

Commercial in Confidence

Office of the Minister of Conservation

Office of the Minister of Tourism

Office of the Associate Minister of Transport

Cabinet Environment, Energy and Climate Committee

Milford Opportunities Project: Initial Policy Decisions

Proposal

- 1 This paper reports back on initial policy and legislative feasibility testing of key proposals in the Milford Opportunities Project (MOP) Masterplan and seeks initial policy decisions from Cabinet to guide further detailed feasibility and options assessment. A public consultation document followed by a full business case will be developed in the next phase of work.

Relation to government priorities

- 2 The MOP is consistent with the strategic direction from the New Zealand-Aotearoa Government Tourism Strategy [DEV-19-MIN-0100 refers], the Department of Conservation's Heritage and Visitor Strategy, the Parliamentary Commissioner for the Environment reports on sustainable tourism, the Future of Tourism report, and the Direction of Tourism [CAB-21-MIN-0063].
- 3 An important part of the Government's overall economic strategy is to transform the tourism industry towards a high value, low environmental impact model, while continuing to protect New Zealand's valuable conservation land. The MOP is an important test case to realise this goal.

Executive Summary

- 4 The MOP Masterplan aims to preserve Milford Sound / Piopiotahi's World Heritage status, cultural and conservation values, and improve the overall visitor experience. It challenges the status quo across several complex areas – management of national parks, conservation, tourism, transport, and resource management planning. It presents both significant opportunity and potential change, and will impact Ngāi Tahu interests, local communities, and commercial operators.
- 5 Recognising the extent and cross-cutting nature of these impacts, an independent Board and Unit has been established to feasibility test the Masterplan proposals and will provide us with a business case in mid-2024.
- 6 As demand from international visitors' rebounds, it is timely to receive advice on initial feasibility and take decisions to shape the next phase of work. The next phase will include the release of a public consultation document, the

preparation of a business case, and the potential introduction of legislation. There is strong appetite for us to make progress from a range of stakeholders. Our ambition for Milford Sound / Piopiotahi is informed by five key judgements:

*Our appetite to adopt new or novel **Treaty partnership** arrangements for Piopiotahi in the context of the wider Māori Crown relationship:*

- 7 A Treaty-based approach has been adopted by the Board and the Unit. An important part of this work has been to ensure recognition of the rights and interests identified through direct engagement with Te Runanga o Ngāi Tahu. **Ngāi Tahu** views have been sought on the key policy issues and are provided throughout the analysis, and further work will be needed over the coming months to continue this relationship, understand Ngāi Tahu's rights and interests, and consider what they might mean for the proposals.

Correction 21/08/2023:
Papatipu Rūnanga
representatives on the MOP
Board and
Te Rūnanga o Ngāi Tahu

*Whether we should **manage access to Piopiotahi** including via the Milford Road, and on what basis:*

- 8 The Masterplan recommends restricting access to the Milford Road corridor using a permit and public transport system. Visitors would be required to have a permit to access the road, and while New Zealanders could self-drive, international visitors would be required to use a park and ride bus service.
- 9 Current legislation does not provide mechanisms to limit access to the road for tourism purposes, and we are not convinced at this stage that the objectives of the Masterplan provide a strong enough case to justify the legal, operational, and cost implications of restricting access to the road. We are recommending that the Board and officials also explore the feasibility of alternative options, 9 (2) (i) (iv)

*The financial sustainability of the commercial, funding and delivery model, including the **charging regime** that may apply and the level and type of funding the Crown is prepared to approve to implement the changes:*

- 10 Cabinet has previously agreed to the Masterplan proposal to charge international visitors for access to Milford [DEV-21-MIN-0135 refers], with revenue gathered intended to enable the project to be self-funding and support wider investment into conservation and community initiatives.
- 11 Feasibility testing has shown that the only viable option to implement an access charge as intended is to create new, bespoke legislation, likely in the form of a levy charged based on residency. We propose a report back on what a new approach to implementing an access levy might look like.
- 12 The business case will be supported by financial analysis setting out the level of investment required, how this may be sourced including through private means, and the amount of seed funding that may be required of the Crown (if any).

*How we should work with current **concession holders**.* 9 (2) (f) (iv)

13 Concessions in Milford Sound / Piopiotahi authorise a range of commercial activities, across key strategic infrastructure (like wharves and hotels), through to experiences and services such as guided walks and bus transport.

14 The current framework is complex, with a high level of inconsistency between concession terms and conditions. 9 (2) (f) (iv)
The proposals in the Masterplan would, if implemented, impact on concession holders to varying degrees, ranging from minimal impacts to some activities needing to be discontinued or changed.

15 The Board believes that transforming the experience at Milford Sound / Piopiotahi will require a step change in the relationship with commercial providers through concession arrangements. This includes taking a more proactive approach, holding concession holders to account for performance, and working with concession holders to deliver high standards of visitor experience, that reflect the cultural narrative of this significant area, while achieving conservation outcomes. The Board believes the current first-in first-served approach to concessions does not serve New Zealanders, our conservation interests, or our international visitors well. Ngāi Tahu also see a significant opportunity to take a different approach.

16 9 (2) (g) (i)
We have asked for further advice from officials on this future approach to concessions for Milford Sound / Piopiotahi, 9 (2) (f) (iv)

17 9 (2) (f) (iv)

*Whether we are satisfied that current **management and governance arrangements** will enable the level of change and pace of change required:*

18 The Masterplan identified that the current decision-making frameworks are unlikely to support MOP outcomes, and decisions may be made in isolation from each other and inconsistent with the wider vision for the area. In addition,

9 (2) (g)

there is a low level of confidence from stakeholders that changes could be achieved within the status quo.

- 19 Ngāi Tahu have indicated that management and governance arrangements are of key interest to them and that they should provide for meaningful participation including decision-making rights.
- 20 This work will be further progressed over the next six months as options are progressed in other areas and functional requirements are identified. We have asked the Board and officials to report back to us on options for this, and the other priority areas above, by the end of 2023, for inclusion in a public consultation document in early 2024.

Background

- 21 The MOP was established to preserve Milford Sound / Piopiotahi's World Heritage status, cultural and conservation values and improve the overall visitor experience. It provides an opportunity to test ways to better manage New Zealand's iconic visitor destinations, and to drive sustainable benefits for the environmental and economic resilience of communities and infrastructure.
- 22 The MOP delivered the Masterplan to Cabinet in June 2021, which proposed considerable redesign of the experience at Milford Sound / Piopiotahi and the Milford Road corridor from Te Anau. A summary of the MOP and the Masterplan is provided in Appendix 1. The key proposals are:
 - 22.1 introducing a permitted and managed access and transport model;
 - 22.2 charging international visitors an access fee;
 - 22.3 establishing a new management and governance model;
 - 22.4 developing new nature experiences along the Milford Road corridor;
 - 22.5 improving infrastructure in Milford Sound / Piopiotahi and reorganising the layout of the village;
 - 22.6 closing the fixed-wing runway; and preventing cruise ships from entering Milford Sound / Piopiotahi.
- 23 On receiving the Masterplan, Cabinet agreed to the formation of a dedicated Board and Unit to commence the next stage of work to feasibility test the proposals [DEV-21-MIN-0135] and approved \$15 million to fund this work over two years [CAB-21-MIN-0111].
- 24 Since then, we (the Ministerial Group) have asked the Board to prioritise feasibility across five core policy areas: the Treaty partnership approach, managing access, charging visitors, concessions, and governance arrangements. These five areas represent a package of policy areas that require first-order policy decisions to shape the parameters for public consultation and the final business case, which is the focus of this paper. The remaining proposals, such as consideration of infrastructure needs, removing

