

IN CONFIDENCE

In Confidence

Office of the Minister of Conservation

Cabinet Environment, Energy and Climate Committee

Proposed legislative amendments to streamline the reclassification of conservation portfolio stewardship land and update on the National Panel reclassification process

Proposal

- 1 I propose legislative amendments to improve the process for reclassification of stewardship land, and to incorporate these changes within a Conservation Management and Processes Bill.
- 2 I also provide an update on the stewardship land reclassification process being undertaken by the two National Panels appointed in 2021.

Relation to government priorities

- 3 Assessing and reclassifying stewardship land will ensure that public conservation land is appropriately managed to protect and restore conservation values. Streamlining this process through legislative amendments will support efforts to rapidly progress reclassification work at scale. This supports the:
 - 3.1 **Manifesto commitment** to protect, preserve and restore our natural heritage and biodiversity, and promote the recovery of threatened species;
 - 3.2 **Co-operation agreement** to work with the Green Party to achieve the outcomes of *Te Mana o te Taiao - Aotearoa New Zealand Biodiversity Strategy*. In particular, the strategic priority, “Tūāpapa – Getting the system right” and goal 1.3, “Current natural resource legislation has been reviewed to ensure it is effective and comprehensive...and ensures ongoing biodiversity protection...”.

Executive Summary

- 4 In October 2021, the Cabinet Environment, Energy and Climate Committee approved public consultation, and the release of the public discussion document, to support streamlining the legislative process for reclassifying and disposing of stewardship land.¹
- 5 On 19 November 2021 the Department of Conservation (DOC) released the ‘Stewardship land in Aotearoa New Zealand’ discussion document. This set out six areas in the current legislative process for reclassifying stewardship land

¹ ENV-21-MIN-0060.

where efficiencies could be achieved, or where changes could be made to ensure a better process. Consultation closed in March 2022. I have considered the analysis of options outlined in the discussion document and feedback from public submissions and propose to progress five of the proposals set out in the discussion document, as well as one additional proposal which resulted from further analysis. I now seek Cabinet approval of specific changes to the Conservation Act 1987 and the National Parks Act 1980.

- 6 A priority is to ensure that the National Panels established to reclassify stewardship land can work as effectively and efficiently as possible. To this end, I propose that the public notification period to reclassify or dispose of stewardship land is reduced from 40 working days to a minimum of 20 working days. I also consider that the National Panels should be enabled to carry out the public notification and submission process. This enables more direct contact between submitters and the panel, and greater independence of the process.
- 7 At present, the New Zealand Conservation Authority (NZCA) is responsible for recommending the reclassification of stewardship land as national parks. I propose that this function should become the responsibility of the National Panels, subject to appropriate consultation with tangata whenua, the NZCA, and relevant conservation boards. This will better enable the National Panels to carry out their work and avoid a scenario where two entities are reviewing the same parcels of stewardship land.
- 8 The Conservation Act 1987 requires that all stewardship land must be declared to be held for conservation purposes before it can be reclassified or disposed of. I do not consider that this is necessary. Removing this requirement will address unnecessary delays in the reclassification process.
- 9 I consider that the Conservation Act 1987 should be amended to enable the proceeds of sale of stewardship land to be directed to DOC. This will help DOC to offset or partially offset substantial costs associated with the sale process such as assessing the values of the land, public notification, valuation, and high surveying costs.
- 10 As a result of further analysis, DOC has identified that the Conservation Act 1987 does not explicitly protect National Panel members from being held personally liable when they undertake their statutory functions. The risk of personal liability may impede the ability of National Panel members to make decisions. I propose amending the Conservation Act 1987 to ensure that National Panel members cannot be held personally liable for decisions they make in good faith when exercising their statutory powers in role.

- 11 s9(2)(f)(iv)
 The Stewardship Land Bill is very similar in its purpose and timeframes to a Conservation Management and Processes (CMAP) Bill, which is also being advanced. Given this, I propose the proposals above are combined into the CMAP Bill at the drafting stage.

