

Stewardship land in Aotearoa New Zealand

Options to streamline processes
for reclassification and disposal

Discussion document
November 2021



Department of
Conservation
Te Papa Atawhai

New Zealand Government

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Foreword by the Minister of Conservation

Ensuring that public conservation land is appropriately managed, protected and preserved is one of the key functions of the Department of Conservation (DOC). Public conservation land allows New Zealanders to connect with nature, provides important habitats for native species, and gives protection to key historical and cultural places.

Stewardship land is one of the categories of public conservation land. It includes land that was given to DOC to manage when the department was formed in 1987 and makes up 2.5 million hectares across Aotearoa, about one-third of the land DOC manages.

Most stewardship land is held by DOC because of its conservation value; however, 'stewardship' areas have the lowest level of protection. Stewardship land was intended to be a temporary category until the land could be assessed and the right classification awarded. This work is complex and time consuming because of the sheer amount of land needing to be reclassified, so in 2021, very few parcels of stewardship land have been assessed and reclassified.

I want to simplify the reclassification process so that land with conservation value is identified and managed appropriately, to ensure it is protected for its natural and cultural heritage and safeguarded for future generations to enjoy. Land with very low or no conservation value can then be made available for other uses where appropriate.

With this in mind, I have commissioned the stewardship land reclassification project, which aims to speed up the reclassification of stewardship land in two ways.

- Convening two national panels of experts to assess the values of the land and provide me with technical assessments and recommendations for the future land classifications of stewardship land.
- Legislative amendments to ensure that the process for reclassifying stewardship land is efficient and fit-for-purpose.

This document looks solely at the proposed legislative amendments and sets out the options for addressing areas in the current process where efficiencies can be achieved or where changes are needed to ensure the national panels can carry out their work effectively.

I would encourage any New Zealander with views on the process for assessing and reclassifying stewardship land to contribute to this process and provide your views.

A handwritten signature in blue ink, appearing to be 'K. Allan', with a long horizontal flourish extending to the right.

Hon Kiritapu Allan
Minister of Conservation

Executive summary

Stewardship land is a category of public conservation land that includes land that was allocated to Te Papa Atawhai Department of Conservation (DOC) when DOC was first formed. It was intended that the conservation values of this land would be assessed and the correct classification would then be assigned. However, due to a number of factors, including the time and resources needed to reclassify this land, the majority of stewardship land has not been reclassified.

Stewardship land amounts to 2.5 million hectares or 30% of public conservation land. To ensure that this land is reclassified promptly and effectively, the government has announced a stewardship land reclassification project comprising:

- national panels that will assess the conservation values of parcels of stewardship land and provide a recommendation as to their new classification to the Minister of Conservation
- legislative amendments to ensure that the process for reclassifying stewardship land is fit-for-purpose.

This discussion document sets out the following six areas in the current process where efficiencies could be achieved or where changes could be made to ensure a better process.

1. Improving consistency of public notification and submission processes
2. Enabling the national panels to carry out the public notification and submission process
3. Clarifying responsibilities for making recommendations to reclassify stewardship land as national park
4. Removing the statutory step to declare all stewardship land to be held for conservation purposes before it can be reclassified or disposed of
5. Enabling the Minister of Conservation to direct proceeds from the sale of stewardship land to DOC
6. Clarifying the status of concessions on reclassified stewardship land.

DOC is seeking feedback on the options for legislative change to help inform decisions on what the process for reclassifying stewardship land should be.

Introduction

Purpose

DOC is undertaking a review of the legislation relating to stewardship areas (referred to as ‘stewardship land’ in this document) as part of the broader stewardship land reclassification project. The review seeks to streamline the processes for reclassifying and disposing of stewardship land to resolve issues that have led to delays in the past. The Government wants stewardship land with a high conservation value to be reclassified appropriately (to improve its legal protection). There may also be some areas that have little or no conservation value and could potentially be disposed of.

Objectives

Through this review we are seeking to meet the following objectives.

- enabling a more efficient process for reclassifying stewardship land
- delivering clarity for everyone on the status of the land, the appropriate level of protection/use and the reclassification process
- ensuring DOC meets its wider obligations under conservation legislation and the Conservation General Policy (such as section 4 of the Conservation Act 1987)
- ensuring conservation values are adequately protected
- enabling the national panels to carry out their work efficiently and effectively, to make recommendations to the Minister of Conservation (for more information about the national panels please refer to page 13).

The options for changes to legislation that are described in this paper have been assessed against these objectives to determine how well they achieve the purpose of the review. DOC considers each objective to be equally important, and no objective has been given more weight over the other objectives. However, some objectives may not be relevant to every option.

Questions

1. Do you agree with the objectives listed above?
2. Should any other objectives be included in this review?

What is ‘stewardship land’?

Conservation land is categorised into different land status/classifications to protect the natural and historic resources of that land. The land status/classification is determined by the conservation values of that parcel of land and provides the settings for how the land should be managed to best protect and preserve those values. It also is used to identify areas where additional or higher protections are needed.

‘Stewardship land’ is a category of public land created under the Conservation Act 1987. At that time, the Government transferred responsibility for large areas of land to the Department of Conservation (DOC) to act as a steward of the land until its conservation value had been assessed. About 30% of public conservation land is categorised as stewardship land. This equates to over 2.5 million hectares. Most stewardship land is in the South Island, with approximately 1 million hectares on the West Coast (see the maps on page 15 and 16). There are smaller parcels of stewardship land across the North Island, primarily in Waikato, Taranaki and across the Central North Island.

DOC is legally required to manage this land so that its natural and historic resources are protected. This is considered a weak legal protection when compared with other categories of conservation land which have stronger management requirements, meaning that some stewardship land with high conservation value may not be adequately protected.

Current legislative framework

DOC's roles and responsibilities in relation to public conservation land, including stewardship land, are covered in several pieces of legislation including: the Conservation Act 1987 (the Conservation Act), the Reserves Act 1977 (the Reserves Act), and the National Parks Act 1980 (the National Parks Act).

This legislative framework sets out the processes for establishing, reclassifying and disposing of stewardship land. In particular:

- the public notification, submission and hearing requirements (including responsibilities) for reclassification of stewardship land (section 49 of the Conservation Act and section 119 and 120 of the Reserves Act)
- the process and responsibilities for classifying stewardship land as a national park (section 7 of the National Parks Act)
- land allocated to DOC when the department was first formed is managed as stewardship land (section 62 of the Conservation Act)
- how other land is acquired and declared to be held for conservation purposes (section 7 of the Conservation Act)
- the disposal of stewardship land with very low or no conservation value (section 26 of the Conservation Act as well as the Conservation General Policy) and how the proceeds of sale of this land are dealt with (section 33 of the Conservation Act)
- the system for concessions on public conservation land, including stewardship land (part 3B Conservation Act).

DOC also has a particular responsibility under section 4 of the Conservation Act to interpret and administer the Conservation Act (and any statutes included in Schedule 1 of the Conservation Act) to give effect to the principles of the Treaty of Waitangi.

Why are we reviewing the legislation for reclassifying stewardship land?

Around 30% of public conservation land is held as stewardship land – over 2.5 million hectares or 9% of Aotearoa New Zealand’s total land area. There are over 3,000 parcels of stewardship land of varying sizes across the country. Many of these areas are home to threatened species and high-priority ecosystems and hold significant cultural, historical and recreation value.

‘Stewardship land’ is a category of public conservation land that was established by the introduction of the Conservation Act in 1987 (see Appendix 1 for a glossary of key terms used in this document). At that time, the Government transferred responsibility for large areas of land to DOC, with the provision that DOC was to act as a steward of the land until its conservation value had been assessed and the land was reclassified or disposed of accordingly.

However, in the 30 years since the category of stewardship land was created, most areas have not been classified. Since DOC was established, only 100,000 hectares of stewardship land have been assessed and reclassified. This has occurred through processes such as:

- transfers through Treaty settlements
- additions to existing national parks or conservation parks
- the creation of new national parks (eg, Kahurangi National Park and Rakiura National Park both included stewardship land)
- new conservation parks.

During the same period, over 40,000 hectares of stewardship land has also come under DOC management through processes such as tenure review and Nature Heritage Fund purchases.

The fact so much stewardship land remains unassessed is an issue because it means that these parcels of land may not have the appropriate level of protection and management as their conservation values have never been fully assessed. This means the following.

- While stewardship land is managed by DOC for conservation purposes, some areas of stewardship land have significant values, requiring the greater level of management and protection afforded by other categories of land classifications. Failure to provide the level of protection appropriate to the area risks the loss of biodiversity, cultural and other values that DOC is charged with protecting. We are in the midst of a biodiversity crisis and cannot afford further degradation of ecosystems or species.
- It is likely that there will be some stewardship areas that are currently managed for conservation purposes but would be assessed as having very low or no conservation value. Continuing to manage these areas as public conservation land means that alternative uses for the land cannot be pursued, and public resources are not being used efficiently.
- The uncertainty around which areas of stewardship land deserve greater levels of protection or could be better used for other purposes has created tension for and

between people who have rights or interests in the land and want it to be used appropriately.

There are multiple barriers that have prevented large-scale reclassification of stewardship land, and they largely stem from the sheer amount of land that needs to be reclassified through a process that is complex, time consuming and expensive. The process for reclassifying stewardship land is set out in conservation legislation and spans multiple statutes.² A diagram of this process is on page 21. The process usually involves:

- surveying the land
- analysis of the conservation values of the land including the species and ecosystems present
- working in partnership with tangata whenua; iwi, hapū, and whānau
- consulting the public (which may include submissions and public hearings).

All the conservation values of the land (including natural, cultural, historic, landscape and recreational values) must be considered before a decision can be reached. Most decisions are made by the Minister of Conservation, but some (eg, for reclassifying land to national parks) require wider government consultation and approval, adding to the complexity and timeframes. Where land is identified as suitable for disposal, further processes add additional complexity, expense, and time.

