25-B-0146 - Attachment C

Stewardship Land Reclassification

Western South Island | Te Tai Poutini

Summary of Submissions Report

To: Minister of Conservation, under Section 49(2)(d) of the Conservation Act 1987.

From: Arna Litchfield, under delegation from the Director-General of Conservation.

13 March 2025

Department of Conservation
Te Papa Atawhai

New Zealand Government

Table of Contents

1. Introduction

1. Stewardship areas include land that was allocated to the Department when it was formed, and land that has since been acquired by mechanisms such as purchases by the Nature Heritage Fund or as a result of tenure review. These areas, commonly referred to as 'stewardship land', are held under either Section 7 or Section 62 of the Conservation Act 1987 (the Act).

2. Section 25 of the Act directs that "every stewardship area shall so be managed that its natural and historic resources are protected". Around 30% of public conservation land is held in stewardship. It amounts to over 2.7 million hectares, or 9% of New Zealand's total land area, and 81% of it is in the South Island.

3. The vast majority of stewardship land holds conservation value. Some areas contain pristine environments, including critically endangered ecosystems and species. It includes large areas of land recognised by World Heritage Area status. Much of it is also highly valued from a recreation perspective, including world-class tramping, hunting and whitewater experiences.

4. Some stewardship land is of significant interest to our Treaty partners, including sites recognised for their cultural value through Treaty settlement processes. A small proportion contains low conservation values, which may be suitable for disposal or other uses.

5. Stewardship was intended as a holding classification, with a view that subsequent reclassification would follow. However, most stewardship land has not yet been assessed for its conservation values to inform its specific conservation classification, or potential disposal.

6. The process of reclassifying stewardship land involves an analysis of the natural and historic resources, and Treaty interests, present. Depending on the reclassification proposal, subsequent steps vary but may include public notification, the receipt of submissions, and the convening of hearings. With over 3,000 pieces of stewardship land of varying sizes across New Zealand, the scale and complexity of the task is significant.

7. Reclassifying stewardship land ensures it can be managed appropriately. A clearly defined land classification provides clarity to users of the land, both recreational and commercial, and reduces the risk of legal challenge to decisions about the land's management. In 2013, the Parliamentary Commissioner for the Environment, Dr Jan Wright, released a report criticising the Department for failing to progress the reclassification of stewardship land[1]. An update to this report in 2015 welcomed the initial steps taken by the Department at the time to identify areas to prioritise for review but reiterated the need for this work to progress in a timely fashion.

8. Following Ministerial direction in 2018, a pilot was launched to attempt to reclassify some pieces of stewardship land in the Western South Island and Southern South Island but did not result in any land being reclassified.

9. On 28 May 2021, the Government announced a two-part project to accelerate the assessment and reclassification of stewardship land. It included:

    - The establishment of the Western South Island National Panel and Northern South Island National Panel to provide technical assessments and make recommendations to the Minister of Conservation (the Minister) for the reclassification of stewardship land (the Stewardship Land Reclassification Project). These Panels were comprised of independent representatives with technical expertise in ecology, landscape, recreation, heritage and mātauranga Māori.
    - Legislative change to empower the Panels and streamline the reclassification process.

[1] Investigating the future of conservation: The case of stewardship land. 21 August 2013. Available at: https://pce.parliament.nz/publications/investigating-the-future-of-conservation-the-case-of-stewardship-land/

10. The Stewardship Land Reclassification Project aims to review all stewardship land to ensure it is classified appropriately for the natural and historic resources present, working in accordance with Treaty principles. Land identified as having very low or no conservation value may be considered for a disposal process.

11. The National Panels were to take a region-by-region[2] approach. As directed by the former Minister of Conservation, Hon. Allan, the first regions to be assessed were the Western South Island and the Northern South Island.

12. Section 4 of the Act requires the Minister and the Department to give effect to the principles of the Treaty of Waitangi when interpreting and administering the Act, including the legislation listed in Schedule 1 of the Act. That obligation applies to the process and to the substance of the decision making of reclassifying stewardship land, and extends to decisions and other statutory actions of the National Panel (established as an advisory committee under section 56(1) of the Act) and the New Zealand Conservation Authority (NZCA) in the reclassification process (e.g. referral of an area to the NZCA for their consideration recommendation on the addition of the area to a national park).

13. Reclassification work in the Western South Island was undertaken according to a 2021 Agreement[3] between the then Minister and Kaiwhakahaere of Te Rūnanga o Ngāi Tahu (Ngāi Tahu). The 2021 Agreement was put in place to settle judicial review proceedings initiated by Ngāi Tahu in relation to the role of Ngāi Tahu as Treaty partner in the reclassification process. This Agreement expired in 2023 and a new Agreement was signed in 2024 (2024 Agreement) and outlined agreed steps in the process to complete the reclassification process in the Western South Island.

14. The 2021 Agreement established a Ngāi Tahu-appointed Mana Whenua Panel for the West Coast and Northern part of the Ngāi Tahu takiwā. The Mana Whenua Panel worked alongside the National Panels to provide information on mahinga kai, mātauranga Māori, and Ngāi Tahu interests, and to make recommendations about the appropriate classifications for the land. Under the 2021 Agreement, the Minister committed to meeting with the Ngāi Tahu Kaiwhakahaere to discuss the reclassification recommendations of the National and Mana Whenua Panel (the Panels) prior to final decisions being made.

