

# Stewardship land in Aotearoa New Zealand discussion document: Options to streamline processes for reclassification and disposal

## Submission by West Coast Regional Council, Buller District Council, Grey District Council and Westland District Council

To:

Stewardship Land Consultation  
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### Introduction and summary

This joint submission is made by the West Coast Regional Council, Buller District Council, Grey District Council and Westland District Council ("the Councils").

#### **The Councils request a meeting with the Minister to discuss this submission.**

The West Coast Region covers a vast area with a sparse population: it extends from Kahurangi Point in the north, and south to Awarua Point, a distance of 600 kilometres. This distance is the equivalent from Wellington to Auckland (see map in Appendix 1). The Region is predominantly rural.

The Conservation Estate comprises 84.17% of land area within the West Coast Region, with 1.55% under Land information New Zealand (LINZ) administration. This leaves 14.28% available for private ownership. The land in Conservation Estate and Crown ownership is not rateable by local authorities.

The West Coast has received past Government support to transition from an extractive economy to tourism. This transition has made the West Coast economy hugely reliant on international visitors. With the current border closures, the West Coast economy is suffering, to further erode the West Coast economy by restricted use of land due to Conservation values is unjust. Local West Coast communities are affected communities and should have the opportunity to participate meaningfully in this fundamental government decision, which will affect them. It is our submission that to be meaningful to the West Coast Region, the result of this consultation must evidence "no further harm" to environmental, economic, social and cultural well-being. Every stewardship land decision that impacts local farming or business there must be an "offsetting" business opportunity within the region.

## **Failure to allow consideration of wider economic, cultural, and social values**

The proper reclassification, disposal, or exchange of stewardship land is a significant issue impacting on the environmental, economic, social and cultural wellbeing of the West Coast and all our communities.

In general terms, the Councils are supportive of measures to streamline the process for the reclassification, exchange and disposal of existing stewardship land. However, for the reasons set out in the submission, the Discussion Paper fails to have proper regard to the conservation, economic and social context within which stewardship land is administered by the Department on behalf of all New Zealanders. This includes the potential use of stewardship land to support the West Coast's resilience and adaptation to climate change. The Discussion Paper also fails to acknowledge the Government's stated intention to review all conservation legislation and national policy as a priority. Proceeding with the reclassification of large areas of land in advance of that review risks undermining, or being inconsistent with, the more fundamental review of the Conservation Act and other relevant legislation.

Large-scale reclassifications should not be progressed until the criteria for reclassification have been reconsidered as part of this review. Unless the criteria are amended to enable these wider considerations to be taken into account there is no compelling reason to rush the reclassification process in the meantime, notwithstanding the Government's desire for speed. Resources would be better spent first on a strategic review of conservation legislation and policy, of which stewardship land is an important part.

Having said that, the Councils agree that the Panels can perform an important role in the meantime, and that certain changes to the reclassification process can usefully be made. The Councils wish to highlight the importance of finding the right balance by ensuring that there is no further decline in economic, social or cultural wellbeing on the West Coast.

## **Lack of clarity about the reasons for this reclassification process**

The Councils remain unconvinced from the reasons set out in the Discussion Paper that the delays to date in the reclassification process are the result of the current statutory provisions. The Councils consider that significant progress could be made if the non-legislative suggestions in the paper (which the Councils support) are implemented. The Discussion Paper fails to mention that in 2018 the New Zealand Conservation Authority and the Department requested all Conservation Boards to provide their recommendations as to priorities for stewardship land reclassifications. There is no comment in the Discussion Paper or in the NZ Conservation Authority minutes of why these recommendations have not been progressed.

The paper also fails to refer to the March 2018 advice and recommendations from the NZ Conservation Authority about the concept of net conservation benefit arising from reclassifications and exchanges of stewardship land. Proceeding with the stewardship reclassification process prior to the Government's strategic review would be contrary to that advice.