The Masterplan proposals challenge the status quo across conservation, management of national parks, tourism, transport, and resource management planning. The MOP provides a chance to understand and demonstrate how we can drive environmental, cultural, societal, and economic benefit through better integrated management of New Zealand's iconic destinations and surrounding communities. Designing world-leading experiences based on natural and cultural heritage, aligned with destination management plans, provides an opportunity for tourism around Milford Sound / Piopiotahi to connect to, and benefit from, the environment, surrounding communities, and industry, and protect it for future generations.

26 The Masterplan recommendations have significant implications for Ngāi Tahu, as a Treaty of Waitangi/Te Tiriti o Waitangi (Treaty) partner and mana whenua, with many commercial operations and concessions. As we continue to feasibility test the Masterplan and develop options, careful stakeholder engagement and consultation is of critical importance, as well as specific engagement with Ngāi Tahu and active consideration of their rights and interests.

27 Ngāi Tahu are actively engaged within the MOP and have identified relevant Treaty and settlement rights and interests included throughout this paper. Te Rūnanga o Ngāi Tahu consider that MOP has the potential to propose an innovative and transformational policy and legislative framework for Milford Sound / Piopiotahi that gives effect to Treaty principles, enables Ngāi Tahu to meaningfully participate in decision-making and ensures sustainable environmental, economic, social and cultural outcomes for current and future generations of Ngāi Tahu whānui. While they offer their support, this is accompanied by a need to carefully consider and recognise the importance of safeguarding Ngāi Tahu rights and interests.

28 Feedback from commercial stakeholders remains varied. While widespread support exists for the Masterplan overall, an improved concession framework, including timely decision-making and an improved governance model, are of particular interest to existing concession holders. The need to update the Fiordland National Park Management Plan is another recurring theme.²

² Since setting up the Te Anau project hub in January 2023, the MOP Unit have engaged with 609 people representing small to large tourism businesses, conservation, community, and special interests, either through engagement sessions or individually.

ships, building new combined staff accommodation and a visitor centre, and reducing and relocating parking. Feasibility testing these elements with DMS and other interested stakeholders has not yet occurred given the focus on the five core policy areas. However, DMS, Milford Sound Tourism, and Milford Sound Infrastructure have indicated their interest to work collaboratively with the Unit as feasibility testing occurs.

- 30 The local community supports the Masterplan overall, with specific support for the concept of a park and ride bus service, an increased number of trails, and a new huts and cycle ways. Sentiments are positive towards strengthening cultural and mana whenua aspects of the plan, and the banning of cruise ships. Key concerns include delays reviewing the Fiordland National Park Management Plan, co-locating staff accommodation with visitors in Milford Sound / Piopiotahi and increased housing requirements in Te Anau.
- 31 Statutory conservation bodies, including the Fiordland Marine Guardians, the New Zealand Conservation Authority and Southland Conservation Board, are particularly interested in the management and governance of the area, given their respective functions. The proposal to fund conservation activities is welcomed, with the Fiordland Marine Guardians promoting the specific inclusion of water-focused activities.
- 32 Early insights from a recent visitor survey by Tourism New Zealand³ indicates highly positive approval of the Masterplan, high level of acceptance to pay a visitor fee across most markets with minimal risk of deterrence; and an improved willingness to pay if funds are spent on conservation in the area.⁴ Proposed changes to managing access were also well received.⁵ One of the main concerns across all markets was the risk of overdevelopment, with expectations of untouched nature experiences and freedom and connection to culture and place.

How we approach Treaty partnership in Milford Sound / Piopiotahi

- 33 MOP provides the opportunity to take a Treaty partnership approach, including supporting the Department of Conservation (DOC) to act in a manner consistent with the responsibilities under section 4 of the Conservation Act 1987 to give effect to the principles of the Treaty.
- 34 The fact that Ngāi Tahu has mana whenua over the Milford Sound / Piopiotahi areas is undisputed and recognised in the Ngāi Tahu Claims Settlement Act 1998 and the corresponding 1997 Deed of Settlement. Eight Papatipu Rūnanga exercise mana whenua over Milford Sound / Piopiotahi.

³ Approximately 700 respondents per market (Australia, USA, United Kingdom, Germany, China, Japan and India), with a mix of future visitors to New Zealand (active considerers) and previous visitors (over the last seven years).

⁴ View of Masterplan: 82 – 96 percent positive or very positive; acceptance of visitor fee: average 79 percent, 66 – 92 percent positive or very positive; willingness to pay if funds spent on conservation: 57 – 84 percent more willing or much more willing to pay.

⁵ Eighty-three percent feeling that the changes would improve the experience, and 87 percent seeing the changes as favourable.

- 35 A Treaty-based approach has been adopted by the Board and Unit. The Board currently includes two Ngāi Tahu representatives who have ensured that the Board's judgement is well informed by Ngāi Tahu. Additionally, an important part of this work has been to ensure recognition of the rights and interests identified through direct engagement with Te Runanga o Ngāi Tahu.

Correction 21/08/2023:
Te Rūnanga o Ngāi Tahu

A preliminary rights and interests analysis is provided in Appendix 2 and incorporates direct comment from Ngāi Tahu.

- 36 In terms of policy consideration, there are two significant principles that are applicable: partnership and active protection. The principle of partnership requires the Treaty partners to act reasonably and in good faith. The duty of good faith includes a requirement that the Crown take reasonable steps to make informed decisions on matters that impact Ngāi Tahu interests. Ngāi Tahu views have been sought on the key policy decisions and are provided throughout the analysis.

Correction 21/08/2023:
Te Rūnanga o Ngāi Tahu

- 37 In considering the Treaty rights and interests, we also need to recognise the different roles and interests Ngāi Tahu represent throughout the process, as both a Treaty partner and as a major concession holder within the area. We have had constructive conversations about the management of these interests.

Correction 21/08/2023: with
Te Rūnanga o Ngāi Tahu

Managing access via the road

- 38 The Masterplan recommends managing access to the Milford Road corridor using a permit and public transport system. Under this proposal, all visitors would be required to have a permit to access the road. International visitors would be required to use a park and ride bus service, with New Zealanders retaining the ability to self-drive [DEV-21-MIN-0135].⁶
- 39 It is expected that managing access in this way will help reduce congestion and smooth the flow of visitors into Milford Sound / Piopiotahi.⁷ During peak seasons there is significant congestion at the Homer Tunnel and at Milford Sound / Piopiotahi with visitors 'racing' to the boat cruises that depart between 1 and 2 pm. This compromises the visitor experience, which should be world-class for the iconic destination and journey.⁸
- 40 Managed access to national parks is used internationally. For example, Lake Moraine in Canada is closed to personal vehicles, and 109 national parks in the United States require advanced bookings and an entrance fee. Issues

⁶ The Masterplan indicated an hourly cap on permits, to manage congestion, and proposed some exceptions – special permits would be free for pre-qualified commercial users, operators and services staff, mana whenua, and New Zealanders fishing, hunting, climbing, or tramping.