Reclassifying all stewardship land will require every one of the more than 3,000 parcels of stewardship land (9% of Aotearoa New Zealand's land area) to go through this process. The specific time, costs and complexity associated with reclassifying a parcel of land are highly variable and can be impacted by many factors.

- Many areas of stewardship land are large and very remote. These areas tend to be difficult and expensive to accurately survey and assess.
- There are areas that are of great significance to tangata whenua; iwi, hapū, and whānau where extensive engagement is appropriate and complex partnership arrangements need to be developed.
- Some places are subject to competing interests, where tangata whenua, private individuals, commercial operators and businesses, and environmental and recreational advocacy groups may disagree on a proposed reclassification. This can lead to lengthy and complex consultation and even litigation.

The Minister of Conservation and DOC have responsibilities for reclassifying stewardship land, which DOC resources through its baseline funding. The resources required to manage the complexity, expense and time of stewardship land reclassification has made it difficult to prioritise large-scale reclassification above DOC's other urgent statutory responsibilities.

The legislative process for assessing and reclassifying stewardship land ensures an evidence-based approach to reclassifying stewardship land that is rooted in DOC's wider responsibilities for protecting and restoring public conservation land. Due to the complexity and age of much of the legislation related to reclassifying stewardship land, some of the requirements within the

² This includes the Conservation Act 1987, the Reserves Act 1977 and the National Parks Act 1980.

legislation could be simplified and modernised to create a streamlined approach, while still maintaining the stringent oversight required to give confidence that stewardship land is being assessed and reclassified appropriately. This would reduce the cost and time associated with assessing and reclassifying stewardship land areas and disposing of them where appropriate.

While the current legislative provisions do not prevent stewardship land from being reclassified, streamlining the legislative process would achieve considerable economies of scale in reclassifying all 2.5 million hectares of remaining stewardship land. This would significantly reduce the time, cost and complexity of progressing large scale stewardship land reclassification. Without the cumulative savings afforded by a streamlined process, it will be challenging to achieve large-scale reclassification of stewardship land in the near future.

Even without legislative changes to streamline stewardship land reclassification, more stewardship land reclassifications than have occurred historically would likely progress. This is due to dedicated resource and focus that will be afforded by the Government's other measures for improving stewardship land reclassification that are outlined in the next section. However, without the proposed streamlining of relevant legislation, it is likely that the recommendations, final decisions and actual reclassifications and disposals regarding stewardship land will be subject to unwarranted complexity, lengthier time frames and greater expense than could otherwise be achieved. This is at odds with the Government's intent that stewardship land reclassification be progressed quickly and at scale. It also means that negative impacts associated with current arrangements will continue for longer.

Questions

3. Do you agree with the description of the problem? If not, please provide reasons to support your answer.
4. Do you think there are any additional factors that have contributed to stewardship land reclassification not being progressed on a large scale? If so, please describe them.
5. Do you think there any other issues or impacts caused by the delay in reclassifying stewardship land on a large scale that have not been described here? If so, what are they and who/ what do they affect?

Measures to improve how stewardship land is reclassified

This legislative review is just one part of a larger package of measures to improve how stewardship land is reclassified.

In May 2021, the Government announced a package of measures to remove barriers to reclassifying stewardship land on a large scale. This package includes:

- establishing two national expert panels (the national panels) to make recommendations to the Minister of Conservation on revised classifications for stewardship land
- undertaking a review of the legislation relating to reclassifying stewardship land.

The first of these measures (establishing national panels) is already underway. The national panels have been established under section 56(1) of the Conservation Act. They are appointed by the Minister of Conservation and have an advisory role to the Minister, the Director-General of DOC, and officers of DOC. They hold no statutory decision-making powers.

The Government have approved the Terms of Reference for the national panels.³ The national panels have been tasked with undertaking technical assessments of stewardship land and making recommendations to the Minister of Conservation about the land's revised status. Final decisions on reclassification of individual **areas** of stewardship land sit with the Minister of Conservation.

The national panels are non-partisan and members were chosen based on their expertise in:

- a) Ecology
- b) Landscape
- c) Earth sciences
- d) Recreation
- e) Heritage
- f) Mātauranga Māori.

³ See the Terms of Reference and Procedures for the national panels to provide recommendations on the reclassification of stewardship land at: <https://www.doc.govt.nz/globalassets/documents/about-doc/role/managing-conservation/stewardship-land-tor.pdf>

DOC is funding the national panels' work and will support that work by providing:

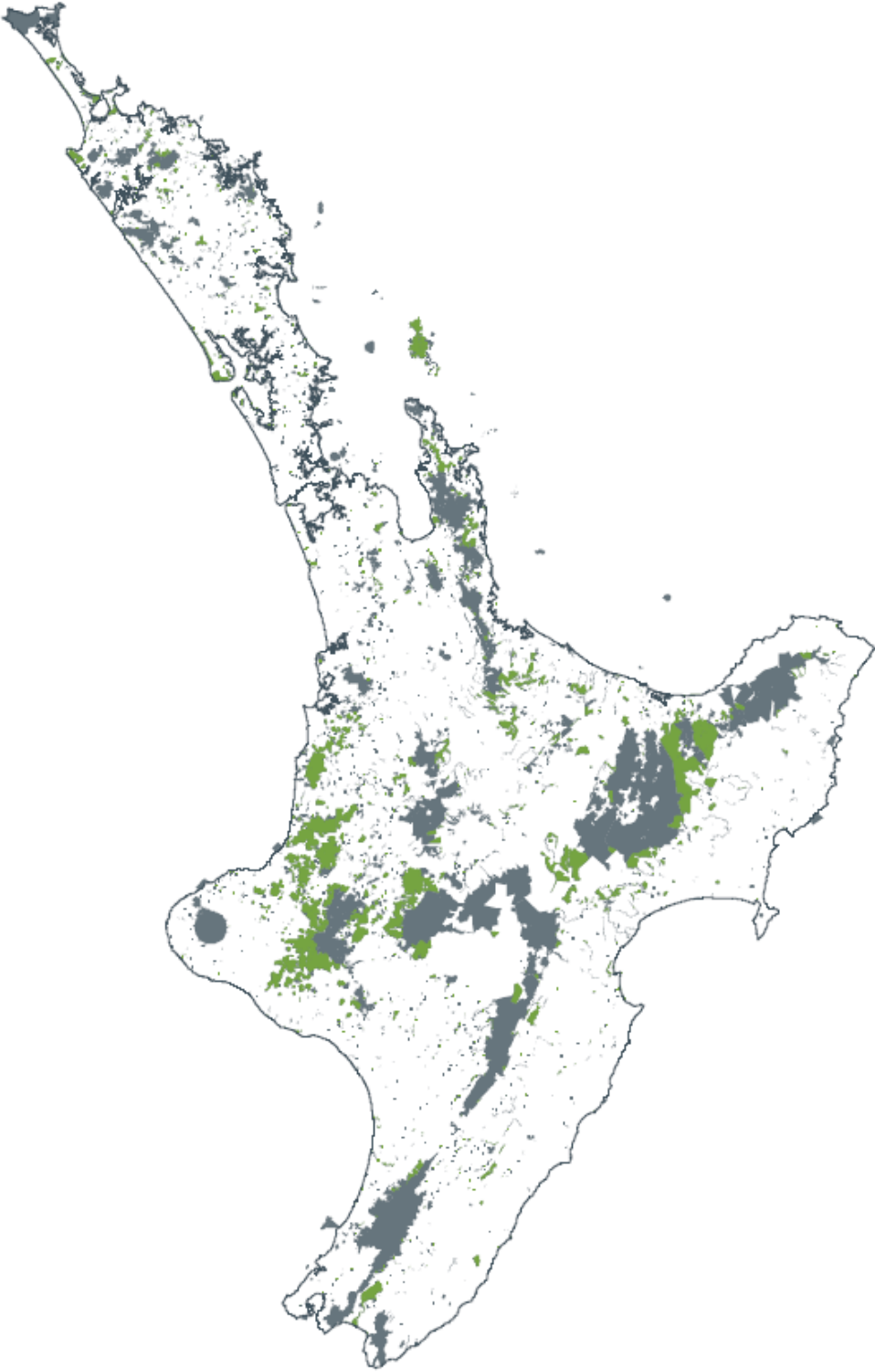
- project management support
- logistical support for meetings
- technical information relevant for assessing the ecology, landscape, earth science, recreation, cultural mātauranga Māori values
- detailed mapping of land areas.

The national panels will sequentially consider each DOC operational region, at the discretion of the Minister of Conservation. The Minister of Conservation has confirmed that the national panels will initially focus on developing recommendations for the Northern South Island and Western South Island before moving onto the rest of the country.