## **The test of ‘no or very low’ conservation values is uncertain and no longer fit for purpose**

There is an unstated assumption in the Discussion Paper that the objective of this review is to reclassify all stewardship land with conservation values which have the potential to have greater than ‘no or very low’ conservation values to some form of specially protected areas under Part 4 of the Conservation Act as easily as possible. The Paper also implies that the test of ‘no or very low conservation values’ is a statutory one, whereas that requirement is found in Policy 6 of the 2005 Conservation General Policy. The Councils consider that the 2005 Conservation General Policy, and Policy 6 in particular, should be the subject of fundamental review as part of the overall review of conservation legislation, and that wholesale reclassifications of stewardship land which contain more than very low conservation values should not proceed until such a review is finalised.

The Councils consider that a test for reclassification of stewardship land having the ‘potential’<sup>1</sup> for more than ‘no or very low conservation values’ is no longer fit for purpose. Consequently, the Councils generally oppose a streamlined process which further enables the Panels to apply such a test in reclassifications.

Moreover, even if a review decided that this is the appropriate test, there is no clear definition of what ‘very low’ or ‘low’ conservation values mean. That should be clarified prior to the Panels undertaking any work.

The Councils consider that simply reclassifying additional stewardship land as specially protected areas under Part 4 of the Conservation Act would fail to have regard to the different conservation values and priorities of different regions. Not all regions are the same, and in general terms the West Coast already has significant levels of conservation land. Rather, the Councils consider that a strategic approach should be taken about what level of statutory protection should be provided to different types of ecosystems in different ecological districts and regions. If that were done, decisions about how much stewardship land might therefore be available for exchange or disposal could be made within that broader context. This is known as a ‘target’ based approach’ to conservation.<sup>2</sup>

There is also an unstated assumption that all land with more than very low conservation values should be held as specially protected areas under the Conservation Act because that will give that land better protection. The Councils consider that such an assumption is unwarranted and not supportable. On the West Coast there are large areas of existing conservation land which the Department does not have the resources to effectively manage for animal pests and weeds.

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<sup>1</sup> The Councils have received advice that this is a valid interpretation of the Supreme Court’s decision in the Ruataniwha case, and is referred to in the March 2018 report to the Minister from the NZ Conservation Authority.

<sup>2</sup> See for example, ‘Moving from biodiversity offsets to a target-based approach for ecological compensation’ Simmonds et al. *Conservation Letters* 2020;13:e12695.

The Council's consider the review fails to give effect to Section 4 of the Conservation Act. The effect of reclassification on Mana whenua cultural, economic and social values should be considered. The alternative is that the land is held until a review of the Conservation Act and Conservation General Policy occurs in a manner which gives effect to Section 4 of the Conservation Act.

On the West Coast, there are significant areas of stewardship land where the relevant conservation values would likely be better protected overall if they were in private ownership. Protection of land through private ownership can be achieved through a combination of the RMA and its replacement legislation, the recently operative Regional Policy Statement, the proposed National Policy Statement of Indigenous Biodiversity, and the willingness and ability of private landowners to manage their land in this way. Private land, where the conservation values are managed and enhanced by landowners, will also have the social and economic advantages which accrue to the community through the ability of the Councils to add to their rating base.

There are also intraregional differences in types and uses of stewardship land. Some existing economic land uses can occur alongside conservation values and can have a net effect of improving land with high conservation value. Uses like extensive grazing serve to control weeds and prevent invasive species spreading to conservation areas.

Some areas such as South Westland would benefit from a process similar to the Crown's tenure review process. Whereby, a voluntary process is adopted that gives pastoral lessees an opportunity to buy land capable of economic use, while land with high conservation values is protected and restored to full Crown ownership as conservation land.

For example, grazing leases, as it is not clear how these some parcels came to be stewardship land. Some grazing runs are held by original settler families, and have been taken over in succession, eg in South Westland the Sullivan family has held a grazing lease successively for 125yrs, Haast families for 130 years. Grazing lease terms have been reduced since DOC was formed, in 1987 term was 5+5+5; the renewed for only 5+5; etc. This gives no certainty for the run holders as farming is multi-generational.