⁷ The masterplan identified other benefits from managing access, including improved driver safety and the opportunity to introduce zero carbon transport options.

⁸ The average daily number of visitors in February 2019 exceeded 4000. Around 95 percent of visitors access Milford Sound / Piopiotahi by road, mostly by car or campervan, which carry an average of 2.5 visitors (compared with buses and coaches that carry 50 percent of visitors and only account for 9 percent of inbound vehicle movements). The peak average number of vehicles per hour at the Homer Tunnel was approximately 450 vehicles in February 2019 (and 650 vehicles on the peak day, 28 December 2019).

relating to high tourism pressure are presenting elsewhere in our conservation areas, notably in Tongariro National Park and Aoraki Mt Cook.

- 41 Milford Sound / Piopiotahi has a unique context. The Milford Road is a part of the state highway network, funded out of the National Land Transport Fund (NLTF), and is the only route in and out of Milford Sound / Piopiotahi. The road is exposed to natural hazards and supported by an internationally recognised avalanche management programme through the Milford Road Alliance. The operational cost of the Milford Road is approximately \$10 million a year, excluding major capital improvements or emergency works.

Initial feasibility testing has shown that restricting access to the road will pose significant legal and operational challenges

- 42 Current legislation does not provide mechanisms to limit access to the road for tourism purposes. The public has a common law right to freedom of movement on public roads, except in limited circumstances when access needs to be restricted for safety reasons.⁹
- 43 Making Milford Road a private road managed by DOC was considered. Officials have advised that while there is precedent for private roads to be publicly funded it would not be appropriate for Milford Road given its nature and scale.¹⁰ Managing a road of that scale and complexity would also be inconsistent with the DOC's core functions and may impact the Milford Road Alliance.
- 44 Restricting road access for tourism purposes would therefore require legislative change to create a bespoke type of road. Such legislation would need to override the public's right to freedom of movement and maintain existing funding and management arrangements. The threshold to override the public's right of access will be high. Restricting road access will also require effective design, operation, and enforcement, which is likely to have significant costs and risks.
- 45 We are not convinced at this stage that the benefits intended by the Masterplan, namely improved visitor experience, provide a strong enough case to justify the legal, operational, and cost implications of restricting the road when there may be other options to manage access that support the wider objectives of the Masterplan.
- 46 It is also not clear whether the potential burden on non-tourists to secure access permits (including the burden of securing special permits for mana whenua, recreationists and others) and enabling New Zealanders but not

⁹ The Land Transport Act 1998 provides limited powers to restrict access to public roads in accordance with the purposes of the Act, which are to promote safe road user behaviour and vehicle safety.

¹⁰ For example, some funding is provided for private road development via the Provincial Growth Fund, to support growth in the regions.

Correction
21/08/2023: Ngāi
 Tahu whānui

international visitors to self-drive, would be justified.¹¹ Within this context, Te Rūnanga o Ngāi Tahu has expressed the view that the permit system should not apply to **mana whenua**, or a separate permit for **mana whenua** customary access should be established. The Masterplan proposed special permits for mana whenua.

We propose that further work be undertaken to test alternative options

- 47 Officials and the Board have been exploring other options to managing access, from alternative approaches to restricting access through to incentivising behaviour change. These are:

47.1 9 (2) (f) (iv)

- 48 Further work is needed to understand the merits and implications of these options. This includes considering how the options would uphold the National Parks Act 1980 principle of public right to entry, understanding the impact on concessionaires, and identifying whether differential treatment between international and New Zealand visitors would be necessary. Choices on the access model will also have implications for the approach to charging, as well as wider infrastructure and investment requirements of the Masterplan.¹²
- 49 Final decisions about managing access, including whether to restrict the road, will depend on our level of aspiration for change, and the extent to which the alternative options can achieve the wider Masterplan outcomes. Depending on the feasibility of the alternative options, legislative change to restrict access to the road may still be required. We propose that officials and the Board explore the alternative options, and we will report back to you in early 2024 on a preferred option to be publicly consulted on.

Charging for access

- 50 Cabinet has previously agreed to the Masterplan proposal to charge international visitors for access to Milford Sound / Piopiotahi via the state

¹¹ Under the Bill of Rights Act 1990 and the Human Rights Act 1993. Limits on self-driving for international visitors would also restrict their ability to engage in recreational activities, such as hunting and fishing, without going through a commercial operator/concession holder.

¹² Implications for the infrastructure and investment requirements of the Masterplan will be explored through the business case process.

highway, with free access maintained for New Zealanders [DEV-21-MIN-0135 refers].

- 51 The revenue collected through the access charge is intended to enable Milford Sound / Piopiotahi to transition to a regenerative tourism model which will ensure the long-term sustainability and resilience of tourism at Milford Sound / Piopiotahi, including its potential to be self-funding. The access charge could mean that international visitors (approximately 83 percent of the visitors to Milford Sound / Piopiotahi) “give back” to the experience, environment, and community that they benefit from, by supporting conservation and community initiatives. New Zealanders currently fund the benefits experienced by international visitors.

Initial feasibility has shown that charging for access is not enabled under current legislation

- 52 Charging for access to Milford Sound / Piopiotahi is restricted but not directly enabled by current legislation. This means that legislative change will be required to implement any form of an access charge.
- 53 Officials and the Board have been exploring the best regulatory approach to implementing a charge that would achieve the Masterplan’s intent. Feasibility testing so far has identified that changes to existing legislation, such as the National Parks Act 1980, the Conservation Act 1987, or the Land Transport Management Act 2003, are unlikely to be practical or to achieve the outcomes set out in the Masterplan or as expected by Cabinet in its previous decision. The primary barriers to amending existing legislation are inconsistency with the purpose of the legislation, and restrictions on what the revenue could be used for.
- 54 The only viable option to implement an access charge as intended by the Masterplan is to create new, bespoke legislation. There is precedent for applying similar charges through bespoke legislation, such as the Southland District Council Stewart Island / Rakiura Visitor Levy.¹³
- 55 Given the objectives and for ease of implementation, the charge would likely be a levy (rather than a fee) charged based on residency, which would be the starting point for further work. Fees are charged for specific goods or services, while levies are more appropriate for collecting revenue to fund broader purposes.¹⁴ Further work on the charge will need to be developed alongside the managed access options, which will have equity and implementation implications for the design of an access levy.
- 56 Applying an access charge to some visitors but not others may have human rights implications. As we work through the policy proposals of the charge, we will need to consider compliance with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993. Compliance with those acts will likely depend on the specific design of the charge, including the choices and

¹³ Under the Southland District Council (Stewart Island/Rakiura Visitor Levy) Empowering Act 2012.