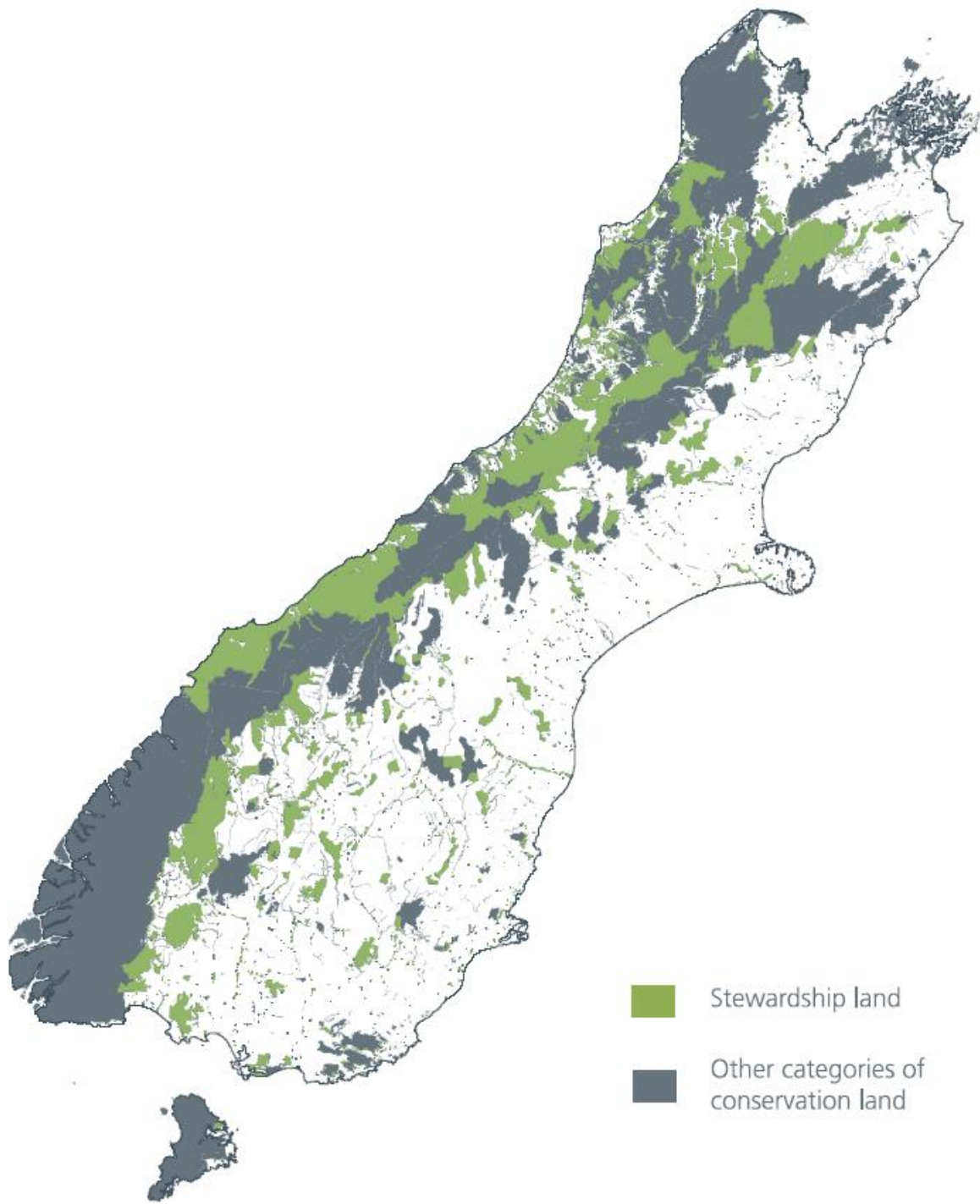
You can read more about the establishment of the national panels here on the Stewardship land reclassification – national panels webpage on DOC's website at: www.doc.govt.nz/about-us/our-role/managing-conservation/stewardship-land/reclassification-national-panels/

This paper is seeking your feedback on the next stage of the process – the review of the legislation that regulates reclassifying stewardship land, to ensure it is working effectively and efficiently. The Minister of Conservation plans to propose changes to the Conservation Act, aimed at speeding up and simplifying the reclassification process to make it easier to reclassify stewardship land at a large scale.

Figure 1: Stewardship land in Aotearoa New Zealand



Source: DOC GIS data



The scope of this discussion document

The Government is interested to hear your views on how the process for reclassifying and disposing of stewardship land can be made more efficient and effective. The process for reclassifying stewardship land is set out in conservation legislation. DOC has undertaken analysis of the legislative process for reclassifying stewardship land and identified six areas where changes could streamline the process in line with the objectives.

We are seeking your feedback on options relating to the following areas.

- 1) Improving consistency of public notification and submission processes
- 2) Enabling the national panels to carry out the public notification and submission process
- 3) Clarifying responsibilities for making recommendations to reclassify stewardship land as national park
- 4) Removing the statutory step to declare all stewardship land to be held for conservation purposes before it can be reclassified or disposed of
- 5) Enabling the Minister of Conservation to direct the proceeds from the sale of stewardship land to DOC
- 6) Clarifying the status of concessions on reclassified stewardship land.

The section 'Reform options' below describes each area and provide options to address these. These options arose out of analysis that was undertaken by DOC's Policy Unit and were informed by teams across the organisation. Each section includes a number of questions to help guide submitters' feedback. A table listing all of the questions is included as Appendix Two.

For the majority of areas identified in this document, DOC has not indicated a preferred option. We will consider the views of submitters when undertaking further analysis and use that information to inform any advice on a preferred option under each area.

A number of stewardship areas are within the boundary of Te Wāhipounamu – South West New Zealand World Heritage Area. The nomination document for Te Wāhipounamu World Heritage Area acknowledges that the stewardship land within its boundary might be reclassified and boundaries adjusted in line with the Operational Guidelines for the Convention. The proposed legislative changes will not affect these processes.

Out of scope

While the national panels and the review of legislation relating to stewardship land are both part of the Government's broader stewardship land reclassification project, this document is only seeking your views on amendments to the legislation relating to the reclassification of stewardship land. Some of the legislative changes discussed in this document would enable the national panels to have a greater role in the stewardship land reclassification process.

This document is not seeking views on the establishment of the national panels or their technical work to consider and make recommendations on the future land status of individual stewardship land areas. The establishment of the national panels and membership of the national panels has been decided and approved by the Government.⁴ Submissions relating to the establishment of the national panels, the membership of the panels or the classifications of specific areas of stewardship land will not be considered.

There will be opportunities to provide feedback on the national panels' recommendations for individual parcels of stewardship land through a public consultation process, before final decisions are made on the proposed reclassification. More information about the approach to public consultation will be released in due course.

You can find out more and keep up to date with these opportunities as they arise here: <https://www.doc.govt.nz/about-us/our-role/managing-conservation/stewardship-land/reclassification-national-panels/>

The six areas within the legislative process for reclassifying stewardship land that are being considered for change have been confirmed by the Minister of Conservation and approved by the Government. These areas have been subject to thorough analysis by DOC and are the only areas within the process that are considered appropriate given the objectives of this review. This document is not seeking feedback on changing other areas within the legislative process.

⁴ You can read more about the decision to establish the national panels, including membership, on the Government speeds up stewardship land reclassification webpage on DOC's website at: www.doc.govt.nz/news/media-releases/2021-media-releases/government-speeds-up-stewardship-land-reclassification/

Have your say

How to comment on this discussion document

You can have your say on the proposals in this discussion document by providing a written submission to DOC. You can do this by:

- completing and submitting the form at www.doc.govt.nz/stewardship-land-consultation
- emailing stewardshiplandpolicy@doc.govt.nz
- writing a letter to:
 - Stewardship Land Consultation
Department of Conservation
P. O. Box 10420 Wellington 6143

Ensure your submission includes:

- your name and title
- the name of your organisation (if you are submitting on behalf of an organisation)
- if your submission represents the views of that entire organisation or a part of it
- your contact details (email preferred).

All submissions must be received by DOC by 18 March 2022[a four-month consultation period].

During the public consultation period, DOC will also undertake more targeted consultation with tangata whenua; iwi, hapū, and whānau – through meetings (virtually or in place) and regional hui. DOC will also hold meetings with key stakeholder groups that have an interest in stewardship land and will be inviting individuals and groups to provide written submissions.

DOC will publish a summary of submissions

After submissions close, DOC will publish a summary of submissions on our website at www.doc.govt.nz.

All submissions are subject to the Official Information Act 1982 and can be released, if requested, under that Act. If you have specific reasons for wanting parts, or all, of your submission withheld, please include these reasons in your submission. DOC will consider them when making any assessment about the release of submissions. Please refer to [DOC's privacy statement](#) for further information.

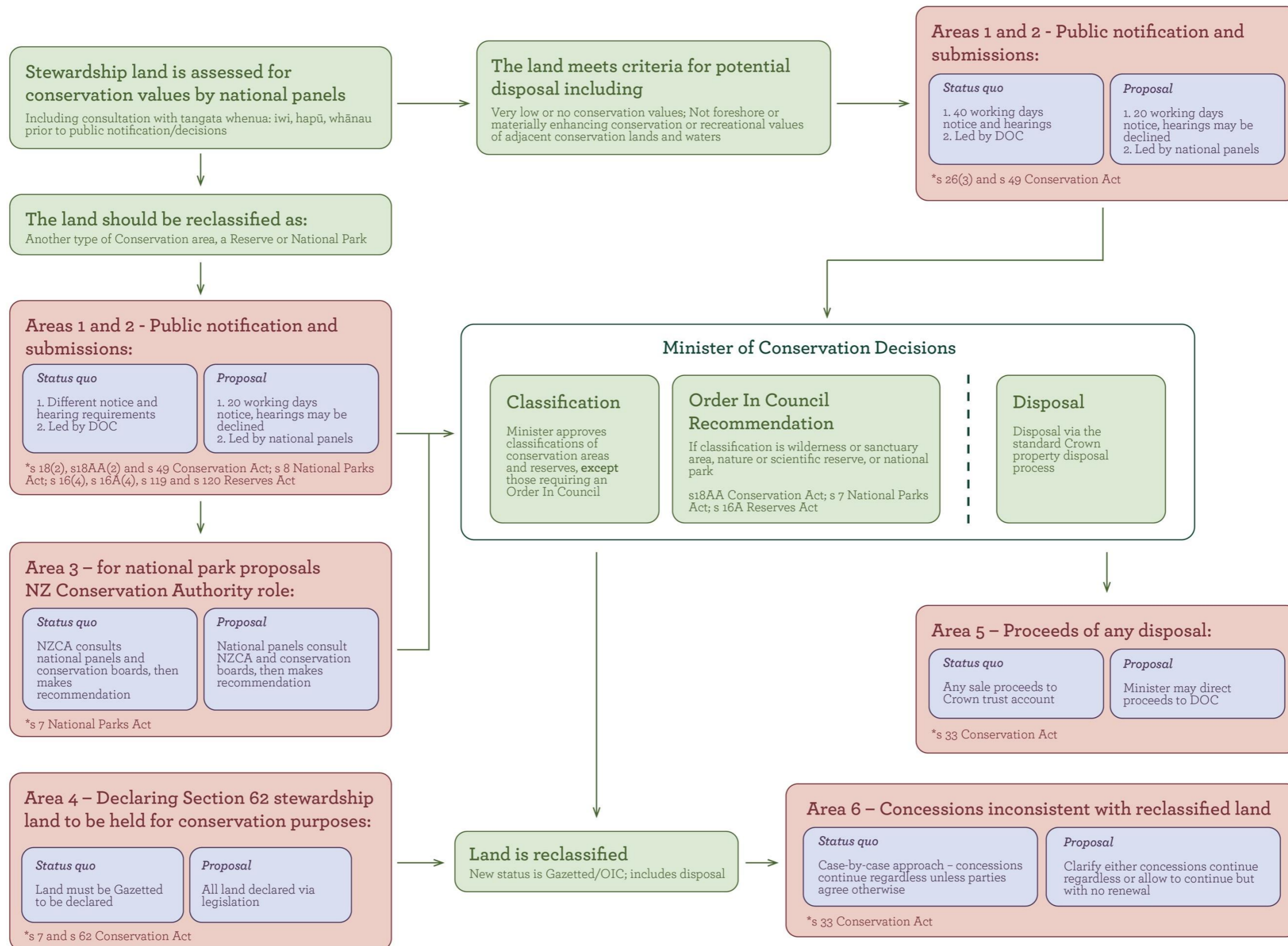
What happens next?