The Councils consider that, in the context of the forthcoming general review, changes should be made to the Conservation General Policy (and the Conservation Act if necessary) which would require the Panels to have regard to:

- (a) the social, economic benefits of stewardship land with more than low conservation values becoming private land by way of disposal or exchange;
- (b) The means by which conservation values can be protected and enhanced if the land is exchanged or disposed of; and
- (c) the value of any Crown owned minerals in the stewardship land as part of the reclassification process (in a similar manner to s61(6) of the Crown Minerals Act).
- (d) The cultural, economic and social values of mana whenua.

The review of the Conservation General Policy must also give effect to Section 17B (2) of the Conservation Act:

*Nothing in any such general policy shall derogate from any provision in this Act or any other Act.*

If the reclassification of stewardship land proceeds under the existing Conservation General Policy, it is likely to derogate from Section 10 of the Local Government Act which sets out the purpose of local government which is:

- a) enabling democratic local decision-making and action by, and on behalf of, West Coast communities; and
- b) promoting the social, economic, environmental, and cultural well-being of West Coast communities on the West Coast in the present and for the future.

### **Failure to provide for exchanges of stewardship land**

The Discussion Paper also fails to discuss exchanges of private land for stewardship land, as distinct to disposals. The Conservation General Policy (and the Conservation Act if necessary) should be amended to reverse the unanticipated result of the Supreme Court's decision in the Ruataniwha case that an exchange is deemed to be a disposal and therefore can only occur where there is not the potential for greater than very low conservation values.

### **Need for independent advice on wider values to be provided to the Panels**

Given the importance of stewardship land to the economic, social, and cultural wellbeing of the West Coast, the Councils consider that there should be a process by which independent advice (that is, not from the Department) on these values are provided to the Panels.

### **Section 4 Conservation Act obligations**

The Councils are concerned that the review fails to consider Mana Whenua values as required to give effect to the Treaty of Waitangi under section 4 of the Conservation Act<sup>3</sup>. The Councils are aware of discussions between Te Runanga o Ngai Tahu and the Minister of Conservation, including halting the land reclassification process until the Conservation Act can be fully reviewed. The land classification review fails to recognise the role of customary practices on conservation land, and the Councils support the position of Poutini Ngai Tahu in their discussion through Te Runanga o Ngai Tahu with the Minister of Conservation. The effect of reclassification on Mana Whenua cultural, economic and social values should be considered. The alternative is that the land is held until a review of the Conservation Act and Conservation General Policy occurs in a manner which gives effect to Section 4 of the Conservation Act.

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<sup>3</sup> *Ngāi Tai Ki Tāmaki Tribal Trust v Minister of Conservation* [2018] NZSC 122

In summary, the Councils submit that unless the concerns set out in this submission can be addressed, until these wider issues and concerns are considered as part of a more general review of conservation legislation as signalled by the Government, there is no pressing reason at this stage to progress major reclassifications on the basis of the policy set out in the Conservation General Policy 2005.

Rather, in the interim, the non-legislative changes proposed in the Discussion Paper should be made and the Panels should be directed to focus on:

1. Progressing the priorities identified in 2018 by the West Coast Conservation Board (unless a proposal relates to an addition to a national park which should be progressed by the NZCA); and
2. Progressing the exchange or disposal of stewardship land which clearly has no or very low conservation values (subject to that term being clearly defined in advance after input from stakeholders); and
3. Undertaking a review of the cultural, social and economic value of stewardship land not falling under 1 and 2 above, with the purpose of being able to make recommendations on such land once the Conservation General Policy has been amended as described above; and
4. Ensuring Section 4 of the Conservation Act is given effect.