¹⁴ Examples of levies include the Civil Aviation Security Levy, the ACC Earners Levy, the Border Clearance Levy, and the International Visitor Conservation and Tourism Levy.

rationale about who is charged. Citizenship, but not residency, is a prohibited ground of discrimination under the Human Rights Act.

- 57 We propose that officials and the Board report back further on what a new approach to implementing an access levy might look like for public consultation in early 2024. This would include setting out a framework for who it would apply to, how it would be implemented, how funding could be used, and the human rights implications.
- 58 The Board is also exploring how an access levy would be part of a wider, balanced commercial, funding and delivery model. This includes the potential to raise revenue from a range of sources, such as increasing the revenue raised through concessions.

Visitors are willing to pay for access, but this is tied to conservation outcomes

- 59 Research by Tourism New Zealand has revealed a high tolerance from international visitors for paying an access fee, with the idea of an access charge familiar to many core markets, as national parks systems in the USA, Canada, China, and Australia require visitors to pay an entry fee.¹⁵ Willingness to pay is at a significantly lower level for Australian visitors, who made up approximately 20 percent of international visitors to Milford Sound / Piopiotahi between 2014 and 2019. As such, we will need to consider possible displacement effects of a charge being set too high.
- 60 This willingness to pay is linked to an expectation that the fee is being spent on the preservation of the area, and that this is clearly communicated. This emphasises the importance the visitors ascribe to our pristine areas, and that visitors are willing to contribute directly. It also emphasises the opportunity to find a new approach to how we charge for access and use the proceeds to invest back into place.

Ngāi Tahu interests related to charging

- 61 Ngāi Tahu have indicated they would not support proposals that impose access charges or restrictions on Ngāi Tahu whānui. Alongside community and conservation initiatives, they would expect revenue collected via access charges and concessions to be utilised to support mana whenua involvement and participation in decision-making bodies and activities within Milford Sound / Piopiotahi. We will need to consider the implications of these interests.

¹⁵ This research suggests that willingness to pay for international visitors, excluding Australians, is in the range of \$90 - \$110 NZD for access, with willingness to pay dropping noticeably after this point. Australian past visitors to New Zealand tend to be less tolerant to fees than future visitors. However, they still express strong willing to pay especially at lower fee points of \$50-\$60 NZD. Access charges at international comparators vary significantly, with charges ranging from \$13 NZD per person at Banff National Park in Canada, to \$24 NZD to access Yosemite on foot or bus, or \$57 NZD to access Yosemite by car, and around \$113 NZD per person to access Serengeti National Park in Tanzania. Australia's access charging models to national parks differ by state. Most analogous is Tasmania (World Heritage site with tourism focus), with daily passes from \$21 for park entry and \$ 27 to access Cradle Mountain.

How to approach concessions and commercial activities

- 62 Key to delivering on the Masterplan outcomes will be how we work with commercial providers, who currently require concessions under the Conservation Act 1987.
- 63 Concessions in Milford Sound / Piopiotahi authorise a range of activities, including accommodation, coach access (via a national concession), guiding, aircraft landing, and key strategic infrastructure including the wharves and wider infrastructure including telecommunications, electricity, and worker accommodation.
- 64 There are currently around 400 concessions held by more than 200 concessionaires which enable activity in and around Milford Sound / Piopiotahi, with 21 businesses located within Milford Sound / Piopiotahi village itself. Some concessions are currently expired and waiting for a new application to be considered, and some concessions for key infrastructure (including wharves, the hotel, and power generation) are not due to expire for another twenty or thirty years.
- 65 This is a complex commercial eco-system, with significant overlaps between existing concession holders, 9 (2) (f) (iv)
- Feedback from DOC, stakeholders, concession holders and Ngāi Tahu is that there is significant room to improve.

A new approach for concessions in and around Milford Sound / Piopiotahi

- 67 There is an opportunity to take a more strategic approach to concessions around Milford Sound / Piopiotahi with a stronger focus on outcomes and performance management and recognising market value. We have endorsed a set of objectives for a more strategic approach, including:
- 67.1 Treaty responsibilities are met through recognition of Ngāi Tahu rights and interests;
- 67.2 Commercial activities enable the Masterplan, including visitor management, experience, integration of the cultural narrative, and enhancing conservation values;

- 67.3 Commercial arrangements incentivise innovation, investment, competitive tension and sustainable tourism;
- 67.4 Impacts on existing rights holders are understood and managed appropriately consistent with achieving the Masterplan goals.¹⁶
- 68 To meet these objectives and give effect to the intended outcomes of the Masterplan, the Board supports a more proactive approach to concession management, such as using tendering or other strategic procurement disciplines to allocate concessions, and strengthening the terms and conditions that are used (including to integrate cultural narratives, manage congestion and demand, raise revenue, and improve tourism and conservation outcomes).
- 69 The Board is also exploring an enhanced monitoring and performance management approach to ensure concessionaires are accountable and compliant with high standards, that perverse incentives are not created, and that the approach is framed in a far more strategic approach similar to a supplier relationship management framework for key concession holders.
- 70 Initial analysis has found that while much of this new approach could be achieved through current frameworks, the bounds are untested and unclear, 9 (2) (g) (i) [REDACTED] The proposed Conservation Management and Processes Bill also contains proposed amendments to the Conservation Act 1987 to enable more proactive and efficient management of concessions and allocation processes.¹⁷ However, there is uncertainty that all the proposals would fall within scope of either current legislation or its proposed amendments, and whether the current legislation and statutory planning documents enable us to effectively achieve both visitor experience outcomes and conservation outcomes.
- 71 9 (2) (g) (i) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

¹⁶ These objectives are separate to the current regulatory approach adopted by the Department of Conservation in the management of current concession arrangements under the Conservation Act and associated policies.

¹⁷ The Conservation Management and Processes Bill 9 (2) (f) (iv) [REDACTED] following Cabinet policy approvals in November 2022 [CAB-22-MIN-0539 refers]. This includes an amendment that will clarify a statutory ambiguity to ensure that Minister of Conservation can return a concession application in order to initiate a broader allocation process. 9 (2) (f) (iv) [REDACTED]
[REDACTED]

- 72 We have directed officials and the Board to report back to us with further advice on how concessions can be used to give effect to the Masterplan outcomes, and whether changes to operational policy, statutory planning documents, or legislation would be desirable to provide certainty for the Crown, agencies, Ngāi Tahu, and commercial operators.

Transitioning to a new approach to managing commercial activities in Milford Sound / Piopiotahi, and managing immediate risks

- 73 The proposals in the Masterplan would, if implemented, impact on concession holders to varying degrees, ranging from minimal impacts in some areas to some activities needing to be discontinued or changed to allow the proposed reorganisation of Milford Sound / Piopiotahi. The Masterplan proposals would also provide new commercial opportunities relating to food, accommodation, transport, and tourism activities, which would be authorised by concessions.