DOC will analyse all submissions and then report back to the Minister of Conservation on the feedback, with recommendations for her consideration in early 2022. Your submission will help inform policy decisions to improve stewardship land reclassification.

If the Government decides to progress with legislative changes, the public will have the opportunity to make submissions during the select committee process. This process would likely occur in the second half of 2022.

Land classification process and schematic of reform options

Below is a highly simplified process diagram showing the steps to reclassify or dispose of stewardship land. We are proposing reform options for the steps in red boxes.



Reform options

1. Improving consistency of public notification and submission processes

Current legislation (section 49 of the Conservation Act) has public notification, submission and hearing requirements that can lead to a lengthy process. Before the Minister of Conservation can classify stewardship land to certain classifications or dispose of stewardship land, she must publicly notify her intent. Under the Conservation Act, 40 working days (2 months) must be allowed for any person or organisation to make a written submission on the proposal. Any submitter can then request to appear before the Director-General of DOC (or their delegate) to support their submission. Allowing 2 months for written submissions can contribute to a long reclassification process.

By comparison, under sections 119 and 120 of the Reserves Act one month must be allowed for public submission.

Under the new panel process, the panels will undertake a public notification process before they can provide a recommendation to the Minister of Conservation. Given the large amount of stewardship land the national panels are attempting to reclassify, this public notification and submissions process could be lengthy and resource intensive.

Objectives relevant to the proposal:

- Enabling a more efficient process for reclassifying stewardship land
- Ensuring DOC meets its wider obligations under conservation legislation and the Conservation General Policy (such as section 4 of the Conservation Act)
- Enabling the national panels to carry out their work efficiently and effectively, to make recommendations to the Minister of Conservation

Options for legislative public notification, submission and hearing requirements
1.1 Shorten the period that the panels must allow for public submissions to 20 working days.
1.2 Allow the ability to decline a hearing where holding the hearing would cause substantial delay to the process or cause substantial burden on the resources of the panel
1.3 Retain the status quo

Analysis of option 1.1: Shorten the period that the panels must allow for public submission to 20 working days

This option balances a more efficient reclassification process with ensuring the public has an opportunity to provide input. Electronic communication is now the norm which means that submitters can provide feedback more efficiently. This would also align the time frame in the Conservation Act with those in the Reserves Act.

Any time frame specified in legislation would be a minimum. Where the national panels propose to reclassify particularly large amounts of stewardship land or parcels where they expect a strong public interest, the expectation would be that they would allow a longer period for public submissions.

However, reducing the time allowed for submissions may impact on the public's ability to engage in the process. Individuals who hold existing concessions on stewardship land will likely wish to make a submission and a shortened time frame may impact on their ability to do so. The national panels will engage with tangata whenua: iwi, hapū and whānau before the public notification stage to ensure that there is appropriate time for them to provide their views, this ensures DOC can meet its wider obligations, including section 4 of the Conservation Act.

Assessment of the option against the objectives

This option aims to balance the objective of enabling a more efficient process for reclassifying stewardship land with ensuring DOC meets its wider obligations under conservation legislation. It would also meet the objective of enabling national panels to carry out their work efficiently and effectively, to make recommendations to the Minister of Conservation.

Analysis of option 1.2: Allow the ability to decline a hearing where holding the hearing would cause substantial delay to the process or place substantial burden on the resources of the panel

Under both the Conservation Act (section 49) and the Reserves Act (section 120), any submitter must be allowed a reasonable opportunity to be heard. If there are a substantial number of requests for hearings this can lengthen the submissions process and place a resource burden on the national panels or DOC.

This option would allow the national panels to decline a hearing in circumstances where they consider holding that hearing would cause substantial delay or place substantial burden on the resources of the panels. It is envisaged that this would only apply where the panel had determined they had gathered enough information from written submissions or from any earlier engagement with the submitter. This option aims to achieve the objective of enabling a more efficient process for reclassifying stewardship land.

However, hearings are a key part of facilitating engagement and allowing individuals or groups to present their evidence in the way that is most appropriate to them. It may also be beneficial for the national panels to be able to interact with submitters and ask them questions.

Assessment of the option against the objectives

This option aims to achieve the objective of enabling a more efficient process for reclassifying stewardship land while ensuring DOC meets its wider obligation under conservation legislation. It would also meet the objective of enabling national panels to carry out their work efficiently and effectively to make recommendations to the Minister of Conservation.

Analysis of option 1.3: Retain the status quo

Retaining the status quo ensures the public has a reasonable opportunity to submit or be heard which can provide for greater transparency of decision-making and a more informed decision. However, it is also the least efficient option for those land classifications that are relatively simple or straightforward.

Assessment of the option against the objectives

This option would contribute to the objective of ensuring DOC meets its wider obligations under conservation legislation. However, it does not meet the objective of enabling a more efficient process for reclassifying stewardship land or enabling national panels to carry out their work efficiently and effectively to make recommendations to the Minister of Conservation.

Questions

6. Please identify your preferred option. You may provide further analysis or comments to support your choice.
7. Do you think 20 working days (1 month) is adequate to prepare a written submission? If not, what time period would be adequate?
8. What role or function do you consider hearings currently play?
9. Are there any further options you think DOC should consider that would meet the objectives set out above?

2. Enabling the national panels to carry out the public notification and submission process

Currently DOC carries out the public notification and submission/hearing process when required by section 49 of the Conservation Act and sections 119 and 120 of the Reserves Act. However, in the new process, it will be the national panels who assess the values of the land and make a recommendation to the Minister of Conservation.

While the Reserves Act allows notification and hearing powers to be delegated to the national panels, the Conservation Act does not. Therefore, under the current legislation, the national panels would not be able to carry out the public notification and submission/hearing stage in the reclassification process. Legislative amendments to the Conservation Act would be needed to enable the national panels to carry out the public notification and submission process.

Objectives relevant to proposal

- Enabling the national panels to carry out their work efficiently and effectively, to make recommendations to the Minister of Conservation (see page 13 for more information about the national panels)
- Delivering clarity for everyone on the status of the land, the appropriate level of protection/use and the reclassification process
- Ensuring DOC meets its wider obligations under conservation legislation and the Conservation General Policy (such as section 4 of the Conservation Act).

Options for enabling the national panels to carry out the public notification and submission/hearing process
2.1 Amend the Conservation Act to enable the national panels to carry out the public notification and submission process.
2.2 Retain the status quo (DOC carrying out the public notification and submissions process).

Analysis of option 2.1: Amend the Conservation Act to enable the national panels to carry out the public notification and submission process

Enabling the national panels to carry out the public notification and submission process ensures the national panels receive all the evidence from submitters first hand. It would also make clear to submitters and the wider public that the panels are making their own independent recommendations to the Minister of Conservation.

Assessment of the option against the objectives

This option aims to meet the objective of enabling the national panels to carry out their work efficiently and effectively to make recommendations to the Minister of Conservation. It also aims to deliver clarity on the reclassification process and make clear that the panels are responsible for assessing the values of the land.

DOC considers this option would not impact its wider obligations under conservation legislation, as while responsibility for consultation would shift the panel process would ensure section 4 obligations are met. Conservation values would continue to be adequately protected.

Analysis of option 2.2: Retain the status quo (DOC carrying out the public notification and submissions process)

Retaining the status quo would mean DOC carries out the public notification and submission process (as it has done in the past) instead of the national panels. However, this may raise questions about the independence of the national panels from DOC. Carrying out the process for every parcel of stewardship land and then collating the information to pass onto the national panels may place a considerable burden on DOC's resources.

Assessment of the options against the objectives

This option would not meet the objective of enabling panels to carry out their work efficiently and effectively and may cause confusion about who is responsible for assessing the values of land. DOC would continue to meet its wider obligations under conservation legislation and ensuring conservation values are adequately protected.

Questions:

10. Please identify your preferred option. You may provide further analysis or comments to support your choice.
11. If the national panels carried out the public notification and submissions process, what impact do you think this would have on the reclassification or disposal process?
12. Are there any further options you think DOC should consider that would meet the objectives set out above?

3. Clarifying responsibilities for making recommendations to reclassify stewardship land to national park land.

Under the current process, stewardship land can only be classified as a new national park or part of an existing national park, if the New Zealand Conservation/ Te Pou Atawhai Taiao O

Aotearoa Authority (NZCA) makes a recommendation to the Minister of Conservation (section 7 of the National Parks Act 1980).

Before any recommendation is made, the NZCA must fulfil its consultation requirements. Under the National Parks Act and the General Policy for National Parks, the NZCA must consult the local Conservation Board, and tangata whenua within whose rohe the land is located and seek the views of any relevant territorial authority and Fish & Game New Zealand council.

However, the NZCA's recommendation/consultation process may not align with the role of the national panels, who have been tasked by the Minister of Conservation with assessing the values of stewardship land and providing her with a recommendation. Clarity on how the national panel process would interact with the role of the NZCA is needed to ensure each body understands their role and to avoid any duplication of consultation.

