



## Briefing: Next steps on wapiti HOSI process

To	Minister for Hunting and Fishing	Date submitted	30 January 2025
Action sought	Agree to proceed with Budget night legislation to enable a wapiti HOSI Consider attached draft Cabinet Paper	Priority	Very High
Reference	24-B-0643	DocCM	DOC- 7868834
Security Level	BUDGET SENSITIVE		
Risk Assessment	High A decision is needed urgently on proceeding to Cabinet so we can meet deadlines for Budget night legislation. s9(2)(g)(i)	Timeframe	4 February 2025
Attachments	Attachment A – Draft Cabinet paper - Amendments to the Game Animal Council Act 2013 to clarify the provision for herds of special interest in national parks		
Contacts			
Name and position			Phone
Sam Thomas, Director, Policy			s9(2)(a)
Nicola Molloy, Policy Manager, Hunting, Fishing and Economic Development			

## Executive summary – Whakarāpopoto ā kaiwhakahaere

1. A Herd of Special Interest (HOSI) allows animals within a specific geographical area of public conservation land to be managed to provide for hunting outcomes, whilst also providing conservation benefits. The National Party manifesto signalled an intent to introduce three HOSI, one for sika, one for wapiti and one for tahr (work on tahr is currently paused). There are currently no designated HOSI in New Zealand.
2. This briefing outlines the implications for and seeks your agreement to lodge the attached Cabinet paper seeking approval to **draft legislation to remove legal uncertainty around the introduction of a HOSI in a national park.**
3. Progressing this legislative change would provide the most certainty that you can introduce a HOSI for wapiti this term. You have indicated that you wish to progress this under Budget night urgency, and we understand that you have spoken with the Leader of the House. Your legislative bids for 2025 have been submitted on this basis.
4. We seek your feedback by 4 February 2025 in advance of a short Ministerial consultation. Given the significant links with the conservation portfolio (specifically with the National Parks Act 1980 and responsibilities for UNESCO World Heritage Areas), we suggest you speak with the Minister of Conservation before wider Ministers.
5. Lodging the attached Cabinet paper by 13 February for discussion at the Cabinet Economic Policy Committee (ECO) on 19 February would enable us to meet deadlines to support your preferred approach of seeking introduction at Budget 2025.

Out of scope

**We recommend that you ... (Ngā tohutohu)**

		Decision
a)	<b>Agree</b> to progress development of a wapiti HOSI in Fiordland National Park and seek Cabinet agreement to introduce legislation via Budget night urgency to clarify the relationship between the Game Animal Council Act 2013 and section 4 of the National Parks Act 1980.	Yes / No
b)	<b>Agree</b> to consider the attached draft Cabinet Paper and provide feedback by 4 February 2025 to enable lodgement on 13 February 2025.	Yes / No
c)	<b>Note</b> Ministerial Consultation will need to run from 5 – 10 February which is shorter than the standard timeframe.	Noted ✓
d)	<b>Agree</b> to meet with the Minister of Conservation prior to other Ministers during the Ministerial consultation period regarding your legislative bids and the implications for his portfolio.	Yes / No

Sam Thomas  
Director, Policy


Date: 30/01/2025

Hon James Meager  
Minister for Hunting and Fishing

Date: 2/2/25



## **Purpose – Te aronga**

1. This paper;  

  - b. seeks your views on how to proceed with the establishment of a wapiti HOSI in Fiordland National Park.
2. A draft Cabinet Paper is attached for your consideration if you decide to seek Cabinet agreement to progress legislation via Budget night urgency.

## **Background and context – Te horopaki**

3. You have indicated that you wish to progress with legislation under urgency on Budget night to amend the Game Animal Council Act 2013 (the GAC Act) to give certainty on the status of a HOSI in a national park. You have submitted a Legislative bid to Cabinet seeking its agreement that this proposal can proceed under urgency (24-B-0165 refers).
4. You will need Cabinet's agreement by 19 February to draft legislation, in order to provide enough time to lodge the Bill for Budget night.
5. We recommended that you discuss this proposal and other legislative bids with the Minister of Conservation during the Ministerial consultation period of 5-10 February to explain how they would interact with his portfolio.

Out of scope



Out of scope

Released under the Official Information Act 1982

## **You have options for managing wapiti in Fiordland**

### ***Progressing a wapiti HOSI via a determination from the NZCA carries uncertainty...***

22. You could instruct DOC to proceed to develop a HOSI under current legislative settings. We would need to commence work on the statutory process as soon as possible to deliver this by the end of the parliamentary term.
23. Once the HOSI HMP has been developed (estimated time 12 months) you could then decide whether to seek a determination from the NZCA. A successful determination from the NZCA is not guaranteed.
24. Since Forest and Bird have stated that it considers a determination from the NZCA would be necessary, there is a risk of a legal challenge to the HOSI process if a determination is not sought. It is unclear how large this risk is or how likely such a challenge would be successful.
25. DOC does not consider this a viable option to give certainty for a wapiti HOSI. We do not believe discussions with Forest and Bird have progressed far enough yet to ensure a successful outcome if a determination were to be sought from NZCA. We will have a better understanding of this over the next couple of months as discussions progress.