- 12 In the operational workstream of the Stewardship Land Reclassification Project, the first National Panel have completed their recommendations for reclassifying stewardship land on the West Coast, alongside the Ngāi Tahu-appointed Mana Whenua Panel. These recommendations have been publicly notified.

s 9(2)(j)

Background

- 13 In April 2021, the Cabinet Business Committee (CBC) agreed in principle that the Conservation Act 1987 be amended to improve the process of reclassifying conservation portfolio stewardship land and invited the Minister of Conservation to report back to Cabinet on proposed amendments.²
- 14 In May 2021, the Government announced the Stewardship Land Reclassification Project. This project established two National Panels to undertake assessments of the conservation values of each parcel of stewardship land by region and provide me with a recommendation on appropriate reclassification. It also included an undertaking a review of the legislation relating to reclassifying stewardship land.
- 15 In October 2021, the Cabinet Environment, Energy and Climate Committee approved public consultation and the release of a public discussion document to support streamlining the legislative process for reclassifying and disposing of stewardship land.³
- 16 On 19 November 2021, DOC released the 'Stewardship land in Aotearoa New Zealand' discussion document. This document set out six areas in the current legislative process for reclassifying stewardship land where efficiencies could be achieved, or where changes could be made to ensure a better process.
- 17 DOC carried out four months of public consultation on the proposals. Consultation closed on 18 March 2022. DOC received 166 written submissions and a response from Ngāi Tahu.⁴ Regional hui and meetings were held with whānau, hapū and iwi.⁵ Meetings were also held by request with environmental non-governmental organisations (ENGOS), recreation non-governmental organisations (recreation NGOs), mining industry bodies, local government bodies and several conservation boards.⁶

² CBC-21-MIN-0045.

³ ENV-21-MIN-0060.

⁴ Ngāi Tahu indicated that they would provide a written response to the proposed reform as a Treaty partner rather than make a submission.

⁵ Hui were held in Taranaki, Hauraki, Waikato, and the Lower North Island region.

⁶ Meetings were held on request with the Northland Conservation Board, Auckland Conservation Board, Taranaki Conservation Board, and Waikato Conservation Board.

- 18 I have considered analysis of options outlined in the discussion document and feedback from public submissions. I now seek Cabinet approval of specific changes to the Conservation Act 1987 and the National Parks Act 1980.

Objectives of the legislative review and areas for legislative change

- 19 The legislative review is intended to:
- 19.1 Enable a more efficient process for reclassifying stewardship land;
 - 19.2 Deliver clarity for everyone on the status of the land, the appropriate level of protection/ use, and the reclassification process;
 - 19.3 Ensure DOC meets its wider obligations under conservation legislation, including section 4, and the Conservation General Policy (CGP);
 - 19.4 Ensure conservation values are adequately protected; and
 - 19.5 Enable the National Panels to carry out their work to make recommendations to the Minister of Conservation, efficiently and effectively.
- 20 Areas for improving legislative efficiencies in the reclassification process that I intend to progress are as follows:
- 20.1 Shortening the public submission period in the Conservation Act 1987 to 20 working days;
 - 20.2 Enabling the National Panels to carry out the public notification and submission process;
 - 20.3 Enabling the National Panels to make recommendations to reclassify stewardship land to national park;
 - 20.4 Removing the statutory step to declare all stewardship land to be held for conservation purposes before it can be reclassified or disposed of;
 - 20.5 Enabling the proceeds of sale of stewardship land to be directed to DOC;
 - 20.6 Ensuring that National Panel members cannot be held personally liable for decisions they make in good faith when exercising their statutory powers in role.
- 21 An additional area was also identified and publicly consulted on, which I do not propose progressing, about clarifying the status of concessions on reclassified stewardship land.

Analysis of options

- 22 The discussion document sought feedback on six options as specified below. These options were assessed against the objectives of the legislative review

and took into consideration feedback obtained during the public consultation process.

- 23 As a result of further analysis, DOC has identified that the Conservation Act 1987 does not explicitly protect National Panel members from being held personally liable when they undertake their statutory functions. As detailed below, an option to address this issue was identified following the public consultation process.