Objectives relevant to proposal:

- Delivering clarity for everyone on the status of the land, the appropriate level of protection/use and the reclassification process
- Ensuring conservation values are adequately protected
- Enabling the national panels to carry out their work efficiently and effectively, to make recommendations to the Minister of Conservation
- Enabling a more efficient process for reclassifying stewardship land.

Proposal for the role of the NZCA in recommendations where stewardship land is reclassified as national park
3.1: National panels assume primary responsibility for reclassifying stewardship land as national parks in consultation with tangata whenua, the NZCA and relevant Conservation Boards.

Analysis of option 3.1: National panels assume primary responsibility for reclassification of stewardship land into national parks in consultation with tangata whenua, the NZCA and relevant Conservation Boards.

This option would enable the national panels to make recommendations to the Minister of Conservation for all classifications, including where stewardship land is being reclassified to national park. The national panels would be required to consult with the NZCA in the assessment phase if the national panels want to recommend stewardship land be reclassified as national park land.

This option may create a streamlined and consistent process for every reclassification of stewardship land. Conservation Boards and tangata whenua: iwi, hapū, and whānau would have an opportunity to advise or challenge the national panels directly on recommendations, without going through the NZCA.

However, this option would remove the NZCA as a check on the national panels. The NZCA has considerable expertise in this area, and its members come from a range of organisations, ensuring a broad range of views are considered. Even though the national panels would have to consult the NZCA, the recommendation of the NZCA would not be binding on the panels.

Assessment of options against objectives

This option aims to meet the objective of delivering clarity on the status of the land, the appropriate level of protection/use and the reclassification process, by making clear how the reclassification process will work for national parks. The panels would ensure that the conservation values of any land considered for national park was adequately protected. Therefore, this option meets the objective of ensuring conservation values are adequately protected. The option also aligns with the objective of enabling the national panels to carry out their work to make recommendations to the Minister of Conservation and enabling a more efficient process for reclassifying stewardship land.

Questions:

13. What particular expertise/experience do you consider the national panels brings to this process?
14. If the national panels were responsible for making recommendations to reclassify land to national parks, do you consider this would create any risks?
15. Are there any further options you think DOC should consider that would meet the objectives set out above?

4. Removing the statutory step to declare all stewardship land to be held for conservation purposes before it can be reclassified or disposed of

Section 62 of the Conservation Act relates to land allocated to DOC when the Department was first formed. All that allocated land was deemed to be held for conservation purposes under section 62 so it could be managed as if it were stewardship land ('section 62 stewardship land'). Before stewardship land held under section 62 can be reclassified or disposed of, it must go through a process where it is declared to be held for conservation purposes under section 7 of the Conservation Act.

Section 7 covers how land can be acquired and declared to be held for conservation purposes. Any land newly acquired and declared to be held for conservation purposes under section 7 has the status of stewardship area unless it is reclassified in accordance with other provisions in the Conservation Act (or other conservation-related legislation).

Declaring land to be held for conservation purposes requires the Minister of Conservation (or DOC) to make a declaration via *Gazette* notice, including a description of the relevant piece of land. DOC would need to go through this process for all section 62 stewardship land, and this would be resource intensive.

We could amend the legislation, so all stewardship land is declared to be held for conservation purposes.

Objectives relevant to proposal

- Enabling a more efficient process for reclassifying stewardship land
- Ensuring DOC meets its wider obligations under conservation legislation and the Conservation General Policy (such as section 4 of the Conservation Act)

- Ensuring conservation values are adequately protected.

Options for declaring all section 62 stewardship land to be held for conservation purposes
4.1 Declare all stewardship land under section 62 of the Conservation Act 1987 to be held for conservation purposes via a legislative change.
4.2 Retain the status quo (the requirement to declare section 62 stewardship land to be held for conservation purposes under section 7 of the Conservation Act 1987)

Analysis of option 4.1: Declare all stewardship land under section 62 of the Conservation Act 1987 to be held for conservation purposes via a legislative change

This option would mean all land acquired under section 62 of the Conservation Act would be declared to be held for conservation purposes so that the land could be reclassified or disposed of. This option removes the step of having to go through the declaration and gazettal process under section 7 of the Conservation Act. We consider there is minimal risk in declaring all section 62 stewardship land to be held for conservation purposes. Land that is **declared** to be held for conservation purposes is treated in a similar way as land that is **deemed** to be held for such purposes, which means the change would have no impact on the management or protection of that land.

The only protection that could be seen to have been removed is that section 62 stewardship land cannot be disposed of until it is declared to be held for conservation purposes. The Conservation Act and the Conservation General Policy set strict parameters around the types of public conservation land that can be disposed of, so the land will still be subject to the appropriate protections based on its conservation values.

Assessment of the option against the objectives

This option meets the objective of enabling a more efficient process for reclassifying land and ensuring conservation values are adequately protected. DOC does not consider there will be an impact on its wider obligations under conservation legislation.

Analysis of option 4.2: Retain the status quo (the requirement to declare stewardship land to be held for conservation purposes under section 7 of the Conservation Act 1987 (status quo))

Retaining the status quo means every parcel of stewardship land would need to go through the process of being declared to be held for conservation purposes. DOC could declare several parcels of land to be held for a conservation purpose in a single *Gazette* notice or bundle the declaration into the *Gazette* notice used to reclassify or dispose of the land. This would create some efficiencies but would still add considerably to resource requirements. There are also no notable benefits to retaining this legislative requirement.

Assessment of the option against the objectives

This option does not meet the objective of a more efficient process for reclassifying land. Under this option, DOC would continue to meet its wider obligations and ensure conservation values are adequately protected.

Questions

16. Please identify your preferred option. You may provide further analysis or comments to support your choice.
17. Are there any alternative options that have not been discussed here? Please provide analysis or comments to explain your answer.
18. Do you think that there are any other risks or impacts associated with declaring all section 62 stewardship land to be held for a conservation purpose via a legislative change that have not been identified here?

5. Enabling the Minister of Conservation to direct the proceeds of sale of stewardship land to DOC

Under section 26 of the Conservation Act, stewardship land with very low or no conservation values may be disposed of⁵. After the decision is made to consider disposal, DOC follows a process to determine how the land should be disposed of. Disposal does not necessarily mean the land is sold. It could be used as part of Treaty of Waitangi settlement requirements, kept as Crown-owned land, or offered back to a former owner. However, it is likely that at least some stewardship land will be sold.

While the administration and efforts required to assess values and prepare land for disposal are funded through DOC's baseline budget, proceeds from disposals are paid to the Crown trust account⁶ (section 33 of the Conservation Act). The costs of selling stewardship land (including the cost to assess the values, public notification, and often substantial surveying costs) are significant and non-recoverable. DOC has numerous competing priorities for the limited resourcing available to carry out its responsibilities. The high costs involved mean that selling land no longer required for conservation purposes is often not progressed since it would require reprioritising resources away from essential conservation work.

⁵ Sections 26(1) and 26(2) of the Conservation Act 1987 and Chapter 6 of the Conservation General Policy outline the criteria for disposal or retention of conservation land.

⁶ This relates to financial provisions in the Public Finance Act 1989. Trust Bank Accounts are established under Part 7 of the Public Finance Act 1989.

In contrast, section 82 of the Reserves Act allows the Minister of Conservation to direct an amount equal to the proceeds of sale of a reserve to DOC so it can be used in the managing, administering, maintaining, protecting, improving, and developing reserves of any classification.

There is an option to amend the Conservation Act to direct the proceeds of sale of stewardship land to DOC for the further reclassification or statutory land management activities.

We do not know what recommendations the national panels will make about disposals of stewardship land, so it is difficult to predict the scale of cost that will be incurred. The Cost Recovery Impact Statement, attached at Appendix 3 provides detailed information on the breakdown of estimated costs and assumptions used in this modelling.

Objectives relevant to proposal

- Enabling the national panels to carry out their work efficiently and effectively, to make recommendations to the Minister of Conservation
- Ensuring conservation values are adequately protected.

Options for directing the proceeds of stewardship land sales to DOC
5.1 Amend the Conservation Act to allow the Minister of Conservation to direct the proceeds of sale of stewardship land to DOC for further reclassification or management activities.
5.2 Retain the status quo (continue to direct proceeds to the Crown trust account).

Analysis of option 5.1: Amend the Conservation Act to allow the Minister of Conservation to direct the proceeds of sale of stewardship land to DOC, for further reclassification or management activities

The Conservation Act could be amended to enable a similar process to that under the Reserves Act, which allows the proceeds from the sale of stewardship land to be paid into the Public Account⁷ and credited to the Trust Account⁸. The Minister of Conservation is then able to direct an amount equal to the proceeds of sale to be paid from the Public Account to DOC and debited from the Trust Account.

Due to the size and location of stewardship land areas, processes such as assessing the values of the land and carrying out surveys of the land can be expensive. If the Minister were able to direct the proceeds of sale back to DOC, this money could be used to offset the cost of disposal, and for the management, reclassification, and disposal of any remaining or future stewardship land.

⁷ Public Account refers to financial provisions in the Public Finance Act 1989. 'Public money' means all money received by or on behalf of the Crown, including the proceeds of all loans raised on behalf of the Crown and any other money that the Minister or the Secretary directs to be paid into a Crown Bank Account or Departmental Bank Account and any money held by an Office of Parliament; but does not include money held in trust as trust money.

⁸ Trust Account refers to a trust account established under Part 7 of the Public Finance Act 1989.

Assessment of the option against the objectives:

This option would meet the objective of enabling the national panels to carry out their work efficiently and effectively. The proceeds of sale of any parcel of stewardship land could be used to ensure any remaining parcels (or future parcels) are managed and protected accordingly, meeting the objective of ensuring conservation values or adequately protected.

