (d) **the safeguards** against any potential adverse effects of carrying out the proposed programme of work; and	Both consider the management of adverse effects of the activity
17X In granting any concession, the Minister may impose such conditions as he or she considers appropriate for the activity, structure, or facility, including (but not limited to) conditions relating to or providing for—(d) the payment of **compensation for any adverse effects** of the activity on the Crown's or public interest in the land concerned, unless such compensation has been provided for in the setting of rent:	**61 (2)** In considering whether to agree to an access arrangement, or variation to an access arrangement, in respect of Crown land, the appropriate Minister (in the case of subsection (1)) or the Minister and the appropriate Minister (in the case of subsection (1AA)) shall have regard to— (e) **any other matters** that that Minister or those Ministers consider relevant. **76 (1)** Where a person is authorised to prospect, explore, or mine on or in land by a permit granted under this Act and by an access arrangement in respect of that land, the owner and occupier of the land are entitled to **compensation** from the permit holder for injurious affection and all other loss or damage suffered, or likely to be suffered, by them as a result of the grant of the permit or the exercise of the rights conferred by this Act, or by	Both provide for compensation for adverse effects. Neither set of provisions provides clarity on the effects management hierarchy, in particular, biodiversity offsets and compensation.

	the permit, or by an access arrangement;	

Note that access arrangements entail, at times, lengthy processes, and are supplemented by an unnecessary and time-consuming process, DOC's granting of an Authority to Enter and Operate, subject to presentation of an annual work plan.

Minerals West Coast proposes the deletion of the requirement for an AEO, and the speeding up of the access arrangement process.

WILDLIFE ACT 1953

The 1953 date of this statute is significant; it means the Wildlife Act has been superseded by the Marine Reserves Act 1971, Reserves Act 1977, Marine Mammals Protection Act 1978, National Parks Act 1980, Conservation Act 1987, Resource Management Act 1991, and the Crown Minerals Act 1991.

During the life of the Wildlife Act, the fish and game provisions were moved into the Conservation Act, as Part 5A, which by itself shows the Wildlife Act has become archaic and obsolete.

Currently an authority is required under the Act to live capture and move wildlife, eg kiwi, weka, landsnails, lizards, and frogs. This can be necessary as part of managing the effects of development on wildlife and can be regulated alternatively via conditions of resource consents, access arrangements, or concessions, depending on the activity.

On that basis, the Wildlife Act is an unnecessary statute, and Minerals West Coast would support any move to repeal it.

EFFECTS MANAGEMENT HIERARCHY

The "effects management hierarchy" specifies a sequence of steps for managing the adverse impacts of an activity on an environmental value, usually, biodiversity. The term became more common in government policy documents dating from this century, to reflect policy developments overseas, and to introduce a fuller approach to managing adverse effects, than the existing RMA formula of "avoid, remedy, mitigate". Refer to table 2 below:

Table 2: Effects management hierarchy

	Sequence of effects management steps
On site	• **avoid** effects where reasonable and practicable • **reduce** effects that cannot be avoided • **remedy** effects that cannot be reduced • **mitigate** effects that cannot be remedied (repaired)
Off site	• **offset** residual effects that cannot be mitigated (made less severe) • **compensate for** effects that cannot be offset (to a measurable standard of no net loss, or net gain)

Government has attempted to develop policy for biodiversity offsets and compensation, most recently in a National Policy Statement for Indigenous Biodiversity 2023 (which was largely unworkable in relation to economic land use and development).

The appendices to the NPS-IB on biodiversity offsets and compensation were a good start, however, need amendment for the effects management hierarchy to be workable. The appendices supersede an attempt made by DOC to develop guidance on biodiversity offsets, which is also largely unworkable.

On developing a fit-for-purpose effects management hierarchy, this can then be introduced into the Conservation Act, and the Crown Minerals Act (as well as into the RMA reform).

CONSERVATION LAND MANAGEMENT PLANNING

The provisions set out in Part 3A of the Conservation Act were added in 1991 at a time when DOC had been exceeding its budget.

Parliamentary debate at the time defined DOC as an operational department, and that other bodies should set policy, leading to the establishment of the New Zealand Conservation Authority, and the numerous conservation boards around the country (inserted as Part 2A, Cons. Act).

The result is an overblown system that consumes departmental resources for little or no benefit, especially as the 2005 General Policies supersede the need for conservation management strategies for each region of New Zealand.