- 74 Any transition to new terms and conditions for ongoing concessions will be challenging. 9 (2) (f) (iv), 9 (2) (g) (i)

[REDACTED]

- 76 Ngāi Tahu have indicated that changes to concession arrangements will need to carefully consider and recognise the importance of safeguarding Ngāi Tahu rights and interests including under existing Milford Sound / Piopiotahi concessions or concessions that are secured between now and the implementation of a new regime. Ngāi Tahu was party to the Supreme Court proceedings in *Ngāi Tai ki Tamaki Tribunal Trust v Minister of Conservation* [2018] NZSC 122. This decision builds on previous jurisprudence regarding the allocation of opportunities on conservation lands. The judgement clarifies that DOC is required in some circumstances to consider the possibility of according a degree of preference to iwi as well as the potential associated economic benefit of doing so.

- 77 The decision also confirms that section 4 of the Conservation Act 1987 (to give effect to the principles of the Treaty) does not create a power of veto for an iwi or hapū over the granting of concessions, nor any exclusive right to concessions in their rohe. Ngāi Tahu have indicated that they would likely seek to solidify a right of preference for mana whenua and further enable their economic aspirations. The way these rights and interests are attended to has the potential to be precedent-setting in terms of future approaches both with Ngāi Tahu and across other Treaty relationships.

Correction
21/08/2023: Te
Rūnanga
o Ngāi Tahu

- 78 9 (2) (f) (iv), 9 (2) (g) (i)
- 79 The Minister of Conservation has requested further advice from DOC on how best to approach this transition, including relevant section 4 considerations, and steps that can be taken in the short term, and consistent with current statutory responsibilities, to mitigate risks presented by outstanding and new concession applications. While not directly in scope of feasibility testing, it will be an important consideration in our ability to achieve the MOP's aims.
- 80 Separate from these immediate risks, we have asked the Board, with DOC, to provide further advice to us on a new approach to managing commercial activities in Milford Sound / Piopiotahi, including whether policy or legislative change is needed, and what form it might take. Some of this advice will need to be provided specifically to the Minister of Conservation consistent with current statutory requirements. This will enable the Minister to include a preferred approach to concessions in Milford Sound / Piopiotahi as part of wider public consultation in early 2024.

Management and governance

- 81 To give effect to the range of decisions and changes identified above, we will also need to consider the appropriate management and governance arrangements, for example how we enable strategy setting, planning, and delivery for the local area.
- 82 The Masterplan identified that the current complex arrangements¹⁸ gave rise to concerns that current decision-making frameworks are unlikely to support MOP outcomes, and decisions may be made in isolation from each other. In addition, there is a low level of confidence from stakeholders that changes could be achieved within the status quo.
- 83 The Masterplan recommends two options for new governance or management arrangements at Milford Sound / Piopiotahi:
- 83.1 **Enhancing the status quo**, which would look to strengthen DOC's role in the management of Milford Sound / Piopiotahi, coupled with a dedicated interagency governance group. That group would oversee the development and implementation of the Masterplan, supported by agreed protocols between agencies to simplify and align decision-making processes.

¹⁸ A range of functions, roles, and responsibilities are undertaken by central and local government agencies, including DOC, New Zealand Conservation Authority, Waka Kotahi, Ministry of Transport, Southland District Council, Environment Southland and Heritage NZ. Furthermore, Ngāi Tahu as mana whenua is recognised in a range of statutory obligations and non-statutory agreements.

- 83.2 **Creating of a new statutory entity**, that is responsible for strategy, planning and management for the Milford Sound / Piopiotahi area and corridor. This entity could exercise the National Parks Act/Conservation Act functions as an alternative to the current arrangements by DOC and other statutory entities such as the New Zealand Conservation Authority and the local Conservation Board. Consideration would also need to be given to the functions currently undertaken by the Southland District Council and Environment Southland.
- 84 Ngāi Tahu have indicated that management and governance arrangements are of key interest to them and that they should provide for meaningful mana whenua participation, including decision-making rights.
- 85 This work will be further progressed over the next six months as options are progressed in other areas and functional requirements are identified. Key functional considerations will include, among other things, arrangements for strategy and planning for the area, ownership and operation of various components of the Masterplan, commercial delivery of the Masterplan, concessions planning, allocation and performance management, hazard management and emergency response, and compliance and enforcement.
- 86 Analysis of options for any new approach will also need to consider implications for Ngāi Tahu, the roles of existing agencies and statutory entities in overseeing and implementing any new arrangements for the area, and any potential impact on local authorities, and their powers, functions, and responsibilities.

Next steps

- 87 Following initial policy decisions from this paper, the Board and officials will develop detailed options on the Treaty partnership approach, managing access, charging, concessions, and management and governance. We have asked them to report back to us on their option analysis by the end of 2023 so that Cabinet can consider further policy decisions and a draft public consultation document in the first quarter of 2024. This will inform a business case to be delivered in mid-2024. Any budget or legislative drafting decisions will be sought following receipt of the business case.

Financial Implications

- 88 Initial estimates, made during the development of the Masterplan in 2020/21, identified one-off investment costs in the order of \$450-500m, associated with new infrastructure, transport services, visitor facilities, experiences, walking tracks, car parks, and roadside developments.
- 89 Estimated costs included contingencies but are likely to have increased in line with increases in construction cost and other general inflationary pressures experienced since preliminary costing was undertaken. The estimates also do not include a range of implementation and other costs, including potential costs associated with establishing a new management or governance entity or possible transition costs associated with concessions. Total costs will depend

on the final design of MOP, the specific package of options that are selected, and the commercial, funding and delivery models adopted.

- 90 It is important to note that although one-off investment costs are expected to be at least \$450m, these costs – and whether they are considered capital or operating expenditure costs – could be met in a range of ways, including a mix of direct Crown investment, and commercial delivery by private interests. Initial analysis suggests that around half of the forecast one-off investment is for activities that are likely to be commercially attractive for private delivery, and the Board will be undertaking further market testing of this appetite to support preparation of its business case.
- 91 Some initial Crown seed investment may also be required alongside private investment, but the intention is that the programme is ultimately fully self-funded, including operating costs, once new revenue streams, including an access charge, are introduced, with any associated Crown investment paid back over time.
- 92 Full financial analysis (supported by a recommended commercial, revenue, funding, and delivery approach) will be undertaken to support the business case, which will include implementation and investment timeframes. A case for any Crown investment (if this is required) or alternative financing structures (including a potential new approach to concessions) will be made at that point.
- 93 Should Cabinet decide to implement the final proposals once the business case is received and considered, a budget bid will be prepared at that time, likely for Budget 2025.

Legislative Implications

- 94 Depending on the choices made, there are a range of potential legislative implications, including:
- 94.1 managing access via the road;
 - 94.2 strengthening the concessions framework and supporting a transition to new terms and conditions;
 - 94.3 enabling access charging, including the authority to apply charges, and how revenue may be applied;
 - 94.4 management and governance arrangements, including functions, powers, as well as roles of existing agencies and statutory entities – to be considered further.
- 95 We will consider preparing a legislative bid for the 2024 or 2025 legislative programme depending on the outcome of detailed policy work.

Impact Analysis

- 96 There are no confirmed regulatory proposals in this paper, therefore Cabinet's impact analysis requirements do not apply at this stage. Impact analyses and

a cost recovery impact statement will be provided once final proposals for legislative change are made, alongside business case delivery in 2024.