This option would have fiscal implications for the wider Crown as it would not receive the proceeds of sale. Parcels deemed eligible for disposal must follow the Crown property disposal process, which includes obligations under the Public Works Act 1981 as well as the Māori Protection Mechanism⁹, the Sites of Significance processes, and any right of first refusal contained in a relevant Treaty of Waitangi settlement. Therefore, it is difficult to estimate the proportion of land eligible for disposal that would be sold on the open market. Directing proceeds to DOC would only partially recover costs, as most land assessed and reclassified would not be disposed of and therefore would not generate any income.

Analysis of option 5.2: Retain the status quo (continue to direct proceeds to the Crown trust account)

Retaining the status quo means DOC would continue to fund the necessary requirements for stewardship land disposal from baseline funding. The high costs of land disposal would continue to act as a barrier to progressing disposals in a timely manner, due to competing priorities for DOC's resources (people and funding).

Under the status quo, there may be the option to direct some stewardship land sale proceeds to DOC without legislative change¹⁰. However, this would only extend to the cost of getting stewardship land ready for sale, which only accounts for a small proportion of the overall costs incurred, requiring DOC to continue to fund most costs from within current funding. Additionally, obtaining this under the current process, would require joint agreement of the Minister of Conservation and the Minister of Finance. If the Minister of Finance declined the application DOC would not be able to offset the costs of getting land ready for sale. This lack of certainty could make progressing disposals less likely, as there is a risk that resources already allocated to other priority conservation activities would need to be reallocated if the application is declined.

Assessment of the option against the objectives

This option does not meet the objective of enabling the national panels to carry out their work efficiently and effectively. The objective of ensuring conservation values were adequately protected would be met.

Questions

19. Please identify your preferred option. You may provide further analysis or comments to support your choice.

⁹ Protects Māori interest in Crown owned land that has been identified for disposal

¹⁰ Proceeds from the sale of stewardship land result in an increase in Crown revenue, which can be used to justify a fiscally neutral increase in DOC's output expense appropriation (under paragraph 32.5 of Cabinet Office circular (18) 2).

20. What are the risks or impacts associated with allowing the Minister of Conservation to direct the proceeds of sale of stewardship land to DOC that have not been identified here?
21. Are there any further options you think DOC should consider that would meet the objectives set out above?

6. Clarifying the status of concessions on reclassified stewardship land

Under part 3B of the Conservation Act, where groups or individuals want to use public conservation land (including stewardship land) to run a business or undertake certain activities, permission must be obtained from the Minister of Conservation (or DOC under delegation) in the form of a concession.¹¹ Concessions cannot be granted unless they are consistent with the relevant conservation management strategy or conservation management plan. Concessions are contractual agreements between DOC and concession holders. There are significant numbers of concessions granted on stewardship land for a wide variety of activities, such as grazing or beekeeping.

Reclassifying stewardship land may result in situations where existing concessions may be inconsistent with a new land classification. There may also be cases where a recommendation is made to dispose of stewardship land with an existing concession. As it is not possible to preempt the recommendations of the national panels, it is hard to predict the scale of this issue. Under current legislation, there is no specified process for how DOC should manage existing concessions in these instances.

In the past, DOC has been able to deal with such situations on a case-by-case basis by finding ways for the concession holder to continue to exercise their concession. In some cases, this has meant that the actual change in the status of land does not happen until the concession expires. In other cases, concession holders have been able to adjust their activity to be consistent with a new classification, or the new owner of land that has been disposed of has agreed to the activity continuing.

Most concessions are granted for 5 – 10 years, with a review after 3 years. Some concessions can be granted for longer periods (10+ years).¹² If a concession has a right of renewal, then concessions could be in place for 30+ years. Under the current approach to managing concessions on reclassified stewardship land/land that is to be disposed of, there may be situations where DOC cannot reclassify or dispose of land for a considerable time. Allowing activities to continue for prolonged periods of time, where it has been identified that the land should have a higher level of protection may have implications for the protection of the land's conservation values.

Given the large amount of land set to be reclassified and the potential number of concessions impacted, the current approach may create significant delays in finalising land reclassifications

¹¹ This discussion document does not address access arrangements for minerals activities on public conservation lands managed under the Crown Minerals Act 1991. Access arrangements will continue to be managed in line with current legislative requirements.

¹² DOC manages a number of leases granted under the Land Act 1948. A small number of these leases have perpetual rights of renewal. When these come up for renewal, they become subject to the concessions regime with no perpetual renewal rights.

or disposals. There is also uncertainty for concession holders on what will happen if their concession is impacted by a recommendation for reclassification or disposal.

Objectives relevant to proposal

- Delivering clarity for everyone on the status of the land, the appropriate level of protection/use and the reclassification process
- Ensuring DOC meets its wider obligations under conservation legislation and the Conservation General Policy (such as section 4 of the Conservation Act)
- Ensuring conservation values are adequately protected
- Enabling a more efficient process for reclassifying stewardship land.

Options clarifying the status of concessions on reclassified stewardship land
6.1 Continue to find solutions on a cases-by-case basis. Concessions continue regardless unless parties agree otherwise. This may include concession terms finishing before land can be reclassified or disposed of (status quo).
6.2 Amend the legislation to clarify that existing concessions on stewardship land can continue under agreed terms regardless of reclassification

Analysis of option 6.1: Continue to find solutions on a cases-by-case basis. Concessions continue regardless unless parties agree otherwise. This may include concession terms finishing before land can be reclassified or disposed of (status quo).

This option enables DOC to fulfil its contractual obligations by allowing the concession holder to carry out their activities as agreed, in line with the objective to ensure DOC meets its wider obligations. This would not preclude final decisions being made about reclassification or disposal, but it may mean that the actual change in the land status does not happen until the concession is no longer in place. As discussed above, this could be for 30 years or more.

Conservation values are assessed when concessions are granted, and appropriate conditions imposed to protect the values. However, waiting to reclassify land and allowing activities to continue for prolonged periods of time, where it has been identified that the land should have a higher level of protection, may have implications for the protection of the land’s conservation values. This is at odds with DOC’s responsibilities to manage public conservation lands for the protection of conservation values.

To mitigate the instances where this occurs, DOC could continue to use flexible approaches where possible, as concession holders may adjust to the new circumstances. For example, a concession holder may be able to change their activity to suit a new land classification, or the new owner of disposed land may allow concession holders to continue their activity. However, given the scale of stewardship land reclassification, it is unlikely that DOC would have sufficient resource to explore flexible approaches for a significant proportion of concessions.

As this option relies on an internal operational policy approach, it could leave some stakeholders feeling uncertain about how concessions will be managed. Decisions would be open to challenge and risk being relitigated.

Assessment of the option against the objectives

This option ensures DOC meets its wider obligations to stakeholders, including concession holders. Due to the uncertainty involved, it does not meet the objective of delivering clarity for everyone on the status of the land, the appropriate level of protection/use and the reclassification process. It may not ensure conservation values are adequately protected in every case.

Analysis of option 6.2: Amend the legislation to clarify that existing concessions on stewardship land can continue under agreed terms regardless of reclassification

This option largely reflects the same costs, benefits and risks as option 6.1. in terms of enabling DOC to fulfil its contractual obligations to concession holders, and possible risks to protection of conservation values. However, it would provide clarity to all interested parties regarding the ongoing status of concessions during the stewardship land reclassification process and provide transparency about DOC's decision-making by clarifying that concessions will continue regardless of reclassification. This clarity ensures that concessions holders know their rights and obligations and can plan for the future. This would also reduce the risk of decisions being challenged.

Assessment of the option against the objectives

This option ensures DOC meets its wider obligations to stakeholders, including concession holders. It also meets the objective of delivering clarity for everyone on the status of the land, the appropriate level of protection/use and the reclassification process. It may not ensure conservation values are adequately protected in every case.

Questions

22. Please identify your preferred option. You may provide further analysis or comments to support your choice.
23. If a concession is inconsistent with a new land classification or on land that has been recommended for disposal, should it be allowed to continue? Please explain your answer.
24. Are there any other risks or impacts associated with allowing inconsistent concessions to continue?
25. Are there any further options you think DOC should consider that would meet the objectives set out above?

7. Non-regulatory options to improve stewardship land reclassification

Additional non-regulatory options to support streamlining the process for reclassifying stewardship land

We have identified three non-regulatory changes for improving reclassification processes. We are progressing these within current legislative and operational frameworks:

1. Clarifying survey requirements

Survey requirements associated with reclassifying or disposing of stewardship land

can be costly and time consuming, creating a significant barrier to action. This reflects the large size, remote location and challenging topography of many areas of stewardship land, and the scale of all stewardship land. Surveying requirements are important in meeting various legal responsibilities for land management. These requirements are set out in the Rules for Cadastral Survey 2021 (CSR 2021).¹³ Exceptions to these rules need to be sought on a case-by-case basis from Toitū te Whenua Land Information New Zealand (LINZ). However, given the amount of stewardship land set to be reclassified, prioritising the significant resources needed for surveying at the expense of other core work will be challenging for both DOC and LINZ.

DOC and LINZ are working together to achieve greater efficiency and lower costs for DOC during the reclassification process, by clarifying and agreeing situations where surveys are required (in line with the CSR 2021) and where no additional survey will be required. Greater communication between agencies as the reclassification project continues will allow both DOC and LINZ to manage the impact on resources this work may have.

2. Ensuring operational arrangements between DOC and the Ministry of Business, Innovation and Employment (MBIE) are fit for purpose

DOC and MBIE have an existing operational agreement to share information about intended reclassifications of stewardship land. This agreement provides MBIE with an opportunity to assess land for important mineral values which may affect the desirability of the reclassification. MBIE can provide feedback to DOC on the proposed classification, ahead of public notification. The agreement also provides for Ministers to resolve any disagreement between MBIE and DOC on reclassifications. This can add time and complexity to stewardship land reclassifications. It also does not align with the intent that the national panels make independent recommendations to the Minister of Conservation.

DOC and MBIE no longer consider the agreement fit for purpose given the new panel process and are in the process of dissolving it. MBIE will be able to provide any information relevant to the reclassification of an area of stewardship land to the national panels during their assessment process.