Shortening the public submission period in the Conservation Act 1987 to 20 working days

- 24 Section 49 of the Conservation Act 1987 sets public notification, submission and hearing requirements for various conservation processes. The Minister of Conservation must publicly notify proposals to reclassify stewardship land or dispose of stewardship land and allow 40 working days for anybody to make a written submission on the proposal. Submitters can request to appear before the Director-General of Conservation (or their delegate) to support their submission.

- 25 By comparison, under sections 119 and 120 of the Reserves Act 1977 only one month must be allowed for public submission.

- 26 The following options were identified for public consultation:

26.1 Shorten the minimum period that the panels must allow for public submissions to 20 working days;

26.2 Allow the ability to decline a hearing where holding a hearing would cause substantial delay to the process or cause substantial burden on the resources of the panel;

26.3 Retain the status quo.

- 27 Business, local government and statutory bodies who commented on this proposal were evenly split between support and opposition for shortening the period the panels must allow for public submissions to 20 working days. Most submitters who commented on the ability to decline a hearing opposed this. Substantial advice can be presented at a hearing and declining a hearing would limit public participation.

- 28 I propose shortening the minimum public submission period to 20 working days. Doing so would still allow sufficient time to prepare a submission, and where submitters consider that further information should be provided, they can request to be heard. Clear communication will be required with the public and I consider that the National Panels should always consider whether a longer submission period is appropriate. This timeframe would align the public submission period in the Conservation Act 1987 with the public submission period in the Reserves Act 1977.

- 29 However, any time period specified in legislation would be a minimum. The Minister of Conservation would still retain the discretion to allow for a longer

submission period if necessary, or to grant an extension to an existing submission period. For example, the Minister of Conservation may allow for a longer submission period or an extension to a submission period, where significant areas of stewardship land are being publicly notified or where there are areas with a strong public interest.

- 30 I do not support the option to create an ability to decline a hearing. Hearings provide the opportunity for submitters to speak to their submission and directly interact with officials. In addition, wording in the legislation which requires “reasonable opportunity to be heard” provides some protection against situations where hearings are requested in a way which cause unreasonable delay.

Enabling the National Panels to carry out the public notification, submission, and hearing process before making a recommendation

- 31 Currently DOC carries out the public notification and submission/hearing process required by section 49 of the Conservation Act 1987 and sections 119 and 120 of the Reserves Act 1977. The Reserves Act 1977 allows the relevant notification and hearing powers to be delegated to the National Panels, but the Conservation Act 1987 does not.

- 32 Under section 8 of the National Parks Act 1980, where the NZCA requests that the Director-General of DOC investigate any proposal to declare land to be national park, the Director-General must give notice and invite any interested persons or organisations to send written suggestions on the proposal.

- 33 The following options were identified for public consultation:

33.1 Enable the National Panels to carry out the public notification and submission process;

33.2 Retain the status quo (DOC carrying out the public notification and submissions process).

- 34 Among those who commented, there was roughly even support for and against the option to enable the National Panels to carry out the public notification and submission process. Those against had concerns about National Panels not being subject to requirements under the Official Information Act 1982 or the Privacy Act 2020, potential bias among panel members influencing the reclassification process and a potential emphasis on conservation values over economic values. Those in favour of the proposal considered this would reduce double-handling and speed up decision making. It would also enable more direct contact between submitters and the panel and greater independence and less conflict of interest for DOC. Costs could also be better identified.

- 35 DOC identified seven submissions as directly representing tangata whenua - whānau, hapū, and iwi. Of those, four were in support of the proposal, one did not support it, and two did not express a view.