Population Implications

- 97 Ngāi Tahu seeks a genuine Treaty partnership and meaningful role in the future governance and management of the Milford Road corridor and Milford Sound / Piopiotahi, and conservation land beyond this project, in particular for how concessions are managed. Legislative reform is likely needed to enable aspirations to be implemented. A preliminary Treaty rights and interests analysis is attached as Appendix 2 which reflects initial feedback from Ngāi Tahu. Outside of this particular of relationship with Ngāi Tahu and Milford Sound / Piopiotahi, the approach taken here will potentially create precedent in other parts of the country.
- 98 Implementation of individual recommendations would enable embedding Te Ao Māori values and mana whenua aspirations in experiences, development, and storytelling.
- 99 Milford Sound / Piopiotahi is particularly important for the local communities in Te Anau and Queenstown and the broader outdoor recreation community in New Zealand. Some of the recommendations in the Masterplan could impact on the livelihoods of some operators and businesses in the areas and could restrict freedom of movement along the Milford Road.
- 100 Milford Sound / Piopiotahi is also a rural community with a permanent population of 240 residents on average. The option to restrict access to the road may impact on resident's ability to access social and economic opportunities and services as they would need to secure a special permit. The Masterplan proposals may also be more costly and difficult to implement in this rural area, given challenges with the environment, telecommunications, and accommodation.

Human Rights

- 101 The option to restrict access to the road, and the proposal to adopt an international visitor access charge, if progressed, may have implications for the New Zealand Bill of Rights Act 1990 and Human Rights Act 1993. We will report back on these in early 2024 after detailed work has been completed on the following:
 - 101.1 Restricting access to Milford Road: Section 18 of the New Zealand Bill of Rights Act 1990 protects the right to freedom of movement (as does common law). Limiting rights under this act may be justified in some cases. In this case it will likely depend on the nature and design of an access permit system, including how difficult it is to secure a permit. Differential treatment of New Zealanders and overseas tourists will also require justification under the Human Rights Act 1993. Similar considerations will need to be given to the alternative options for managing access.

101.2 Charging international visitors for access to Milford Sound / Piopiotahi: we propose progressing further work on an international visitor charge, which would likely be a levy that differentiates international visitors from New Zealand visitors based on residency. Residency is not a prohibited ground of discrimination under the Human Rights Act 1993. However, differential treatment will require justification.

102 The Masterplan proposals may also be rights-enhancing, through changes that contribute to the realisation of social, economic, environmental, and cultural rights. For example, proposals seeking to imbed mana whenua values may enhance the rights of mana whenua, proposals seeking to restore the environment and promote conservation may support the right to a healthy environment, and infrastructure proposals may enhance people's safety, health, and wellbeing. We will provide advice on the rights-enhancing aspects when we report back in early 2024.

Consultation

103 The Board and Unit; DOC; Ministry for Business, Innovation and Employment; Ministry of Transport; and Waka Kotahi New Zealand Transport Agency have been involved in the analysis informing this paper.

104 The Treasury, Ministry of Justice, the Office for Māori Crown Relations – Te Arawhiti, Ministry of Foreign Affairs and Trade, Ministry for Primary Industries, Department of Internal Affairs, Te Puni Kōkiri, Maritime New Zealand, Ministry of Culture and Heritage, New Zealand Customs Services, Public Service Commission, Whaikaha Ministry of Disabled People, and Department of Prime Minister and Cabinet were consulted on this paper.

Communications

105 Engagement with Ngāi Tahu is ongoing and addressed in previous sections.

106 The Unit will continue to engage with local stakeholders over the next six months, with a focus on developing, refining, and testing key proposals. The Unit's engagement approach is to be visible in Southland and Otago, build a fact base to aid engagement and testing, and strengthen collaborative relationships within conservation, community, and tourism. Information from focused engagement sessions is published on the MOP website and regular updates are currently sent to 484 subscribers.

107 The Ministerial Group will work with the Board to ensure the communications are appropriately managed through the pre-election period, noting that final decisions on implementation of the masterplan will not be made until 2024.

Proactive Release

108 This paper will be released proactively, subject to redaction as appropriate under the Official Information Act 1982.

Recommendations

The Ministers of Conservation and Tourism and the Associate Minister of Transport recommend that Cabinet:

Programme

- 1 **Note** that the Milford Opportunities Project Masterplan proposed a range of significant changes to Milford Sound / Piopiotahi, including a new governance and management model, managed access, charging international visitors for access, establishing Te Anau as a hub, developing experiences along the corridor, encouraging sustainable practices and minimising visitor risk, and reorganising and modernising Milford Sound / Piopiotahi and its infrastructure.
- 2 **Note** that an independent Board and Unit were established in 2022 to feasibility test the Masterplan (DEV-21-MIN-0135 refers), and that we directed the Board and Unit to prioritise feasibility work across five core policy work streams – managing access to Milford Sound / Piopiotahi, charging for access, concessions, governance and management arrangements, and Treaty of Waitangi.

Managing access via the road

- 3 **Note** that the Masterplan proposal to manage access to Milford Road via a permit system would require new legislation that regulates access to the road for purposes other than those already provided for in legislation, such as for tourism purposes.
- 4 **Note** that initial feasibility work has identified significant operational, legislative, and cost implications associated with restricting road access for tourism purposes.
- 5 **Note** that the Masterplan rationale for restricting road access is unlikely to provide a strong enough case to override the operational, legislative, and cost implications of the option, if alternative options can achieve the intended outcomes.
- 6 **Direct** officials and the Board to report back on whether alternative options could deliver the intended objectives for managing access, and whether there is a preferred option, for public consultation in early 2024.

Approach to charging

- 7 **Note** that Cabinet previously agreed that the Milford Opportunities Project would be self-funding via access charging for international visitors, a contribution from which would fund conservation work in the wider Fiordland National Park [DEV-21-MIN-0135].
- 8 **Note** that legislative change would be required to implement an access charge as envisioned by the Masterplan and that initial feasibility testing has identified that amending existing legislation is unlikely to be practical or deliver on the intended outcomes.

- 9 **Note** that an access charge in any form would need to be implemented via new, bespoke legislation.
- 10 **Note** that the range of options for designing and implementing an access charge is dependent on the preferred option for managing access to Milford Sound / Piopiotahi, and on options for complementary revenue streams.
- 11 **Note** that an access charge that differentiates between international visitors and others may have human rights implications.
- 12 **Agree-in-principle** that any access charge would be a levy, differentiated based on residency, subject to further analysis on a preferred implementation approach and our ability to differentiate charges, and engagement with Ngāi Tahu.
- 13 **Direct** officials and the Board to develop options on how an access levy should be implemented, and the purposes for which the levy could be used (including covering the core upfront costs of Crown capital investment and ongoing operating costs, and to enable further investment into conservation and relevant community outcomes), for public consultation in early 2024.