3. Bundling Orders in Council for reclassification of stewardship lands:

Reclassifying land to national park, wilderness areas, sanctuary areas, nature reserves and scientific reserves requires an Order in Council (OIC) by the Governor-General on recommendation of the Minister of Conservation.¹⁴ OICs go through an established process including drafting, government agency consultation and the 28 days that must be allowed before the OIC can come into force. Given the scale of the reclassification project, OICs for each piece of reclassified land may create a significant resource burden on DOC and other government agencies and add considerably to time frames. This may act as a barrier to the timely

¹³ For more information, see the Cadastral Survey Rules 2021 (CSR 2021) Implementation webpage on the Toitū Te Whenua Land Information New Zealand website at:

www.linz.govt.nz/land/surveying/cadastral-survey-rules-2021-csr-2021-implementation

¹⁴ Sections 7 and 12 of the National Parks Act 1980, section 18AA of the Conservation Act 1987, and section 16A of the Reserves Act 1977.

reclassification of large amounts of stewardship land. However, as the national panels' recommendations are not yet known, it is difficult to gauge the scale of this issue.

DOC considered whether legislation could be amended to remove the requirement that some or all these types of classifications be enacted by an OIC. Instead, all the classifications currently enacted through OIC would be done by a declaration of the Minister of Conservation, except for national parks.

However, DOC considers OICs are the appropriate mechanism for reclassification of stewardship lands. OICs must be approved by Cabinet and therefore provide for consideration of wider government interests, and the interests of tangata whenua: iwi, hapū, and whānau in decision-making for land classifications that involve long-term protections that would potentially limit land use.

Instead, DOC proposes that where the national panels have completed their assessment of all the stewardship land in a region, we will go through the OIC process for those parcels that require it at the same time. This will retain the level of wider government oversight, while ensuring the process is as streamlined as possible, achieving time, resource and efficiency gains.

Non-regulatory options that would not be recommended

The scope of proposed changes to stewardship land reclassification processes means the options in this document focus on regulatory changes affecting legislation. This is due to the nature of conservation legislation, where multiple Acts govern land classifications and the requirements to undertake reclassification. Therefore, most of the potential system changes are regulatory changes.

Increasing DOC resources to work within the current system is a non-regulatory option that has been considered. It is likely that DOC will need to reprioritise resources to reclassify stewardship land at the scale and speed expected by the Government. However, on its own, this would not achieve the objectives of this discussion document. Regulatory changes are needed in order to achieve the efficiencies necessary to progress large scale stewardship land reclassification within the desired timeframe, and to enable the national panels to make their recommendations on reclassification to the Minister of Conservation.

An additional non-regulatory alternative we have considered is to have DOC carry out reclassification (rather than national panels). This option would remove the need for regulatory options that enable national panels to conduct assessments and reviews. However, this option is not favoured because of the current issues that hinder land reclassification, for example the lengthy process, and the Government's expectation that stewardship land reclassification be accelerated.

Question

26. Are there any other non-regulatory options to help streamline the process for reclassifying stewardship land that we should consider? Please explain your answer.

8. Implementing changes

DOC has an Operations Group with teams across the country to support the implementation of the current or changed system. The NZCA and Conservation Boards will also provide input upon or lead recommendations.

The national panels will be supported by DOC's Operational teams in executing their responsibilities but will be able to direct their own activities. They will have allocated funding from DOC to perform their role. The Statutory Land Management team located within DOC's Operations Group will both prepare and execute reclassification decisions and disposals.

DOC's Planning, Permissions and Land unit (which includes the Statutory Land Management team and is also located within the Operations Group) will deal with concessions affected by any changes in classification (concessions will not be affected until reclassification recommendations are made).

How changes will be evaluated and monitored

A successful outcome for this project would be that most of the 2.5 million hectares of stewardship land is appropriately reclassified or disposed of within the next five years. The overarching aim will be to ensure reclassification protects conservation values more effectively, while disposing of land with very low or no conservation values where appropriate.

It may be difficult to evaluate the effect of the regulatory changes on the scale and rate of stewardship land reclassification, as DOC intends to increase reclassification activities regardless of regulatory change. There is a low baseline level of stewardship land reclassification to use as a basis for comparison.

All processes where a legislative power is exercised are subject to judicial review if a party has cause to challenge. DOC expects some reclassification and disposal decisions will be challenged for various reasons, not necessarily related to options discussed in this document.

For reclassified land, DOC will monitor and maintain the conservation values of that land as appropriate for its new classification, as per its current requirements. The NZCA and Conservation Boards monitor conservation outcomes from DOC activities and provide feedback to the Minister of Conservation. For land that is disposed of, DOC does not intend to monitor or evaluate future uses, as it has no mandate.

Question

27. Are there any additional evaluation or monitoring measures that you think should be implemented? Please explain your answer.

Appendix 1: Glossary of key terms

- **Concession:** A lease, license, permit, or easement granted under Part 3B of the Conservation Act 1987.
- **Conservation:** The preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations (section 2 of the Conservation Act 1987).
- **Conservation Board:** Independent bodies that empower local communities and iwi to contribute to the management of conservation areas. Board members are appointed by the Minister of Conservation. Some members are appointed on the recommendation of local tangata whenua. Members are appointed as individuals for their experience, expertise, and links with the local community.
- **Gazette:** The New Zealand Gazette is the official newspaper of the Government of New Zealand. Legislative Instruments are notified in the Gazette after they are made. The date of notification is given at the end of the Legislative Instrument, under administrative information or the Gazette information. Other Instruments are usually either published or notified in the Gazette.
- **General Policy for National Parks:** A policy approved by the New Zealand Conservation Authority that provides direction for the administration of national parks across the country. More information can be found on the General Policy for National Parks webpage on DOC's website at: <https://www.doc.govt.nz/about-us/our-policies-and-plans/statutory-plans/statutory-plan-publications/national-park-management/general-policy-for-national-parks/>
- **New Zealand Conservation Authority/ Te Pou Atawhai Taiao O Aotearoa:** An independent statutory body that advises the Minister of Conservation and the Director-General of DOC on conservation priorities at a national level. The New Zealand Conservation Authority / Te Pou Atawhai Taiao O Aotearoa (NZCA) is closely involved in conservation planning and policy development affecting the management of public conservation areas administered by DOC. The NZCA has 13 members appointed by the Minister of Conservation. The Minister has regard for the interests of conservation, natural sciences and recreation in making the appointments.
- **Order in Council:** A type of Legislative Instrument that is made by the Executive Council presided over by the Governor-General.
- **Public conservation land:** All lands and water areas administered by DOC for whatever purpose, including natural and historic resources. Public conservation land has different layers of protection, depending on which category or status the parcel of land holds under various pieces of legislation.
- **Reclassification:** For the purposes of this document the term reclassification is used to refer to the process by which land (in this case stewardship land) is classified as a different category/classification of land. For example, a parcel of stewardship land might be reclassified to scenic reserve.

- **Reserves:** Land that is set apart to provide for the preservation and management of an area for the benefit and enjoyment of the public. Under the Reserves Act 1977, a reserve must be classified according to its principal or primary purpose. It is then managed/preserved according to that purpose.
- **Stewardship land (also known as stewardship area):** A category of public land created under the Conservation Act 1987. At that time, the Government transferred responsibility for large areas of land to the Department of Conservation (DOC), to act as a steward of the land until its conservation value had been assessed. They are conservation areas that have not yet been assessed and identified as requiring any additional protection. DOC is legally required to manage this land so that its natural and historic resources are protected.

Appendix 2: List of questions

Do you	Question	Page reference
Section: Introduction	1. Do you agree with the objectives listed above?	7
	2. Should any other objectives be included in this review?	7
Section: Current legislative framework	3. Do you agree with the description of the problem? If not, please provide reasons to support your answer.	12
	4. Do you think there are any additional factors that have contributed to stewardship land reclassification not being progressed on a large scale? If so, please describe them.	12
	5. Do you think there any other issues or impacts caused by the failure to reclassify stewardship land on a large scale that have not been described here? If so, what are they and who/what do they affect?	12
Section 1: Improving consistency of public notification and submission processes	6. Please identify your preferred option. You may provide further analysis or comments to support your choice.	24
	7. Do you think 20 working days (1 month) is adequate to prepare a written submission? If not, what time period would be adequate?	24
	8. What role or function do you consider hearings play?	24
	9. Are there any further options you think DOC should consider that would meet the objectives set out above?	24
Section 2: Enabling the national panels to carry out the public notification and submission process	10. Please identify your preferred option. You may provide further analysis or comments to support your choice.	25
	11. If the national panels carried out the public notification and submissions process, what impact do you think this would have on the reclassification or disposal process?	25
	12. Are there any further options you think DOC should consider that would meet the objectives set out above?	25
Section 3: Clarifying responsibilities for making recommendations to reclassify stewardship land to national park.	13. What particular expertise/experience do you consider the national panels could bring to the process?	27
	14. If the national panels were responsible for making recommendations to reclassify land to national parks, do you consider this would create any risks?	27

	15. Are there any further options you think DOC should consider that would meet the objectives set out above?	27
Section 4: Removing the statutory step to declare all stewardship land to be held for conservation purposes before it can be reclassified or disposed of	16. Please identify your preferred option. You may provide further analysis or comments to support your choice.	29
	17. Are there any alternative options that have not been discussed here? Please provide analysis or comments to explain your answer.	29
	18. Do you think that there are any other risks or impacts associated with declaring all section 62 stewardship land to be held for a conservation purpose via a legislative change that have not been identified here?	29
Section 5: Enabling the Minister of Conservation to direct the proceeds of sale of stewardship land to DOC	19. Please identify your preferred option. You may provide further analysis or comments to support your choice.	31
	20. What are the risks or impacts associated with allowing the Minister of Conservation to direct the proceeds of sale of stewardship land to DOC that have not been identified here?	32
	21. Are there any further options you think DOC should consider that would meet the objectives set out above?	32
Section 6: Clarifying the status of concessions on reclassified stewardship land	22. Please identify your preferred option. You may provide further analysis or comments to support your choice.	34
	23. If a concession is inconsistent with a new land classification or on land that has been recommended for disposal, should it be allowed to continue? Please explain your answer.	34
	24. Are there any other risks or impacts associated with allowing inconsistent concessions to continue?	34
	25. Are there any further options you think DOC should consider that would meet the objectives set out above?	34
Section 7: Non-regulatory options to improve stewardship land reclassification	26. Are there any other non-regulatory options to help streamline the process for reclassifying stewardship land that we should consider? Please explain your answer.	36
Section 8: Implementing changes	27. Are there any additional evaluation or monitoring measures that you think should be implemented? Please explain your answer.	37

Appendix 3: Cost Recovery Impact Statement for Area 5 – Enabling the Minister of Conservation to direct the proceeds of sale of stewardship land to DOC

Stage 1 Cost Recovery Impact Statement

Directing proceeds from disposal (by sale) of stewardship areas to fund DOC's ongoing reclassification and statutory land management work.