- 36 I propose amending the Conservation Act 1987, National Parks Act 1980, and (if necessary) the Reserves Act 1977 to allow the National Panels to carry out all of the necessary statutory steps in the public notification, submission, and hearing process before making a recommendation to me. This would include, forming an intention to reclassify, public notification, receiving submissions, holding hearings, and making recommendations to the Minister of Conservation. This change will enable the National Panels to carry out their work efficiently and effectively. The National Panels would receive information from submitters first-hand and would have the opportunity to interact and ask questions. This may allow the National Panels to better understand the conservation values present on the land before they make their recommendation, ensuring those values are then adequately protected. Retaining the status quo could cause confusion about the role of DOC and the independence of the National Panels.
- 37 DOC will engage with tangata whenua in each region to explore how they would like to be involved in the reclassification process. A Ngāi Tahu-appointed Mana Whenua panel will also work alongside the National Panels, in the Ngāi Tahu takiwā, to assess the values of the land and make recommendations.
- 38 The National Panels are subject to the Privacy Act 2020 as they fall within the definition of a public sector agency set out in the Privacy Act 2020. Whilst the National Panels are not subject to the Official Information Act 1982, DOC is. This means that any communication, advice, or information provided from DOC to the National Panels or from the National Panels to DOC or the Minister of Conservation could be requested under the Official Information Act 1982.

Enabling the National Panels to make recommendations to reclassify stewardship land to national park

- 39 Under the current process, stewardship land can only be reclassified to national park on the recommendation of the NZCA to the Minister of Conservation. Before the NZCA makes any recommendation, it must fulfil its consultation requirements under the National Parks Act 1980 and the General Policy for National Parks (GPNP). The NZCA must consult the local conservation boards and tangata whenua within whose rohe the land is located and seek the views of any relevant territorial authority and Fish and Game New Zealand council.
- 40 Under the reclassification process currently underway, the National Panels assess the conservation values of stewardship land and if they consider that land may be suitable for national park status, they make a recommendation to me to seek a recommendation from the NZCA on the identified area. The NZCA may then consider the information provided, undertake consultation, and then provide me with a further recommendation.
- 41 The following options were identified for public consultation:
- 41.1 National Panels assume responsibility for reclassifying stewardship land as national parks in consultation with tangata whenua, the NZCA and relevant Conservation Boards;

- 41.2 Retain the status quo (the NZCA continues to make recommendations to reclassify stewardship land to national park).
- 42 On 30 March 2022 the NZCA wrote to the former Minister of Conservation expressing their concerns. The NZCA considers that “as the only body with national level oversight of national parks and land status, there is no other entity able to apply the same rigour to proposals to add land to national parks.” It has considerable experience in relation to national parks and is guided by the GPNP which sets out the relevant criteria to consider. Conservation boards also expressed concern about the National Panels taking over the role of the NZCA in relation to reclassifying stewardship land as national parks.
- 43 Submitters who supported the proposal to enable the National Panels to make recommendations to reclassify stewardship land to national park, considered that it created a consistent and efficient process and incorporated the various expertise of National Panel members. Whānau, hapū, and iwi who support this proposal did so subject to tangata whenua being fully included in the making of decisions. Ngāi Tahu raised objections to any additions to national parks within the Ngāi Tahu takiwā.
- 44 I propose that amendments are made to enable the National Panels to make recommendations to reclassify stewardship land as national parks in consultation with the NZCA and relevant Conservation Boards. This will enable a more efficient and streamlined process than the current reclassification process, ensuring that only one recommendation step is needed. It also enables the National Panels to carry out their work. It would also ensure that a consistent approach to reclassifying stewardship land is applied – namely that the National Panels of experts would provide the Minister of Conservation with recommendations for all parcels of stewardship land.
- 45 This proposal would be limited to the reclassification of stewardship land, and only for such time as the Panels exist. The proposal would not make any changes to the NZCA’s broader role. If there was a situation where the National Panels did not exist, the NZCA could resume their role in making recommendations to reclassify stewardship land to national park. This ensures that the legislation is future proof.
- 46 Retaining the status quo would allow the NZCA to act as a check and a balance on the recommendations of the national panels. However, it would mean that two separate processes, operated by two different bodies, are used to reclassify stewardship land. If the NZCA did not proceed with the recommendation of the National Panels, land would need to be reconsidered by the National Panels to be reclassified. A change in the NZCA’s role in the reclassification process would be limited to the reclassification of stewardship land.