Approach to concessions

- 14 9 (2) (f) (iv), 9 (2) (g) (i)
[Redacted]
[Redacted]
[Redacted]
- 15 **Agree-in-principle** to strengthen how concessions are used within and around Milford Sound / Piopiotahi, including a stronger approach to allocation, greater use of conditions to seek improved outcomes, and greater focus on performance and active concession management, subject to further legal and policy advice.
- 16 **Direct** officials and the Board to provide advice to the Milford Opportunities Project Ministerial Group on options for the policy and regulatory framework for concessions in Milford Sound / Piopiotahi, including the case for change, whether operational or legislative changes are required, and implications for the wider concessions system, for public consultation in early 2024.
- 17 **Note** that the Minister of Conservation will report back to the Milford Opportunities Project Ministerial Group on options for how existing and new concessions are managed in and around Milford Sound / Piopiotahi, while further work is completed on the wider policy framework.

Management and governance arrangements

- 18 **Note** that officials and the Board will report back to the Milford Opportunities Project Ministerial Group with recommendations for the ongoing management and governance arrangements for the area, including whether there is merit in a new entity, how we should consider the interests of Ngāi Tahu in any arrangements, and implications for other agencies and statutory entities, for public consultation in early 2024.

Treaty of Waitangi

- 19 **Note** section 4 of the Conservation Act 1987 features of the strongest weightings of Treaty of Waitangi principles in legislation requiring the Minister of Conservation and Department of Conservation to give effect to the principles of the Treaty of Waitangi in the interpretation and administration of the Act.
- 20 **Note** that Ngāi Tahu, whose rangatiratanga over the area was established in the Ngāi Tahu Claims Settlement Act 1988, have a range of relevant rights and interests and have been actively involved in the Milford Opportunities Project Board, and in supporting the policy process.
- 21 **Direct** officials and the Board to ensure that relevant rights and interests continue to inform the policy development, particularly as they relate to access, concessions, management, and governance.

Next steps

- 22 **Note** that legislative changes may be required or desired to give effect to the final package of options, and that Ministers will consider preparing a legislative bid for the 2024 or 2025 legislative programme depending on the outcome of detailed policy work.
- 23 **Agree** that the Milford Opportunities Project Unit undertake engagement with key parties over the next six months to continue developing, refining, and testing key proposals, including with commercial operators, statutory bodies, community, and interest groups.
- 24 **Invite** the Milford Opportunities Project Ministerial Group to report back to Cabinet in early 2024, including with a draft public consultation document to seek public views on the options, to inform the final business case and final decisions on potential legislative change.

Authorised for lodgement

Hon Willow-Jean Prime

Minister of Conservation

Hon Peeni Henari

Minister of Tourism

Hon Kiritapu Allan

Associate Minister of Transport

Appendix One: Overview of the Milford Opportunities Project

Released by the Minister of Conservation

MILFORD OPPORTUNITIES PROJECT (MOP)

Our vision:

Our 7 pillars:

PIOIOTAHİ—NEW ZEALAND AS IT WAS, FOREVER.



Mana whenua values woven through



A moving visitor experience



Tourism funds conservation and community



Effective visitor management



Resilient activities and infrastructure



Conservation



Harness innovation and technology

01. WHAT IS MOP?

The problem:

Milford Sound Piopiotahi is Aotearoa New Zealand’s premier visitor attraction and world class destination. It is located in our largest National Park and holds UNESCO World Heritage status.

The current Milford Road corridor and Milford Sound Piopiotahi are under stress. This requires new thinking to safeguard the core character and values of the places, its World Heritage status, and improve conservation values and the visitor experience.

Our purpose:

MOP is a multi-agency project looking at how visitors are managed into the future at Milford Sound Piopiotahi and along the Milford Road Corridor. MOP ensures Milford Sound Piopiotahi:



Maintains its status as a key Aotearoa New Zealand visitor ‘icon’.



Upholds the World Heritage status, national park and conservation values.



Provides a ‘world class’ visitor experience that is accessible.



Adds value to Southland and Aotearoa New Zealand Inc.

Through a collaborative process

- Independent Board with mana whenua representation, independent expertise, and non-voting support from key central and local government agencies.
- Independent MOP unit, hosted by DOC and working in close collaboration with DOC, MBIE, MOT, and Waka Kotahi.
- A close and ongoing partnership with Ngāi Tahu, including two members on the Board and a dedicated Partnership and Heritage workstream.

02. PROCESS TO DATE

Stage 1: Gap analysis

Established context, vision and objectives; and was completed in September 2018. Key to this stage was the development of MOP’s working vision and seven pillars.

Stage 2: Masterplan

- 10 detailed research and technical reports to support issue identification and option development.
- Extensive engagement with the community, key stakeholders, national interest groups and the public, including two nationwide surveys.
- Longlisting and shortlisting of options, with final decisions by a governance group.
- Delivery of a cohesive and aspirational Masterplan in June 2021.

Stage 3: Feasibility

UNDERWAY

We are now testing the feasibility and implications of the Masterplan proposals and providing advice on options to government—with a full business case due in 2024.

03. THE MASTERPLAN IDENTIFIED A RANGE OF ISSUES

01

The core wilderness experience and conservation values are being compromised by increasing visitor numbers.

02

There is limited acknowledgment of Ngāi Tahu identity and its cultural heritage.

03

Milford Sound Piopiotahi is not well organised for the spectacular experience it offers.

04

Key experiences on the Milford Road are often missed, with many visitors on an all-day return trip from Queenstown.

05

The pattern of visitation creates congestion between 11am and 3pm, both along the corridor (at the Homer tunnel), and in Milford Sound village itself.

06

Milford Road is one of New Zealand’s most challenging, and costly to maintain.

07

Milford Sound Piopiotahi has numerous natural hazards that are not known by visitors and place a huge risk to safety.

08

Some activities detract from the beautiful natural setting.

09

The Milford Sound Piopiotahi aerodrome is not in a sustainable condition.

10

Most infrastructure in the village is old and in poor condition.

11

Visitor spending is not being maximised throughout the Southland region despite the significant numbers of visitors going to Milford Sound Piopiotahi.

12

Conservation and national park values are not always the main focus of private sector operations in Milford Sound Piopiotahi.

13

Funding mechanisms to support investment, including in conservation management, are not optimal.

04. THE MASTERPLAN PROPOSES 10 KEY CONCEPTS

01

Recognise and develop landscape, conservation and cultural experiences.

02

Establish a new governance model to deliver the Masterplan proposals.

03

Facilitate broader Murihiku and Southland benefits.

04

Introduce a managed access and transportation model.

05

Charge international visitors an access fee.

1



2



3



4



5



06

Establish new Te Anau hub and enhanced developments.

07

Develop multiple experiences along the corridor structured around key nodes.

08

Redevelopment to encourage sustainable practices, use of green technology, and minimise visitor risk from natural hazards.

09

Reorganise Milford Sound Piopiotahi to remove visitor conflicts.

10

Modernise infrastructure at Milford Sound Piopiotahi.

05. MASTERPLAN OUTCOMES

The Masterplan intends to achieve the following outcomes:



Protection of the essential character of the place by managing access through time distribution.



Ngāi Tahu culture and history is woven through a fully immersive experience of place and people.