In explanation, the General Policies – which the Government intends to replace – provide for place-based management, ie managing each parcel of PCL in light of the values in that land. Seen in this light, the CMSs are, arguably, overly complicated documents for their number.

A compromise may be to have two CMSs for New Zealand: one for the North Island and associated islands, and the same for the South Island. There is no need for separate conservation management plans, or national park management plans to avoid unnecessary duplication and bureaucracy, and to reduce departmental expenditure on outputs that serve no purpose.

The proposed statutory land management planning process is an improvement on the existing one, however, will still be consuming of time and resources.

CONTEXT FOR MINERALS ACTIVITIES ON PCL

Note a strong positive correlation between economic mineral deposits and mountains (as a matter of geology), and between mountains and PCL (due to the pattern of human settlement of Aotearoa New Zealand).

PCL covers > 30% of New Zealand's land area, while mining has a relatively small footprint, around 0.04% of the area of PCL, or 4mm of a 10-metre tape measure.

The above two considerations argue for a positive role for minerals prospecting, exploration and mining on PCL, provided this is suitably regulated.

The development of suitable regulation, as regards minerals activities, would include (as discussed above):

- eliminating the need for minerals activities to apply for concessions
- repealing the Wildlife Act
- simplifying and streamlining access arrangements under the Crown Minerals Act
- reform of the RMA system

There is role for government to communicate the benefits of minerals activities for New Zealand and globally, and this is underway with the development of a minerals strategy to 2040. This is strongly supported.

LAND EXCHANGES

The Ruataniwha Supreme Court 2017 decision mentioned in the DD led to a distorted interpretation of the General Policies, as regards land exchanges and disposals (of stewardship land). Perhaps, this is one reason the Government is considering replacing them with one, updated Policy.

We agree with the DD that one general policy is better than two, and that the two statutory instruments warrant revision and merging, 20 years on.

In Minerals West Coast's view, the 2017 Ruataniwha Supreme Court decision materially altered Parliament's intent when it introduced land exchanges of stewardship land under s16A, Cons. Act, in 1990.

The point of such land exchanges was "that the exchange will enhance the conservation values of land managed by the Department and promote the purposes of this Act". At the time the term to describe such exchanges was "net conservation benefit". That should remain the objective of land exchanges, which can also benefit economic development.

STEWARDSHIP LAND REVIEW

The review of stewardship land initiated by the previous government was a costly waste of time and effort.

This is because such land is already managed under s25 of the Cons. Act, which states that "Every stewardship area shall so be managed that its natural and historic resources are protected."

As well, the General Policies apply to all stewardship land, as they do to all PCL. As discussed above, the General Policies provide for the management of each parcel of PCL in accordance with the values in that land.

Therefore, in the context of any application for a minerals activity on stewardship land, or any other PCL (outside of lands and waters listed in Schedule 4 of the Crown Minerals Act), there would be an assessment of the values in the land, and an assessment of the effects on those values from proposed development.