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

- 47 Section 62 of the Conservation Act 1987 relates to land allocated to DOC when the Department was first formed. That land was deemed to be held for conservation purposes under section 62 so it could be managed as if it were

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 1987. Declaring land to be held for conservation purposes requires the Minister of Conservation (or DOC) to make a declaration via *Gazette* notice.

48 The following options were identified for public consultation:

48.1 Declare all stewardship land under section 62 of the Conservation Act 1987 to be held for conservation purposes via a legislative change;

48.2 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).

49 Most individual submitters and recreation NGOs who commented on this proposal did not support changing the status quo. They considered that the discussion document misrepresented the law and that declarations under section 7 of the Conservation Act 1987 are only required for disposal of stewardship land, and that the proposal enabled disposal of stewardship land. Most businesses, statutory bodies and NGOs who commented on this proposal supported a legislative change. They considered that this would ensure a more streamlined process, is more efficient, removes an unnecessary step and reduces unnecessary bureaucracy.

50 I propose removing the unnecessary step to declare stewardship land under section 62 to be held for conservation purposes. This would create a more efficient and simplified reclassification process, and reduce the costs associated with a *Gazette* notice for the approximately 3000 parcels of stewardship land across the country.

51 I do not consider that this proposal makes any changes to the threshold for disposing of stewardship land. Declarations under section 7 of the Conservation Act 1987 are needed for both reclassifying and disposing of stewardship land under section 62. The requirements in the Conservation Act and the CGP regulate when stewardship land can potentially be disposed of, not the requirements under section 7. For example, the CGP prohibits stewardship land from being disposed of unless it has 'no, or very low conservation values.'

52 Retaining the status quo could ensure that there is greater transparency in the process as the *Gazette* notice would notify the public that there was an intention to consider the land for reclassification or disposal. However, I consider that this transparency is achieved elsewhere (such as at the public notification stage), and the status quo creates an administrative burden.

Enabling the proceeds of sale of stewardship land to be directed to DOC

53 Under section 33 of the Conservation Act 1987, if a parcel of stewardship land is disposed of, the proceeds of sale from that disposal would go into the Crown bank account. The cost of selling stewardship land can be significant as it includes the cost to assess the values of the land, public notification, valuation,

and often substantial surveying costs. These costs are currently met by DOC. Enabling the proceeds of sale to be directed to DOC would help to offset these costs. However, this would require an amendment to the Conservation Act 1987.

54 Section 82 of the Reserves Act 1977 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 of reserves of any classification.

55 The following options were identified for public consultation:

55.1 Amend the Conservation Act 1987 to allow the Minister of Conservation to direct the proceeds of sale of stewardship land to DOC for further reclassification or management activities

55.2 Retain the status quo (proceeds go to the Crown bank account).

56 Most individual submitters, ENGOs, and recreation NGOs who commented on this proposal were opposed to allowing the Minister of Conservation to direct the proceeds of sale of stewardship land to DOC. They raised concerns that this would create a conflict of interest for DOC that could incentivise disposal, and that it may affect the future funding of DOC. Most businesses, local government and statutory bodies who commented on this proposal supported it. Many considered that it was a sensible way in which DOC could recoup the costs of disposal and ensure its resources could be used for other conservation outcomes.

57 Some whānau, hapū, and iwi suggested that where stewardship land is disposed of, the proceeds of sale should be invested back into the same region. Ngāi Tahu suggested that the proceeds of sale should also be used to offset any costs incurred by mana whenua when engaging with the reclassification process.

58 I propose amending the Conservation Act 1987 to enable the proceeds of sale of stewardship land to be directed to DOC, with any surplus proceeds returned to the Crown. This would allow DOC to offset or partially offset the costs incurred by disposing of stewardship land which may ensure that resources can be used to achieve conservation outcomes elsewhere. A precedent to direct the proceeds of sale to DOC already exists in the Reserves Act 1977.

59 Retaining the status quo would mean that DOC would continue to fund the necessary cost of disposal for stewardship land from baseline funding.