Status quo

A description of the activity and why it is undertaken:

- Stewardship areas (referred to as stewardship land) are public conservation land managed by the Department of Conservation that are not yet classified into formal land protection based on conservation values. This category of land covers 2.5 million hectares or approximately 9% of Aotearoa's land area.
- The government intends to improve processes by which stewardship land is assessed for conservation values and subsequently reclassified or disposed if eligible.
- Stewardship land with very low or no conservation values may be disposed by sale, if it is no longer required for conservation purposes. While the administration and efforts required to assess values and prepare land for disposal are funded through Vote Conservation, proceeds from disposals are paid to the Crown trust account (section 33 of the Conservation Act 1987).

What policy outcomes will the activity achieve?

- The reclassification of stewardship land will improve the management of public conservation land and ensure conservation values are properly protected. However, it will also identify land with very low or no conservation values, and these become eligible for potential disposal. Land that is disposed no longer requires management and administration by DOC.

What is the rationale for government intervention?

- The government administers stewardship land. Reclassifying this land is set out in the Conservation Act 1987, the Reserves Act 197, and the National Parks Act 1980, while disposal is set out in the Conservation Act. There are 3236 stewardship areas to be assessed. The rationale for reclassification is to ensure land is managed appropriate to the conservation values that it has; land with very low or no conservation purposes can potentially be disposed of.
- Under the status quo, there may be the option to direct some of the proceeds of sale of stewardship land to DOC without legislative change. However, this would only extend to the cost of readying and disposal. Obtaining the cost of readying land for sale, under the current process, would require joint agreement of the Minister of Conservation and the Minister of Finance. Therefore, if the Minister of Finance declined the application, DOC

would not be able to offset the cost of disposal. This affects DOC ability to prioritise statutory land management operations.

- By way of contrast, section 82(1)a of the Reserves Act 1977 does allow the Minister of Conservation to direct proceeds from the disposal of reserves to activities that enable management and purchase of reserves generally. There is no apparent reason for the difference between the two acts, though the scale of land protected under the Conservation Act is much larger and the potential for large transfers is therefore greater.

What are the relevant policy decisions that have been made?

- The main decisions are to make progress with stewardship land reclassification so this large amount of land is properly classified and managed and to use expert panels to coordinate the reclassification process and make recommendations to the Minister of Conservation. Additional changes to legislation are sought to improve the efficiency and process to undertake reclassification.

What is the statutory authority to charge ie, the Act that gives the power to cost recover?

- The Conservation Act 1987 gives the authority to dispose of stewardship land, but does not give the authority for proceeds of sale to be directed to the costs of overall administration of land (whether that be future management or ongoing processes to reclassify or dispose of).

Is this a new or amended fee?

- This is a change in process. The current process directs proceeds from disposal to the Crown trust account. The change would enable such proceeds to be directed to Vote Conservation (DOC) for the purposes of further reclassification and statutory land management activities.

Policy Rationale: Why a user charge? And what type is most appropriate?

Why is cost recovery appropriate for the activity (over and above the legal authority to charge) – ie, why should it be third-party funded rather than funded by the Crown?

- DOC will need to fund the bulk of activities to reclassify stewardship land. However, where there are lands eligible for disposal, the proceeds from disposal could offset some of the costs to DOC. The nature of this cost recovery depends on there being land eligible for disposal, and willing buyers in the market for these lands.

What is the nature of output from the activity (the characteristics of the good or service) – eg public/private/club goods?

- The goods are public conservation lands that no longer have a conservation purpose and that are sold to other kinds of land ownership (depending on the context, available buyers, etc.). Public land becomes private property.
- The output from directing the funds to further reclassification and management activities will be more resources to enable these activities and therefore more likelihood they will be undertaken and progressed.

Is full or partial cost recovery being proposed? What is the rationale for proposing full or partial cost recovery?

- Directing proceeds to DOC would only partially recover costs. For any individual piece of land put up for disposal, the cost recovery would depend on the market for that land and could vary from partial recovery of costs to returning profits. Occasionally land is sold at a loss where cost-benefit analysis indicates that keeping it would be more expensive in the long term.

What type of charge is being proposed? – eg, fee, levy, hourly charge? What is the rationale behind selecting this type of charge?

- No change in charge is proposed from the status quo, the proposal is to enable the Minister of Conservation to direct proceeds to DOC rather than to the Crown trust account.

Who will pay the cost recovery charges?

- The charges are paid by whomever is the willing buyer for disposed land. This is likely to be highly variable groups of private individuals, tangata whenua (iwi, hapū, whānau and associated organisations), businesses and councils. Until land is assessed for values and those are found to be very low or none, it is not eligible for disposal; we cannot ascertain interest until that point.

High level cost recovery model (the level of the proposed fee and its cost components)

What are the estimated charge levels?

- The charge levels are the same under status quo and proposed change – depending on the nature of the land for disposal and the market of willing buyers. The effect of the proposed change does not affect any of the cost-recovery factors; it would just directly offset the costs of reclassification and statutory land management (compare to s82(1)a of the Reserves Act 1977).
- While the overall Crown financial position is not affected, the proposal would increase funding available to land classification and statutory land management and decrease funding available for other Crown priorities. The range of consequences will depend on the value of the land that is disposed. Examples provided on the next page show the range of recent disposals is \$3,500-\$852,000, but the effect will depend on the decision by the Minister to direct revenue from disposal to DOC; the change will not automatically direct all disposal revenue so the Minister will have discretion.

What are the main cost drivers of the activity? What are the outputs of the activity and the business processes that are used to produce those outputs?

- The overarching process of reclassifying 2.5 million hectares will yield a small proportion of land for disposal.
- The land will be in various sized packages; most will be 1-10 hectares, a few could be thousands of hectares. Disposal preparation, valuation, listing and transaction costs will be similar and will be affected by time on market and other land disposal factors.
- The user charge is the market price of the land paid by a willing buyer, with a potential valuation process setting expectation on that market prices. The user charge is not itemised to any costs.

What are the estimates of expenses and revenue for the activity?

- For reclassification leading to disposal, DOC's Statutory Land Management team provided the table below. The items are consistent to each disposal process, though the costs are only indicative based on recent disposals and may vary over time depending on demand, inflation etc. Starred items may vary depending on the characteristics of the land being disposed of. The additional expenses associated with **each** disposal include:

Item	Purpose	Indicative cost \$ ex GST
DOC staff costs - 40 hours	Coordinate disposal activities	5,200
LINZ agents	Crown land services and survey (fee for service)	18,000
Survey Plan*	Survey documentation (fee for service)	15,000
Valuation*	Establish value (fee for service)	3,500
Processing fees (legal, conveyancing, <i>Gazette</i>)	Compliance services	1,500
Land agent and marketing*	Listing and coordinating sale process	10,000
Total Indicative costs		53,200

- While difficult to predict final amounts, the approximate costs of disposal will be approximately \$1.1 million for every 20 areas that fit the criteria and which can be prepared for disposal, assuming only one valuation and market listing is needed to achieve disposal each time.
- For example, if 50 stewardship areas are disposed of, this will cost approximately \$2.5-2.8 million, if 150 areas are disposed of, this will cost approximately \$7.5-8.6million.
- We have no way to model revenue until we know which areas are eligible for disposal. It is feasible that some land that is disposed of will generate one-off revenues that exceed the cost of preparing for its disposal, but unlikely that revenues overall will cover the costs of reclassifying all stewardship land, including land that is not disposed of.
- Recent disposal revenues (ex GST) include:
 - \$22,500 for 5.1078 hectares in Westland District in 2016
 - \$200,000 for 5.0585 hectares in Selwyn District in 2017
 - \$3,400 for 0.0331 hectares in St Bathans in 2019
 - \$852,000 for 0.0207 hectares in Auckland in 2021.

How will changes in the underlying assumptions affect financial estimates?

- The costs are affected by the size of the land – larger areas have higher valuation and survey costs, and agent costs can be higher because land is on the market for longer or requires multiple listings to generate a sale. However larger areas are also less likely to be eligible as they are more likely to contain conservation values or to meet criteria for protection under a different classification. Where conservation values vary across a large area, the area could be broken into parcels so some parcels with very low or no values could be disposed.

Consultation

Who has been consulted (or who will be consulted), what form will consultation take and what options are being canvassed?

- The proposal to redirect proceeds from disposal of stewardship land will be consulted on in a public discussion document and will be one of the issues that DOC engages tangata whenua and conservation stakeholders on in hearings and meetings.
- Public sector agencies consulted on this proposal have not raised any concerns with the option of the Minister potentially redirecting proceeds from disposals to DOC to offset the costs of reclassification and statutory land management.

What key feedback has been received and were any significant concerns raised about the preferred option?

- This is an interim CRIS to accompany the discussion document; it will be revised based on feedback from consultation

How will consultation be managed for the rest of the process (that is, while the detailed cost recovery model is developed and through implementation).

- Because the proposal relates to changing where proceeds of land disposal may be directed, we do not intend to update the overarching cost recovery model; we will provide a report on submissions on this proposal as work progresses.
- Any recommendation to dispose of land requires its own public consultation process.