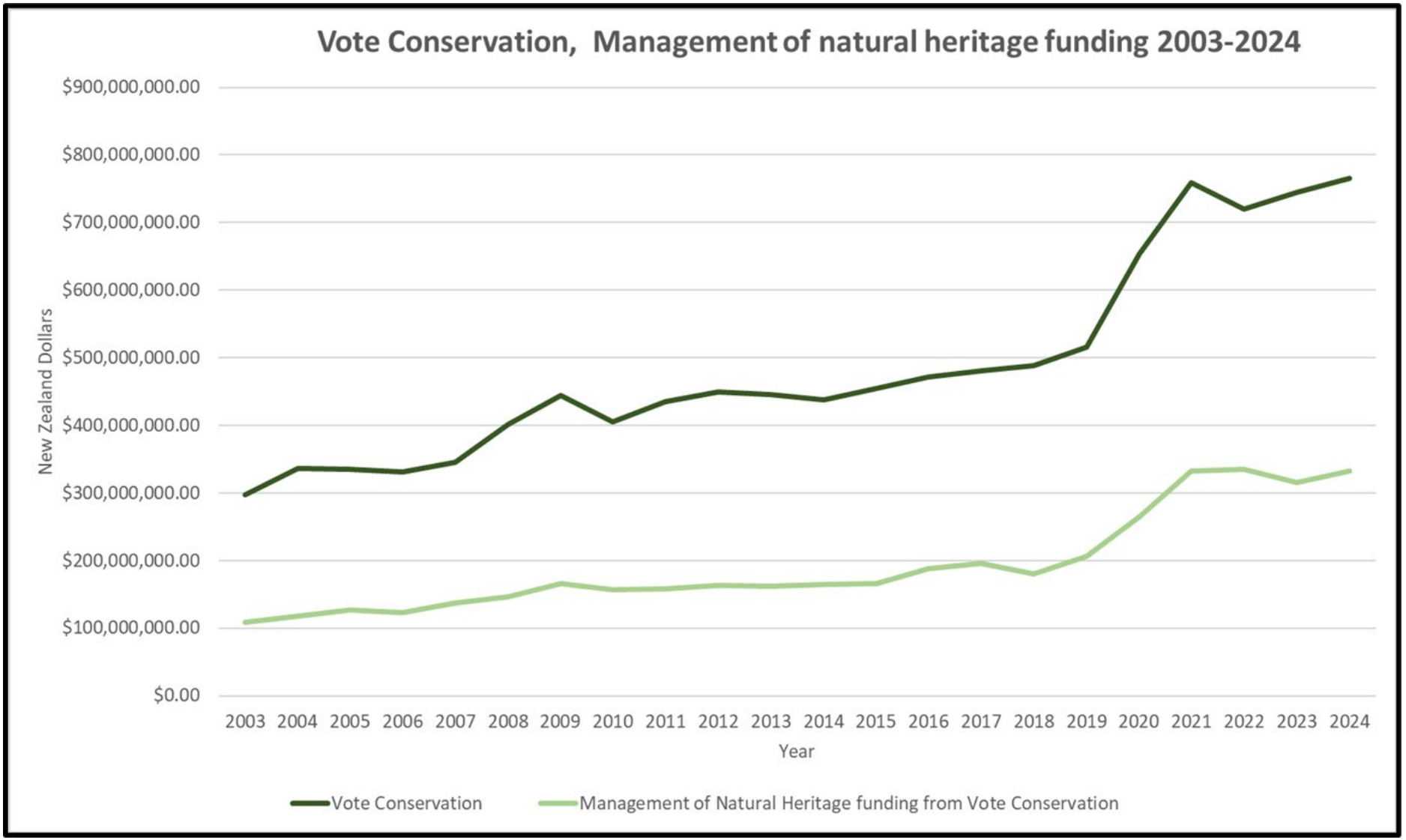
In summary, the concept of stewardship land has become superseded by the General Policies, and by current practice for managing the effects of development on PCL on conservation values, including under access arrangements and resource consents.

APPENDIX 1: New Zealand Government spending by allocation (Vote) Budget 2024/25

In order of spending items	Budget Vote Item	Total Annual Appropriations and Forecast Permanent Appropriations	As a percentage of total Crown spending
#1	Vote Social Development	$45,427,441,000.00	26.93%
#2	Vote Health	$28,254,211,000.00	16.75%
#3	Vote Revenue	$19,577,258,000.00	11.61%
#4	Vote Education	$19,033,025,000.00	11.28%
#5	Vote Finance	$9,893,358,000.00	5.87%
#6	Vote Transport	$6,365,145,000.00	3.77%
#7	Vote Defence Force	$4,949,199,000.00	2.93%
#8	Vote Tertiary Education	$3,927,084,000.00	2.33%
#9	Vote Housing and Urban Development	$3,179,281,000.00	1.88%
#10	Vote Labour Market	$3,121,365,000.00	1.85%
#11	Vote Environment	$2,965,315,000.00	1.76%
#12	Vote Police	$2,774,517,000.00	1.64%
#13	Vote Corrections	$2,653,913,000.00	1.57%
#14	Vote Business, Science and Innovation	$2,650,258,000.00	1.57%
#15	Vote Foreign Affairs	$1,869,722,000.00	1.11%
#16	Vote Oranga Tamariki	$1,552,739,000.00	0.92%
#17	Vote Agriculture, Biosecurity, Fisheries and Food Safety	$1,159,891,000.00	0.69%
#18	Vote Courts	$1,067,726,000.00	0.63%
#19	Vote Internal Affairs	$961,417,000.00	0.57%
#20	Vote Prime Minister and Cabinet	$887,065,000.00	0.53%
#21	Vote Defence	$839,820,000.00	0.50%
#22	Vote Conservation	$825,926,000.00	0.49%
#23	Vote Justice	$805,471,000.00	0.48%
#24	Vote Lands	$661,495,000.00	0.39%
#25	Vote Māori Development	$481,189,000.00	0.29%
#26	Vote Arts, Culture and Heritage	$450,204,000.00	0.27%
#27	Vote Communications Security and Intelligence	$341,255,000.00	0.20%
#28	Vote Customs	$324,183,000.00	0.19%
#29	Vote Statistics	$212,688,000.00	0.13%
#30	Vote Forestry	$202,720,000.00	0.12%
#31	Vote Audit	$162,799,000.00	0.10%