# Discussion document proposals

## *A. Introduction and objectives*

### **1. Do you agree with the objectives listed in the discussion document? Do you think there are any other objectives that should be included in this review?**

The Councils agree with the objectives listed on page 6, except for bullet point 2 (“delivering clarity for everyone on the status of land, the appropriate level of protection/use and the reclassification process”). While that is an appropriate objective in itself, the proposed changes set out in the Discussion document are inadequate to properly achieve that objective. Moreover, the Councils consider that it is inappropriate and unrealistic to try to achieve this objective through this limited review which is focussed on efficiency of the reclassification process. An objective of delivering clarity for everyone on the status of land and the appropriate level of protection/use requires considerably greater strategic analysis and should be a fundamental part of the overall review of conservation legislation proposed by the Government.

Bullet point 2 should be deleted and replaced with an overall objective of this review which is to enable a more efficient process for reclassification, exchange and disposal of stewardship land in a manner which meets bullet points 3, 4 and 5 in the interim, pending a review of conservation legislation and the Conservation General Policy, but in a manner which also does not run the risk of undermining or being inconsistent with the results of the forthcoming conservation review.

### **2. Do you agree with the description of the problem in the discussion document? If no, please provide reasons to support your answer?**

The Councils accept that the reclassification process to date has been time consuming and unwieldy. However, the Councils do not agree that the description of the problem of time delays is necessarily because of the existing legislation. The minutes of the NZ Conservation Authority throughout 2018 when this topic was considered at each of the Authority’s meetings do not support an argument that the delays and inefficiencies in the reclassification processes were caused by the legislation or the Conservation General Policy provisions.

The discussion paper implies that the second and third bullet point issues set out on page 10 of the document are ‘problems’ which cause “time, cost and complexity”. If the discussion paper is proposing that changes are made to the process which are intended to lessen or avoid these considerations, then the Councils do not agree with that fundamental proposition. Rather, the Councils consider that these issues are appropriate ones that need to be fully assessed in a strategic manner within the context of legislation and regulatory policy which is fit for purpose in the 2020s. As the Government has acknowledged, existing conservation legislation and policy are not

currently fit for purpose. This review, which is said to be for the purpose of streamlining the stewardship land reclassification process, is not the appropriate place to be enabling significant reclassifications based on criteria which are acknowledged by the government to no longer be fit for purpose.

The Councils do not accept that “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”. (p 9). The unstated presumption that a reclassification to a specially protected area itself provides greater protection, or indeed that conservation land in itself ‘protects’ conservation values is incorrect.<sup>4</sup> Consideration should be given to the possibility that, in some situations, conservation values which are presently on stewardship land may be better protected if that land is exchanged or disposed of to become private land.

The discussion paper has conflated issues of process efficiency with strategic policy issues. The August 2021 Cabinet Paper was focussed on improving the efficiency of the reclassification process. However, the suggested legislative changes in the discussion paper would result in increasing actions which are based on legislation and policy which the Government has described as not fit for purpose.

The Councils are also concerned about the lack of comment about the Government’s obligations to iwi Maori under section 4 of the Conservation Act. Other than appearing to treat areas which are of great significance to tangata whenua as part of the problem (p 10), there is no indication of how ‘the complex partnership arrangements’ will be developed and what they may look like. These are indeed complex issues, but need to be worked through as part of the overall strategic review of conservation legislation and policy in accordance with the principles of the Treaty, and not in an ad-hoc and non-transparent manner.

This review has stated that some stewardship land is subject to competing interests. However, the terms of reference limit the Panels’ consideration to conservation and cultural values. This creates a prioritisation of conservation values, over other values and is potentially a derogation from the purpose of local government in the Local Government Act which is:

- a) enabling democratic local decision-making and action by, and on behalf of West Coast communities; and
- b) promoting the social, economic, environmental, and cultural well-being of West Coast communities on the West Coast in the present and for the future.

For this reclassification process to be accepted by the local West Coast communities, these wider values should be considered alongside conservation values.