Ensuring that National Panel members cannot be held personally liable for decisions they make in good faith

60 As a result of further analysis following the review of submissions, DOC has identified that the Conservation Act 1987 does not explicitly protect National Panel members from being held personally liable when they undertake their statutory functions. The risk of personal liability may impede the ability of

National Panel members to make unfettered decisions, particularly if their work is high risk or controversial.

61 A similar issue was identified through the Conservation Management and Processes legislative review in relation to the New Zealand Conservation Authority and conservation board members.

62 Consistent with the analysis conducted through the Conservation Management and Processes legislative review, I consider that amending the Conservation Act 1987 to protect National Panel members from personal liability will ensure consistency with other statutory provisions in that Act and may improve the statutory decision-making abilities of the National Panel, as they can make unfettered decisions.

63 I propose amending the Conservation Act 1987 to ensure that National Panel members cannot be held personally liable for decisions they make in good faith when exercising their statutory powers in role.

Clarifying the status of concessions on reclassified stewardship land

63 There are significant numbers of concessions granted on stewardship land for a wide variety of activities, such as grazing, tourism activities or beekeeping.⁷ Reclassifying stewardship land may result in situations where existing concessions may be inconsistent with a new land classification. All existing concessions can continue (unless otherwise agreed with the concessionaire) until the expiry of the concession, regardless of reclassification. However, any new application for a concession or application to renew the concession will be considered in light of the land's new classification. There may also be a situation where a recommendation is made to dispose of stewardship land with an existing concession.

64 Currently DOC deals with these situations on a case-by-case basis by finding ways to manage the situation while continuing the concession for its term (for example, finding ways to mitigate impacts on identified values where possible). Sometimes this may mean that the change in the status of land, or disposal of that land, does not happen until the concession expires.

65 The following options were identified for public consultation:

65.1 Continue to find solutions on a case-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).

65.2 Amend the legislation to clarify that existing concessions on stewardship land can continue under agreed terms regardless of reclassification.

⁷ For example, on the 644,016 ha of stewardship land on the West Coast that have been publicly notified the existing concessions include: 175 existing grazing concessions, 4 beehive concessions, 46 accommodation concessions, and 4 guiding concessions.

- 66 Submitters' views on this issue were varied. Of the submitters who expressed a preference, most individual submitters and recreation NGOs supported continuing to deal with these situations on a case-by-case basis. However, several submitters, particularly ENGOs and recreation NGOs, supported neither option as both allowed concessions to continue if they were inconsistent with the new classification.
- 67 Of the submitters who expressed a preference for amending legislation, most businesses supported this proposal. They highlighted the importance of certainty and clarity for businesses and concessionaires, although most acknowledged that concessions could continue under either option.
- 68 I propose maintaining the status quo and not amending legislation in relation to concessions. This option preserves the existing rights of concessionaires. It also provides flexibility case-by-case. For example, if DOC and a concessionaire can agree to an appropriate solution in cases where concessions are inconsistent with the new classification, this can enable better conservation outcomes as well as certainty for that concessionaire.

Upcoming reclassification work programme

- 69 The wider programme for the reclassification of stewardship land is underway. Cabinet agreed to establish two National Panels to undertake the work of assessing the conservation values present on stewardship land and providing me with a recommendation.⁸ The first National Panel (Panel One) has been undertaking work in the Western South Island region.
- 70 Almost a quarter of all New Zealand's stewardship land has already been assessed through Panel One's work on the West Coast. The draft recommendations for stewardship land on the West Coast were publicly notified on 30 May 2022. For the remaining land, DOC has revised the work programme to include contingencies and enable a stronger focus on deliverables.