#32	Vote Building and Construction	$148,841,000.00	0.09%
#33	Vote Parliamentary Service	$139,711,000.00	0.08%
#34	Vote Attorney-General	$134,334,000.00	0.08%
#35	Vote Sport and Recreation	$125,344,000.00	0.07%
#36	Vote Security Intelligence	$116,561,000.00	0.07%
#37	Vote Pacific Peoples	$90,201,000.00	0.05%
#38	Vote Te Arawhiti	$68,506,000.00	0.04%
#39	Vote Public Service	$57,394,000.00	0.03%
#40	Vote Ombudsmen	$56,446,000.00	0.03%
#41	Vote Education Review Office	$54,337,000.00	0.03%
#42	Vote Parliamentary Counsel	$28,628,000.00	0.02%
#43	Vote Office of the Clerk	$26,124,000.00	0.02%
#44	Vote Serious Fraud	$17,093,000.00	0.01%
#45	Vote Regulation	$16,000,000.00	0.01%
#46	Vote Women	$11,862,000.00	0.01%
#47	Vote Social Investment	$6,252,000.00	0.00%
#48	Vote Parliamentary Commissioner for the Environment	$4,420,000.00	0.00%
	Total	**$168,679,734,000.00**	100.00%

APPENDIX 2: 'Vote Conservation', New Zealand, and budget item 'Management of natural heritage', 2003-2024



APPENDIX 3: Mining on public conservation land

Mining on some areas of public conservation land, as a way of increasing funding for Department of Conservation work protecting threatened species and habitats, is something Minerals West Coast has researched and written on extensively.,

This editorial in Stuff captures many of the arguments, as well as references to third-party information.

Previously, the Parliamentary Commissioner for the Environment has written on this issue. The Commissioner's relevant report from 2010 can be found here, as well as a 2014 follow up report here..

APPENDIX 4: SELECTED DFINITIONS IN S2, CROWN MINERALS ACT 1991

exploration means any activity undertaken for the purpose of identifying mineral deposits or occurrences and evaluating the feasibility of mining particular deposits or occurrences of 1 or more minerals; and includes any drilling, dredging, or excavations (whether surface or subsurface) that are reasonably necessary to determine the nature and size of a mineral deposit or occurrence; and **to explore** has a corresponding meaning

mining—

(a) means to take, win, or extract, by whatever means,—

(i) a mineral existing in its natural state in land; or

(ii) a chemical substance from a mineral existing in its natural state in land; and

…

(c) does not include prospecting or exploration for a mineral or chemical substance referred to in paragraph (a)

mining operations—

(a) means operations in connection with mining, exploring, or prospecting for any Crown owned mineral; and

(b) includes, when carried out at or near the site where the mining, exploration, or prospecting is undertaken,—

(i) the extraction, transport, treatment, processing, and separation of any mineral or chemical substance from the mineral; and

(ii) the construction, maintenance, and operation of any works, structures, and other land improvements, and of any related machinery and equipment connected with the operations; and

(iii) the removal of overburden by mechanical or other means, and the stacking, deposit, storage, and treatment of any substance considered to contain any mineral; and

(iv) the deposit or discharge of any mineral, material, debris, tailings, refuse, or wastewater produced from or consequent on the operations; and

(v) the doing of all lawful acts incidental or conducive to the operations; and

prospecting—

(a) means any activity undertaken for the purpose of identifying land likely to contain mineral deposits or occurrences; and

(b) includes the following activities:

(i) geological, geochemical, and geophysical surveying:

(ii) aerial surveying:

(iii) taking samples by hand or handheld methods:

(iv) taking small samples offshore by low-impact mechanical methods