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<sup>4</sup> See for example ‘What does ‘protection’ of biodiversity mean?’ J Craig and S Christensen, November 2021 RMJ (Resource Management Journal).



**3. 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.**

The Councils are not able to speculate on additional reasons. The NZCA minutes do not disclose any real reasons for the inefficiencies and lack of progress to date.

**4. 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?**

While it may be Government policy to proceed quickly with reclassifications, the discussion paper does not disclose any pressing conservation reasons why that needs to be done with haste, or in advance of a full review of conservation legislation and policy.

The status quo in terms of not being able to exchange or dispose of any stewardship land which has the potential to have more than very low conservation value has impacted negatively on opportunities for the West Coast ratepayers to own and make use of land in a manner which nonetheless protects those conservation values.

This has in turn created uncertainty for many users of stewardship land on the West Coast. The review affects helicopter operators, moss pickers, miners as well as concessioners and grazing run holders. Adding to a failure to consult with users prior to undertaking the review, there have been impacts on economic and social wellbeing in terms of financial uncertainty affecting health and the inability to plan for future generations. This is contrary to the fundamental rights of the West Coast community to provide for their economic, cultural, social and environmental wellbeing.

There is an assumption that all the former Timberlands land which was classified as conservation land following the West Coast Accord has conservation values

such as to warrant conservation land status. Many grazing concessions and leases are historic, and it is not clear how the land came to be stewardship land.

The Councils do not accept that assumption in all instances.

Having said that, there are many examples of stewardship land on the West Coast which clearly have no or very low conservation values (such as land used for buildings, or land which has been grazed for many years). The Panels should, and can, proceed directly with proposal to dispose of such land.

## ***B. Improving consistency of public notification and submission processes***

### **5. The discussion document sets out three possible options – please indicate your preferred option. You may provide further analysis or comments to support your choice.**

The Councils support Option 1.1 – shortening the submission period to 20 working days. That is consistent with public processes under both the RMA and the Reserves Act.

However, if the submission process is shortened current users of land should be consulted with prior to the notification process, i.e., lease or concession holders. These are the people whose economic or social wellbeing will be most affected by the process.

### **6. Do you think 20 working days (one month) is adequate to prepare a written submission? If not, what time period would be adequate?**

Yes.

### **7. What role or function do you consider hearings play?**

Pending the outcome of the review of conservation legislation, public hearings are important to ensure transparency and accountability. That is particularly so when the ‘tests’ around reclassification remain unclear and are unrelated to any strategic objectives.

Hearings should be held without formality and current users should be provided resourcing to participate in the process. The process should take into account that

some land users live in remote locations without adequate internet access to participate via video link.

**8. Are there any further options you think DOC should consider that would meet the objectives set out in the discussion document?**

To ensure the Department meets its obligations under the Conservation Act, the Conservation General Policy should be reviewed, and that review must give effect to Section 17B (2) of the Conservation Act, and thereby not derogate from the purposes of local government.

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

**9. The discussion document sets out two possible options – please indicate your preferred option. You may provide further analysis or comments to support your choice.**

The Councils support option 2.2. The justification in the discussion document for a change to the status quo is weak. If DoC does not provide a secretariat and administrative role, then that will have to be created for the Panels, so the Councils see no administrative efficiency in a change. Issues of the independence of Panels can be managed in the same way that independent hearing commissioners undertake work for councils under the RMA.

The discussion paper makes it clear that the Panels are not given powers to make decisions on matters that relate to non-conservation values. The terms of reference state that the panel has been appointed to make recommendations on conservation and cultural values<sup>5</sup> and do not have expertise to be considering other wider values. The composition of the Panels is fundamentally flawed by not providing for members with expertise or experience to enable the proper assessment of the social or economic value of stewardship land to users and the wider community. This should

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<sup>5</sup> Section 13 Terms of Reference

include the assessment of such matters as biosecurity from managed grazing areas, appropriate net conservation or biodiversity gain from alternative uses of parcels of land, community sustainability and resilience, and wider cultural and social values.

