

Appendix 2:

Terms of Reference and Procedures for the Independent Expert National Panels to provide recommendations on the reclassification of stewardship land

Context

1. Land comes into the public conservation portfolio through acquisition, such as Nature Heritage Fund purchases, or by gift. A significant portion of land came by transfer of land from other Crown agencies when DOC was established in 1987. Land acquired is held for a conservation purpose and managed as a stewardship area. The definition of a stewardship area is a conservation area that is not foreshore or does not hold a specific protection. This is essentially a holding status until reclassification occurs.
2. There are over 3,000 parcels of stewardship land of varying sizes across New Zealand. Stewardship land is approximately 30 percent of the land administered by DOC, totalling approximately 2,500,000 hectares nationally. The majority of New Zealand's stewardship land is in the South Island, and a large proportion of this is in the West Coast region (Tai Poutini). Approximately 35 percent of the public conservation land in Tai Poutini is stewardship land, totalling 1,000,000 hectares. There are smaller parcels of stewardship land in the North Island, primarily in Waikato, Taranaki and across the Central North Island. Attached as Appendix 1 is a map showing the stewardship areas within New Zealand.
3. Most stewardship land is poorly defined in terms of its boundaries and unique characteristics. Stewardship land does not have a value-related protection classification but is managed for conservation purposes. Any use of this land is managed within the context of the Conservation Act 1987, which requires protection of the site's natural and historic resources, for the purpose of maintaining its intrinsic values and safeguarding options for future generations. Stewardship land can also be disposed of or exchanged.
4. While stewardship land is fully protected as conservation land, it does however allow activities that might not be permitted on classified land such as National / Conservation Parks or Reserves. For example, a consideration in the process for approving a concession requires the activity to be consistent with the purpose for which the land is held. Stewardship land is only held for conservation purposes generally, so there is no specific purpose for an application to be considered against.
5. A 2013 report by the Parliamentary Commissioner for the Environment (PCE) identified that much stewardship land was of high conservation value. The report noted that this was not recognised publicly or widely in the state sector. Reclassifying stewardship land would ensure land is subject to the most appropriate land status and therefore be managed and protected in accordance with its values.

6. The process of reclassifying stewardship land usually involves: surveying the land; working in partnership with whānau, hapū and iwi, conservation boards, and the New Zealand Conservation Authority where appropriate; and consulting the public (which may include submissions and public hearings). The ecological, cultural, historic, landscape and recreational values, and proposed management and use of the land by the public, must be considered before a decision can be reached on the revised land classification. If the land has been identified as surplus to requirements, it can be disposed of. Most stewardship land has not yet been reclassified due to the scale and complexity of this process.
7. The classification of any public conservation lands is part of DOC's statutory work; the choice of classification depends on the conservation purpose for which the area(s) is to be held and the objectives for the management of the area. As such, consideration is given to statutory requirements of the proposed classification such as the level of protection it provides for the conservation values present, the means of controlling or restricting use, as well as other matters.
8. Policy 6 of the Conservation General Policy (which includes potential changes to land classification or land disposal to adjust the level of legal protection) guides the department on how land may be reviewed. Review may be to ensure one of several outcomes. Review may be to give the appropriate protection and preservation of the land (for one of the purposes in the legislation) or to enable integrated conservation management identified in conservation management strategies or plans. Review may be to ensure access for enjoyment for the public or reflect the values of public conservation lands that are present or to enable specified places to achieve conservation outcomes in the future.

Government priority

9. The delays in reclassifying stewardship land has led to uncertainty about its status and public controversy about if or when it is appropriate to allow economic activity or development on it, or conversely, to protect it. The Prime Minister signalled before the 2020 election that the reclassification of stewardship land would be a priority. The Minister of Conservation has communicated that it is also her priority to have this work completed.

The Development of the Panel Process

10. In 2018 a panel process was designed to progress the reclassification of stewardship land on the West Coast. The panel would receive information about the values of the land and then make recommendations for the new land classification for each parcel of land. These recommendations would then be publicly notified before being sent to the Minister for agreement.
11. In 2021 the panel approach to support the stewardship land reclassification work has been further refined. The panels are to be non-partisan and comprised of technical experts with capability in ecology, earth sciences, landscape, recreation, heritage, and mātauranga Māori. The panels will provide technical

assessments and recommendations for the future land classifications of stewardship land. The panels will sequentially consider each Department of Conservation operations region, at the discretion of the Minister of Conservation.

12. The panels are established under section 56(1) of the Conservation Act 1987. They are appointed by the Minister of Conservation and have an advisory role to the Minister of Conservation, the Director-General, and officers of the Department of Conservation. They hold no statutory decision-making powers.

Purpose of the Panels

13. The purpose of the panels are to consider all the stewardship land parcels within the subject region and to make recommendations to the Minister of Conservation, and where required to the New Zealand Conservation Authority, on what the revised land classification should be according to the conservation and Māori cultural values identified.

Scope

What is in scope

14. All stewardship area(s) as defined in the Conservation Act. A stewardship area means a conservation area that is not:
- a marginal strip;
 - a watercourse area;
 - land held under the Conservation Act 1987 for one or more of the purposes described in section 18(1); or
 - land in respect of which an interest is held under the Act for one or more of the purposes described in section 18(1).

What is out of scope

15. The following is out of scope:
- Any parcels of land subject to active consideration as part of historical Treaty of Waitangi settlement negotiations between the Crown and claimant groups; and
 - Any proposals to assign a new name, alter an existing name or discontinue an existing name for any parcel or group of parcels of land that are being reclassified.