### ***... introducing legislation to clarify the relationship between the NP Act and the GAC Act would provide much greater certainty.***

26. **DOC considers legislative amendment is the best option to provide certainty that a wapiti HOSI can be designated this parliamentary term without legal challenge.** Legislation would give the Government greater clarity on the process to designate a HOSI in a national park in the future and support the National Party's manifesto commitment.
27. The policy intent of a legislative amendment would be to clarify the interaction between the Game Animal Council Act 2013 (the GAC Act), HOSI provisions and section 4 of the National Parks Act 1980, making it clear that a HOSI can be designated in a national park as intended, without the need for a determination from the NZCA.
28. **DOC recommends a proposed change to legislation should apply to HOSI in national parks generally, and not just to wapiti.** This would be consistent with the objective of making these pieces of legislation work together coherently. Removing the need for an NZCA determination is also consistent with separate Government proposals (led by the Minister of Conservation) which would limit the decision-making role of the NZCA.

### ***A community agreement is also an option, but will not meet the National Party's manifesto objectives***

29. Another option would be to pursue development of a new community agreement following conclusion of negotiations between parties in the legal case. If this was your preference you could discuss this with the Director-General of Conservation who has the power to enter into such agreements under s53 of the Conservation Act 1987.
30. Note, however, that while it may be possible to develop a new community agreement that is acceptable to both Forest and Bird and FWF, a community agreement cannot have hunting outcomes as its primary purpose (as opposed to a HOSI which would be focused on hunting outcomes). It would also not deliver your manifesto commitment to introduce a HOSI for wapiti.



***You need to lodge a Cabinet Paper by 13 February if you wish to proceed with Budget night legislation***

31. You have indicated that you wish to progress legislative change via Budget night urgency. Budget 2025 is released on 22 May. We recommend having a draft Bill ready for Budget night as early as possible to allow for Easter recess and for any slippages in a busy Cabinet schedule around this time.
32. To meet this timeframe, we suggest that your Cabinet paper should be lodged no later than 13 February for discussion at the Cabinet Economic Committee (ECO) on 19 February.

33. s9(2)(g)(i)

***DOC recommends any legislative amendment is narrowly scoped***

34. We recommend that the policy intent of any legislative amendment is narrowly scoped to include only what is necessary to provide clarity that a HOSI can be designated in a national park as intended, and without the need for a determination from the NZCA. A narrowly scoped bill is more appropriate for introduction at Budget 2025 and will reinforce that you do not intend to amend the NP Act, or dilute conservation outcomes.
35. The primary change needed would provide that:
  - a. The National Parks Act requirement set out in section 4 (2)(b) to exterminate introduced animals as far as possible, unless the New Zealand Conservation Authority (NZCA) determines otherwise, does not apply to animals that are part of a herd designated as a herd of special interest under section 16 of the Game Animal Council Act 2013.

***Legislation will not address all issues associated with the introduction of HOSI***

36. These amendments will improve coherence between the GAC Act and the NP Act. However, further work is needed to support introduction of other HOSI and to address broader issues arising from this change as outlined below.

**Fiordland National Park as a UNESCO World Heritage Area**

37. Fiordland National Park falls within the UNESCO World Heritage Area "Te Wahipounamu South West New Zealand" established under the World Heritage Convention (to which New Zealand is a signatory). The Minister of Conservation is the Minister responsible for these international obligations.
38. To be compliant with New Zealand's World Heritage Convention obligations, an assessment of environmental impact on the values of the World Heritage Area is expected before a decision is made on a HOSI within a World Heritage Area. DOC will prepare this during the development of the HOSI Herd Management Plan (HMP), which is where specific impacts are identified and mitigation options are assessed.
39. Forest and Bird previously advised it would request UNESCO's World Heritage Committee to consider Te Wahipounamu to be under threat and inscribe it on the List of World Heritage in Danger on the basis of the current FWF community agreement.
40. DOC does not consider this proposed legislative change would constitute a reduction in protection afforded to Te Wahipounamu World Heritage Area. However, there is a risk that Forest and Bird will decide to write to the World Heritage Committee if legislation is announced. Should this eventuate, we do not consider this poses a significant risk of further action from the Committee, given the absence of a specific HOSI proposal at this stage.