**10. 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?**

The Councils anticipate that this will duplicate resources, and result in less efficiencies.

If the Panel carries out the process under the existing terms of reference, there will be an inappropriate bias toward conservation values. The Panels have no ability to consider social or economic, or other cultural values when hearing submissions and making recommendations.

This will result in a process and outcomes which are unlikely to be accepted by West Coast communities.

**11. Are there any further options you think DOC should consider that would meet the objectives set out in the discussion document?**

Yes.

The Panels' recommendations on any stewardship land should be further considered by local conservation boards and the NZCA against alternative land uses under a revised Conservation General Policy which allows consideration of wider values.

The Councils are concerned that the only information available to the Panels is provided by Department officials. Given the importance of stewardship land to the economic, social, and cultural wellbeing of the West Coast, the Councils consider that there should be a process by which independent advice (that is, not from the Department) on these values are provided to the Panels.

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

**12. What particular expertise/experience do you consider the national panels could bring to the process?**

The Councils consider that the Panels should not have a role in making recommendations to reclassify stewardship land to national park. Decisions about adding land to national parks should continue to be made by the NZCA and not by the Panels. There is no evidence that the NZCA has not undertaken that role efficiently and effectively to date. The NZCA is experienced in that process, and the Councils consider it is important that the requirements in the National Parks Act be properly adhered to, unless and until they are changed as part of the overall review of conservation legislation.

The broad experience and expertise of NZCA members as mentioned on p 25 is a reason for the NZCA to retain that role. The membership of the Panels is not an improvement on the membership of the NZCA.

**13.If the national panels were responsible for making recommendations to reclassify land to national parks, do you consider this would create any risks?**

The Councils consider that this is a strategic policy issue which should only be made as part of the strategic review of conservation legislation and policy. It raises the issue of the role (if any) of both local conservation boards and the NZCA. These bodies were created by legislation to provide strategic local level input into conservation decision making by the Department and the Minister (who are making decisions on behalf of all New Zealanders). There is no pressing need to change the status quo in advance of a full review of the role of conservation boards and the NZCA.

The Councils do not accept that the Panels replacing the role of the NZCA would in itself result in efficiencies.

For the West Coast, the reclassification of some stewardship land to national parks may have perverse outcomes. For example, grazing runs and national parks do not go together, it is a review risk for lease holders if the grazing runs are to be put into National Parks, as they can no longer graze them. Broader consideration of potential stewardship land to national parks needs to be allowed. The Councils consider the terms of reference of the Panel is too narrow to allow them to fully consider the implications of such a reclassification.

**14.Are there any further options you think DOC should consider that would meet the objectives set out above?**

Unlike reclassifications and disposals of stewardship land for other purposes, the criteria for adding land to a national park is clear in the National Parks Act. No changes are required to the process or the criteria.

The Councils are concerned that the only information available to the Panels is provided by Department officials. Given the importance of stewardship land to the economic, social, and cultural wellbeing of the West Coast, the Councils consider that there should be a process by which independent advice (that is, not from the Department) on these values are provided to the Panels. There should be a mechanism for this to be done alongside Departmental advice and before a proposal is notified, and not solely left to submitters once a proposal has been notified.

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

**15. The discussion document sets out two possible options – please indicate your preferred option. You may provide further analysis or comments to support your choice.**

The Councils support option 4.1, however there is a concern in the Community that the assessment process will not be undertaken fairly or equitably.

**16. Are there any alternative options that have not been discussed here? Please provide analysis or comments to explain your answer.**

The West Coast community remains sceptical about whether much of the stewardship land should have been allocated as conservation land when the Department was formed in 1987. That relates to what is perceived to be a failure at that stage to considered historical use of the land, including present and future economic value. River run grazing farms in South Westland, for example, have been used for generations, and the community feels are part of “their culture”. Some are still held by original settler families, and have been taken over in succession, eg the Sullivan family 125yrs, Haast families for 130 years. There are also areas of stewardship land the community would like to use for micro hydro electricity generation, to improve their energy and climate change resilience, and to transition to a low carbon future. A low carbon future is a government priority. These are all examples of the wider values and considerations that need to be part of the reclassification process. Simply restricting the Panels to considering conservation values will result in outcomes

which may be contrary to the wider social, economic and cultural, as well as environmental, wellbeing of existing and future West Coast and wider New Zealand generations.