Roles

16. The panels have the following roles:
- a. Each panel will have a chairperson and will consist of people with the following expertise:
 - ecology
 - landscape
 - earth sciences
 - recreation

- heritage
 - mātauranga Māori
- b. The panels will consider a set of statutory and regulatory criteria provided by the Department of Conservation to make assessments and recommendations detailing what is the appropriate revised land classification and the reasons for that revised classification.
 - c. The panels will be required to think strategically and focus on achieving the project outcomes.
 - d. The panels are to work with Department officials to prepare and deliver a strategy to deliver the project outcomes within the region.
 - e. The panels can consider any classification under the Conservation Act, National Parks Act or Reserves Act for their recommendations. This includes Government Purpose Reserves for areas with significant cultural as well as conservation values. The group can also consider recommendations for disposals, noting these must meet the test for disposal set out in the Conservation General Policy that no, or very low, conservation values are present.
 - f. The panels are required to consider the classification(s) of the adjoining land or land located within close proximity to the subject parcel of stewardship land to enable a 'landscape' approach to the reclassification work to be implemented.
 - g. The panels are required to actively consider the Climate Change Commission report¹ when making recommendations on the future land status of the stewardship land.
 - h. The panels are required to provide reports on work progress and identify risks and opportunities. The frequency and form of reporting is to be determined and agreed upon between the panel chairperson and Department officials.
 - i. If requested by the Minister of Conservation or Department officials, the panels will review stewardship land parcels that are subject to or have been identified as potential mining locations and make revised land classification recommendations. This may require the panel to revise the order in which they are reviewing the stewardship land within their region. Mining related applications on stewardship land will incur fees on a cost recovery basis.

17. Department of Conservation officials have the following roles:

¹ <https://ccc-production-media.s3.ap-southeast-2.amazonaws.com/public/evidence/advice-report-DRAFT-1ST-FEB/ADVICE/CCC-ADVICE-TO-GOVT-31-JAN-2021-pdf.pdf>

- a. Support for the panels will come from Department of Conservation staff and this will cover:
 - project management
 - logistics for meetings
 - technical information relevant for assessing the ecology, landscape, earth science, recreation, cultural mātauranga Māori values
 - providing detailed mapping of land areas.

Output

18. The panels will produce a set of recommended classifications or disposals for any stewardship land parcel located in the subject region. This will include clear conservation and cultural justifications for recommendations.
19. Recommendations for National Park additions will be made to the New Zealand Conservation Authority.
20. Recommendations for any other classification or disposals will be made to the Minister of Conservation.

Term of appointment

21. Appointments to the panels will be for a term of up to two (2) years. The specific term of each appointment shall be specified in the notice of appointment for each member. A member takes office from the date stated in their notice of appointment.
22. Any panel members may at any time be removed from a panel by the Minister of Conservation for neglect of duty or misconduct.
23. Any member of a panel may at any time resign his or her membership in writing, addressed to the Minister of Conservation.
24. Should any member of a panel die, resign or be removed from a panel, the vacancy shall be filled in the manner in which the appointment was originally made, for the remainder of the term of the vacating member.

Meetings of the Panel

Time and place of meetings

25. The inaugural meeting of the panels shall be within six (6) weeks of the appointment of the panel and subsequent meetings shall be held at such times as the chairperson or panel decide.
26. The work is scheduled to take up to six months from the first meeting. The chairperson may request an extension of time from the Minister of Conservation in writing if the work is taking longer than expected.

27. The date and venue of the meetings are to be decided by the panel chairperson and members, in consultation with Department officials.

Number of meetings

28. The number of meetings is at the discretion of the panel chairperson and members, in consultation with Department officials. The number and frequency of meetings must ensure that the purpose of the panel is achieved.

Quorum

29. A quorum of the panels shall comprise at least four (4) members of the whole panel. No business shall be transacted unless a quorum is present.

Decisions

30. The panels will use consensus-based decision making, guided by the common goal, commitment to consensus, trust, and openness. If consensus is not reached, up to two options can be outlined for the decision-maker, with the chair noting their preferred recommendation. This should be avoided, and only be done in very exceptional circumstances.

31. Subject to these rules the panels may regulate its own practices.

Conflicts of interest

32. At the start of each meeting, panel members shall declare if they have any conflicts of interest in relation to any item on the meeting agenda and take appropriate steps at the direction of the Chairperson.

Attendance by representatives of the Director-General

33. The Director-General shall be represented at meetings of the panels by a Department official. Department officials are not voting members of the panels.

Administrative support

34. The Director-General shall provide administrative support to the panels including the preparation of agendas and the recording of minutes.

Fees and allowances

35. Fees and allowances payable to panel members will be in accordance with the State Services Commission guidelines for members of statutory bodies appointed by the Crown. Fees will be charged for mining applications on stewardship land as noted in paragraph 16 (i).

Amendments to Terms of Reference and Procedures

36. The Minister of Conservation reserves the right to amend these Terms of Reference and procedures at any time. The Minister will consult with the panels before making any amendments.

Approval

37. Pursuant to section 56(1) of the Conservation Act 1987, these Terms of Reference and Procedures for the Independent Expert National Panels to provide recommendations on the reclassification of stewardship land were approved by Hon Dr Ayesha Verrall, Acting Minister of Conservation, on XX April 2021.