A world class experience for all visitors that will provide a deeper and richer encounter.



Improved governance and management of Milford Sound Piopiotahi activities and related infrastructure.



Funding for Fiordland improvements and support of the World Heritage National Park.



Zero emissions tourism.

06. NEXT STEPS

What is feasibility testing?

We are now testing the Masterplan recommendations and preparing for implementation. This includes:

- exploring the implications of different Masterplan proposals and assessing policy, regulatory and, commercial options for achieving the Masterplan objectives, and
- testing the technical elements of key infrastructure and transport related proposals.

Partnerships and engagement

Partnership with Ngāi Tahu and ongoing engagement with stakeholders and the community remain key.

Key factors to consider:

Final decisions for government, to be informed by:

- ? How to approach Treaty partnership arrangements for Piopiotahi in the context of the wider Māori-Crown relationship?
- ? How to manage access, including whether to manage access to the Milford Highway, and on what basis?
- ? How to approach existing and future concession arrangements?
- ? How to approach management and governance, from planning, to implementation and delivery?
- ? The financial sustainability of the commercial model and charging regime, and level of direct investment the Crown is prepared to invest.

Anticipated timeframe from here:



Appendix Two: Preliminary Treaty of Waitangi Rights and Interests Analysis

RIGHT	CONSIDERATION	GENERAL MĀORI INTEREST	ACTIVE CONSIDERATION OF SPECIFIC MANA WHENUA INTERESTS
Article one – Kāwanatanga The Crown has the right to govern	- How will the outcome affect all New Zealanders? - What is the effect on Māori? Is it different (including differently on different group of Māori)? - Will there be unintended consequences? - How can good faith and good government be demonstrated including related to Treaty obligations?	- The Waitangi Tribunal has identified that Māori have a right for their role as kaitiaki to be acknowledged as a source of knowledge and have a right to have a reasonable degree of control over that knowledge. - Māori have a demonstrated relationship with te ao tūroa (the natural environment) including taonga, whenua, awa, moana and other resources. The Waitangi Tribunal helpfully guides us that even without the Treaty, the rationale for protecting kaitiaki relationships with te ao tūroa and mātauranga Māori to a reasonable degree is powerful. - This is also recognised in statute by section 4 of the Conservation Act and the requirement to give effect to the Treaty principles.	- The interests of Ngāi Tahu in the management and protection of te ao tūroa are well established, and the framework for guiding those decisions is assisted by Section 4 of the Conservation Act. The relevant Treaty principles are likely to be those of reciprocity, active protection, partnership, equity, equal treatment and development. - Ngāi Tahu has always maintained that Fiordland Te Rua o te Moko was not included in the Murihiku Purchase, and that purchase became one of the 'Nine Tall Trees' in the Ngāi Tahu Treaty Claim alongside mahinga kai. There are many provisions from the Ngāi Tahu Deed of Settlement that directly refer to Te Rua o te Moko, including the dual placename Milford Sound Piopiotahi, Right of First Refusal for Milford Airport and Statutory Acknowledgments. - Further interests come by virtue of the Crown apology to Ngāi Tahu in that it recognises the Treaty principles (partnership, active participation in decision-making, active protection of Ngāi Tahu's rights and interests, and rangatiratanga) and provides for Ngāi Tahu and the Crown to enter a new age of co-operation.
Article two – Rangatiratanga Māori will have the right to make decisions over resources and taonga which they wish to retain	- Are there options for Māori to exercise rangatiratanga while recognising the right of the Crown (including through local government) to govern? - What role is there for Māori in design and implementation of solutions? This should include the potential to enhance Māori wellbeing and/or build Māori capacity. - Is there any aspect of this issue that Māori consider a taonga? How have	Iwi/Māori have expressed dissatisfaction with the Treaty partnership approach and cultural responsiveness of the management of the Conservation estate and the protection of sites of significance, taonga, and their ability to access natural resources and exercise customary rights (including mahinga kai). This includes understanding and application of mātauranga Māori frameworks as they apply in place (hapū/whānau level) and the reflection	- The legal mechanisms established through the Ngāi Tahu Claims Settlement Act recognise Ngāi Tahu tino rangatiratanga and its expression through kaitiakitanga, and the basis for an enduring partnership between Ngāi Tahu and the Crown. - Ngāi Tahu are likely to consider MOP as a means by which to define Piopiotahi by recognising their ancestor Tū te Rakiwhanoa and his work to shape Te Rua o te Moko with Hine Tītama. In this sense, the cultural narrative will be important in shaping considerations of what is appropriate and inappropriate development and management.

	policy makers come to this view and is there consensus?	of place-based cultural narratives within Conservation areas. • Introduction of new legislative, governance and management arrangements will give rise to interests in partnership governance and management opportunities, the ability to influence investment decision-making, and oversight of broader conservation system stewardship. These will likely exist at a local, regional and decision-making within a particular takiwā. • It is likely to include the ability to develop Māori economic interests.	• Ngāi Tahu are also likely to consider that their cultural heritage is not bound or defined by the World Heritage status and is greater than that status. • Tūturu wāhi ingoa (traditional place names) and ngā ara tawhito (traditional routes) will likely be sought to be promoted to the point of becoming the default names used within Te Rūa o te Moko by visitors, operators and Crown agencies involved. They will also likely seek that the cultural identity of Ngāi Tahu is expressed in the built environment. • Informed by the Ngāi Tai decision, Ngāi Tahu will expect DOC to give effect to the Treaty principles, consider whether a degree of preference should be given in favour of Ngāi Tahu, consider the economic interests of Ngāi Tahu and enable Ngāi Tahu to reconnect to their ancestral lands by taking up opportunities on the conservation estate (whether through concessions or otherwise). • Further, Ngāi Tahu is likely to seek opportunities to ensure that conservation initiatives and tourism offerings at Piopiotahi are developed in partnership and informed by mātauranga. • Specific rights are also established consistent with Ngai Tahu (Pounamu Vesting) Act 1997
Article three – Rights as Citizens Implicit assurance that rights will be enjoyed equally by Māori with all New Zealanders. This may warrant special measures to attain that equal enjoyment of benefits.	• What are the implications for equitable outcomes? How might efforts differ to address inequities? • What considerations should support legal values including natural justice, due process, fairness, and equity including through regulatory processes? • What does a tikanga lens bring to the consideration of the issues such as mana, whakapapa, whanaungatanga, manaakitanga.	• A range of inequities are experienced by Māori including those related to loss of land and these are set out in relevant Treaty settlements. • Inability to access whenua, connect with whānau, and other physical or financial barriers to access will likely impact negatively on tikanga values and practices.	• Ngāi Tahu are likely to establish their interest in unfettered access and connection to whakapapa, whenua and heritage when in Piopiotahi. • Ngāi Tahu will also likely look for opportunities for their whānui to experience the landscape as their tipuna did, and to rekindle the traditional practices of gathering food and other natural resources. • Ngāi Tahu will also look for opportunities to improve other sources of inequity including training, employment, and housing. • The ability for Ngāi Tahu to tell its own whakapapa stories and demonstrate manaakitanga to those visiting Piopiotahi is of critical importance.