41. If UNESCO's World Heritage Committee considered the World Heritage Area to be under threat following the development of the HOSI HMP, it could implement measures under the Convention including: additional reporting, a UN mission to investigate, or inscribing the site on the List of World Heritage in Danger. This could have political and economic consequences and may affect New Zealand's status as a partner of choice on the international stage.
42. We suggest you discuss this matter with the Minister of Conservation, as Minister responsible, prior to the introduction of a wapiti HOSI.

s9(2)(f)(iv)

#### **DOC officials have prepared a draft Cabinet Paper to support the option of legislative change through Budget Night urgency**

44. The Cabinet paper:

- a. seeks Cabinet's agreement to delegate to you the ability to determine the specific legislative amendments required to provide legal certainty of the designation and operation of HOSI in national parks;
- b. notes there may be fiscal implications associated with the subsequent designation of HOSI; and
- c. explains the potential risk to the region's classification as a UNESCO World Heritage Area.

***You have indicated you wish legislation to be passed under urgency at Budget 2025.***

45. Cabinet will discuss its legislative programme at the end of January 2025. This discussion will include agreeing which bills should be taken forward under urgency (briefing 24-B-0615 refers).
46. You have indicated your preference and submitted a legislative bid to take this Bill through under urgency on Budget night. We understand you have spoken with the Leader of the House, whose agreement is needed.
47. We require your feedback on this paper by 4 February so that Agency and Ministerial consultation can be completed in time to lodge the paper by 13 February for discussion at ECO on 19 February.

#### **Risk assessment – Aronga tūraru**

48. Passing this Bill under urgency is likely to raise concerns from certain stakeholders over the lack of consultation. Conservation stakeholders may be concerned that the legislation indicates a shift from a conservation to a hunting focus. The legislation would clarify the interaction between the NP Act and GAC Act.
49. DOC would fulfil its obligations with respect to assessing the protections for Te Wahipounamu World Heritage Area as part of the statutory process to establish a wapiti HOSI (i.e. the Herd Management Plan process, which includes consultation). However, there is still a risk that Forest and Bird recommend the World Heritage Committee inscribe the site on the List of World Heritage in Danger as a result of a



legislative amendment. We do not consider the World Heritage Committee would undertake further actions at this stage, given the absence of a specific HOSI proposal.

50. The possibility of Forest and Bird reaching out to the Committee may be exacerbated by the (presently paused) Forest and Bird litigation against the existing community agreement. DOC will seek to handle conversations with Forest and Bird sensitively as discussions on the legal case are ongoing.
51. Perception risks can be managed through appropriate communications material, and DOC officials will work closely with your office to prepare these.
52. Further perception risks around what a wapiti HOSI may end up looking like will be managed through the HOSI development process. Communications can note that there will be an opportunity for key stakeholders and the public to input during this process.

#### **Treaty principles (section 4) – Ngā mātāpono Tiriti (section 4)**

53. Progressing legislation to override sections of the NP Act without prior engagement will likely be viewed negatively by many hapū/iwi, who may view it as a breach of Treaty principles (e.g. the principles of partnership and reasonable cooperation).
54. Some hapū/iwi may have a specific interest in proposals that override sections of the NP Act, or appear as though the Government is looking to weaken environmental protections.
55. Budget night legislation is treated as Budget sensitive, limiting the ability to engage with Treaty Partners. On completion of legislative amendments, the subsequent statutory process to develop a HMP for wapiti in Fiordland would require engagement and consultation, including with hapū/iwi. s9(2)(g)(i)

s9(2)(g)(i)

#### **Consultation – Kōrero whakawhiti**

56. As this change is being proposed as part of Budget 2025 and subject to Budget sensitivity, we have not consulted widely on this paper.
57. We have discussed the Budget night legislation process with the Treasury, PCO, the Department of the Prime Minister and Cabinet and the Office of the Leader of the House.

s9(2)(f)(iv)

Key milestones are set out here:

Milestone	Date
<b>Minister</b> provides feedback on draft Cabinet paper directing any changes to be made prior to wider Ministerial consultation	4 February (if possible, earlier)
Wider ministerial consultation (managed by Minister's office)	5 – 10 February (4 working days)
Revision of Cabinet paper following wider Ministerial consultation	11 February
<b>Minister</b> approves final version of Cabinet paper for lodgement	12 February
Lodgement for ECO	13 February
ECO consideration	19 February
LEG Committee	10 April
Budget Night	TBC May

63. We recommend a discussion with the Minister of Conservation prior to other Ministers during the Ministerial Consultation period to discuss implications of your legislation on the NP Act and on the region's UNESCO status.

ENDS