DOC's approach to the reclassification programme

- 71 DOC will continue a region by region work approach with the flexibility to adapt the reclassification programme as required. This will enable work to proceed in a way that achieves the most outcomes.
- 72 DOC will continue to engage tangata whenua across the motu, including in the North Island, to explore arrangements for working with whānau, hapū, iwi during the reclassification process. This will ensure there is a suite of options for the National Panels to undertake work in multiple parts of the country.
- 73 If the project reaches a hurdle in a particular place, DOC will work to shift the National Panels' focus to other places, allowing the National Panels to continue reclassifying land whilst DOC works through the barrier identified.
- 74 The National Panels' proposed recommendations will be notified on a periodic basis. This will ensure an active and ongoing statutory process that will be

⁸ CBC-21-MIN-0045.

predictable and manageable for stakeholders. Notification processes will include the recommendations that are ready at that time, which may include different parts of the country.

s 9(2)(f)(iv)

Panel One's work programme

s 9(2)(f)(iv)

s 9(2)(j)

Panel Two's work programme

s 9(2)(j)

Financial Implications

80 If the proposal to direct the proceeds of sale of stewardship land to DOC is approved, this will have financial implications as money will be diverted from

the Crown bank account to DOC. The Cost Recovery Impact Statement included in the Regulatory Impact Statement sets this out in further detail.

Legislative Implications

- 81 Legislation is required to implement the proposals in this paper. The proposed Stewardship Land Bill, which would progress approved legislative changes to improve the process for reclassifying stewardship land, is currently on the legislative programme as Category 4 (referred to select committee within the year). Amendments to the Conservation Act 1987 and the National Parks Act 1980 would be required.
- 82 Following approval from Cabinet, I will issue drafting instructions to the Parliamentary Council Office giving effect to the policy decisions in this paper. This legislation will bind the Crown. To ensure the drafting process is managed efficiently, I seek approval to make decisions, consistent with the policy framework in this paper, on any issues that arise during the drafting process.

Intersection with the Conservation Management and Processes Bill

- 83 DOC is also progressing a Conservation Management and Processes (CMAP) Bill. The CMAP Bill will make amendments to the Conservation Act 1987 (as well as the National Parks Act 1980 and the Reserves Act 1977) to create more efficient processes for conservation management planning and concessions.
- 84 Based on the current planned timeframe, DOC intends to submit the CMAP Bill for consideration by the Cabinet Legislation Committee in February 2023, a very similar timeframe as the Stewardship Land Bill.
- 85 Given the very similar purposes and timeframes of both the CMAP and Stewardship Land Bill, I propose that the proposals in the Stewardship Land Bill are combined into the CMAP Bill at the drafting stage. This would ensure a more efficient use of both House and Select Committee time and reduce the resource burden on the Parliamentary Counsel Office.

Impact Analysis

Regulatory Impact Statement

- 86 A Regulatory Impact Statement is attached in Appendix One. The Department of Conservation and Ministry for Primary Industries' Regulatory Impact Assessment Panels have reviewed the Regulatory Impact Statement prepared by DOC. The Panel consider that the Regulatory Impact Statement partially meets the Quality Assurance criteria. The constraints and limitations have been explained well. The requirements that have not been fully met relate to the impact analysis for some options, and explaining how consultation was taken into account when recommending options.
- 87 The Treasury's Regulatory Impact Analysis team has determined that one proposal is exempt from the requirement to provide a Regulatory Impact Statement on the grounds that it has no or only minor impacts on businesses, individuals, and not-for-profit entities. The impacts are minor either because

they relate to changes to the internal administration of government, codify rather than change existing practice, or seek to clarify an area of the law within the objectives of the regulatory system. Refer Table 1 in Appendix Two for the assessment of the proposal.

Climate Implications of Policy Assessment

88 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

Population Implications

89 There are no immediate population implications from this paper. The proposed options for legislative changes to streamline the process for reclassification of stewardship land are unlikely to have notable impacts on any group.

Human Rights

90 The proposals in this paper are not inconsistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Consultation

91 The Department of Internal Affairs (DIA), Ministry for Primary Industries (MPI), Department of the Prime Minister and Cabinet, Land Information New Zealand, Ministry of Business, Innovation and Employment, Ministry for the Environment, Te Arawhiti, Te Puni Kōkiri (TPK), and The Treasury have been consulted on this paper.