**17. 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?**

The risk is not providing for the community's wellbeing and not allowing local decision-making processes to occur.

The consideration of kaitiaki also needs to be considered. The risk is that Department sufficiently resources to have more land come into strict conservation classification that may restrict other economic uses. This may mean there is less option for economic gain to the Department from leases and concessions, and unforeseen risks from poorly managed land. For example, biosecurity and weed control in river run blocks that are currently grazed.

***F. Enabling the Minister of Conservation to direct the proceeds of sale from stewardship land to DOC***

**18. The discussion document sets out two possible options – please indicate your preferred option. You may provide further analysis or comments to support your choice.**

The Councils support Option 5.1.

**19. 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?**

None that the Councils are aware of.

**20. Are there any further options you think DOC should consider that would meet the objectives set out in the discussion document?**

Not that the Councils are aware of.

***G. Clarifying the status of concessions on reclassified stewardship land***

**21. The discussion document sets out two possible options – please indicate your preferred option. You may provide further analysis or comments to support your choice.**

The Councils support option 6.2. This is consistent with Section 64 of the Conservation Act which provides for existing licences and leases etc.

**22. 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.**

Yes. This would be similar to existing use rights under the RMA but will only operate for a defined period (even if there are renewal rights). The Councils do not accept the statement in the discussion document that this option ‘may not ensure conservation values are adequately protected in every case’ (p 33). In granting the concession, the Department should have had regard to the conservation values as they exist, and not just to the classification of the conservation land. Those values will be the same irrespective of a change in the classification of the land.

This option is essential to create certainty for existing occupiers and users of this land. Tenure is an important consideration in business planning, the Department



cannot expect economic gain from leases and concession holders if no security of investment is offered in return.

**23. Are there any other risks or impacts associated with allowing inconsistent concessions to continue?**

The concessions should not be inconsistent because they were granted having regard to the actual conservation values of the land and they will not have changed with a reclassification.

**24. Are there any further options you think DOC should consider that would meet the objectives set out in the discussion document?**

Not that the Councils are aware of.

*H. Non-regulatory options to improve stewardship land reclassification*

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

The Councils support the three non-regulatory changes proposed.

If the Panels are to be holding public hearings, they should receive training and be qualified in the same way as hearing commissioners under the RMA. This is important for consistency of decision making, transparency, accountability, and to ensure natural justice, as well as competence in weighing and assessing technical evidence in order to make competent recommendations.

## *I. Implementing changes*

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

Unless the concerns set out in this submission can be addressed, then until the review of conservation legislation and policy is completed, the scope of the Panels' work should be restricted to:

1. Progressing the priorities identified in 2018 by the West Coast Conservation Board (unless a proposal relates to an addition to the national park which should be progressed by the NZCA); and
2. Progressing proposals (on a non-notified basis) for the exchange or disposal of stewardship land which clearly has no or very low conservation values (subject to that term being clearly defined in advance after input from stakeholders); and
3. Undertaking a review of the social and economic value of stewardship land not falling under 1 and 2 above, with the purpose of being able to make recommendations on such land once the Conservation General Policy has been amended as described above; and
4. Ensuring Section 4 of the Conservation Act is given effect.

The judicial review process is the only option for contesting any decision made on the reclassification of Stewardship land. This option is mostly unaffordable to some current occupiers of Stewardship Land who may be affected by the Panels' decision making. A formal objection and reconsideration process should be provided to those persons who are directly affected by a reclassification decision (similar to the objection process in section 357 of the Resource Management Act).