92 DIA noted the proposed reduction of the public notification period for the reclassification or disposal of stewardship land from 40 to 20 working days could make it challenging for local authorities to prepare and obtain internal approvals for a submission. MPI is keen to ensure that the reclassification process considers potential impacts on rural communities and local economies. TPK and the Treasury support more efficient processes for reclassifying stewardship land.

Communications

93 I will publicise decisions taken by Cabinet concerning legislative changes to improve the process for reclassification of stewardship land via a press release. DOC will also advise the outcome of the consultation process and decisions taken by Cabinet on its website. DOC will communicate directly with tangata whenua and with key stakeholders.

Proactive Release

94 I intend to proactively release this Cabinet paper within 30 days of Cabinet making a final decision.

Recommendations

The Minister of Conservation recommends that the Committee:

Proposed legislative amendments

- 1 note that in April 2021, the Cabinet Business Committee agreed in principle that the Conservation Act 1987 be amended to improve the process of reclassifying conservation portfolio stewardship land and invited the Minister of Conservation to report back to Cabinet on proposed amendments [CBC-21-MIN-0045]
- 2 note that in October 2021, the Cabinet Environment, Energy and Climate Committee approved public consultation and the release of the public discussion document attached to the paper under ENV-21-SUB-0060 to support streamlining the legislative process for reclassifying and disposing of stewardship land [ENV-21-MIN-0060]
- 3 note that on 19 November 2021 the Department of Conservation released the 'Stewardship land in Aotearoa New Zealand' discussion document which set out six areas in the current legislative process for reclassifying stewardship land where efficiencies could be achieved, or where changes could be made to ensure a better process
- 4 note that the Department of Conservation concluded public consultation on the 'Stewardship land in Aotearoa New Zealand' discussion document in March 2022
- 5 agree that amendments are made to the Conservation Act 1987, National Parks Act 1980, and if necessary, the Reserves Act 1977 to:
 - a. shorten the minimum public notification period to reclassify or dispose of stewardship land from 40 to 20 working days
 - b. enable the National Panels to carry out the statutory steps leading up to, and including, making recommendations to the Minister of Conservation to reclassify stewardship land
 - c. enable the National Panels to make recommendations to reclassify stewardship land as national park, in consultation with the New Zealand Conservation Authority and relevant Conservation Boards
 - d. declare that land under section 62 of the Conservation Act 1987 is held for conservation purposes under section 7 of the Act
 - e. enable the proceeds of sale of stewardship land to be directed to DOC to offset the costs associated with readying stewardship land for disposal, with any surplus proceeds returned to the Crown
 - f. ensure that National Panel members cannot be held personally liable for decisions they make in good faith when exercising their statutory powers in role

- 6 note that the public submission period specified in legislation would be a minimum and the Minister of Conservation can use discretion to allow for a longer submission period or an extension, if they consider it appropriate
- 7 note that concessions arrangements for land that may be reclassified or disposed of, can continue as per their terms, and I propose retaining the status quo with no legislative amendments

National Panels' work program

- 8 note the approach to progressing the stewardship land reclassification programme, including further work beginning in the South Island and the approach to engaging with whānau, hapū, and iwi
- 9 note that draft recommendations for the reclassification of stewardship land will be publicly notified on a periodic basis
- 10 note that following Panel One finalising its recommendations, the Minister of Conservation will inform Cabinet of any proposed decisions regarding stewardship land on the West Coast

s 9(2)(i)

Next steps for the stewardship land provisions

s9(2)(f)(iv)

- 15 agree that that the proposals in the Stewardship Land Bill are combined into the Conservation Management and Processes Bill at the drafting stage
- 16 invite the Minister for Conservation to issue drafting instructions to Parliamentary Council Office giving effect to the policy decisions in this paper
- 17 authorise the Minister of Conservation to make decisions, consistent with the policy framework in this paper, on any issues that arise during the drafting process
- 18 note that the legislation drafted to give effect to the policy decisions in this paper will bind the Crown

Authorised for lodgement

Hon Poto Williams

Minister of Conservation

RELEASED BY THE MINISTER OF CONSERVATION

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