15. The Panels made recommendations on the classification of land in the Western South Island, and on the basis of those recommendations, proposed classifications were publicly notified. Public submissions were received, and hearings convened at which I heard from all submitters who wished to be heard.

16. Several Te Tauihu iwi have recognised Areas of Interest which extend over the Western South Island region, as defined in their respective Treaty settlements. All Te Tauihu iwi were informed of the notification process, prior to the public announcement, by the Northern South Island Operations Director. No submissions were received from these Treaty partner organisations. The Department will continue to engage with Ngāti Toa Rangatira, Ngāti Apa ki te Rā Tō, Ngāti Rārua, and Te Ātiawa o Te Waka a Māui (and Ngāti Tama ki Te Tau Ihu in relation to their acknowledged customary association with the region), to support informed decision making. The views of these Te Tauihu iwi will be provided directly to the Minister and will help inform the Department's advice to the Minister (separate to this Section 49 Report).

17. The purpose of this report is to provide you with a summary of all objections and comments received from submitters on the proposed reclassification of stewardship areas in the Western South Island. I make recommendations as to the extent to which you should 'allow' and 'accept' submitters' objections and comments, and a recommendation as to whether you should proceed with the notified proposals in light of the submissions received, recognising that in some instances a subsequent process may be required.

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[2] Refers to Department of Conservation operational regions.

[3] Available at: https://www.doc.govt.nz/about-us/our-role/managing-conservation/stewardship-land/documents-supporting-stewardship-land-reclassification/

2. Background and Context

18. The Western South Island National Panel and the Ngāi Tahu-appointed Mana Whenua Panel assessed 504 stewardship areas in the Western South Island, Te Tai Poutini, from November 2021 until May 2022. As part of these assessments the National Panel spent 19 days undertaking site visits, split over the course of seven trips.

19. A total of 576 recommendations were made by the National Panel. The Mana Whenua Panel agreed with the National Panel's recommended classifications for 158 stewardship areas, and adopted a neutral position on the National Panel's recommendations for 331 stewardship area. For the remaining 87 stewardship areas, the Mana Whenua Panel disagreed and recommended an alternative classification. In some instances, the Panels' made different recommendations for distinct parts of a stewardship area (e.g. "pasture" or "foreshore").

20. After receiving recommendations from the Panels, the Minister notified intentions regarding reclassification of the land. Submissions were able to be received for 60 working days, from 30 May 2022 to 23 August 2022. A total of 655 unique submissions, including five from statutorily recognised Treaty partner organisations, and 5976 pro forma submissions were received through the process.

21. Public notification was followed by eight days of public hearings, both in person on the West Coast and online, from 12 to 21 September 2022. Under delegation[4], and in accordance with Section 49 of the Act, I heard from 123 submitters. I was supported by a panel consisting of an independent chair, two members of the National Panel and two members of the Mana Whenua Panel. In all, 123 individuals and organisations presented their views at public hearings.

22. The objections and comments received from submitters on the proposed classifications for stewardship land on the West Coast, along with the respective recommendations under s.49(2)(d), are the subject of this report.

The Role of National and Mana Whenua Panels

23. The Western South Island National Panel is an advisory committee established under Section 56(1) of the Act. The role of the National Panel, specified in its terms of reference[5], is to consider stewardship land and to make recommendations to the Minister on appropriate classifications, according to the conservation and Māori cultural values identified.

24. The Mana Whenua Panel, established in accordance with the 2021 Agreement, is an advisory body subject to its own terms of reference. Its role, as set out in the 2021 Agreement, included providing information on the stewardship land under assessment to the National Panel (including but not limited to information on mahika kai, mātauranga, commercial interests, development opportunities and future aspirations for use of the place). Under the 2021 Agreement the Mana Whenua Panel was to review and provide input into the Conservation Value Reports and any other information provided to the National Panel by the Department's technical teams. The 2021 Agreement provided for the Mana Whenua Panel to work with the Department and National Panel in developing and implementing the public notification process.

25. The 2021 Agreement also included a role for the Mana Whenua Panel and the Kaiwhakahaere to provide recommendations and commentary (on the National Panel's draft recommendations) to be considered by the National Panel in finalising their recommendations. The 2021 Agreement and the 2024 Agreement also provided an opportunity for mana whenua and the Kaiwhakahaere to also provide separate views or recommendations directly to the Minister if need be.

26. While the Panels are advisory bodies, the Minister retains all decision-making authority.

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[4] Section 58 Conservation Act 1987

[5] Available at: https://www.doc.govt.nz/about-us/our-role/managing-conservation/stewardship-land/documents-supporting-stewardship-land-reclassification/

27. The recommendations of both Panels were informed by the expertise and experience of their members, site visits, and consideration of the Conservation Values Reports. These reports were prepared by Departmental technical staff with input on Ngāi Tahu values and interests by the Mana Whenua Panel. The Department also had Management Planning and Landscape Values Reports prepared for the Panels' consideration. These documents did not have Mana Whenua Panel input.

28. The National and Mana Whenua Panels produced 301 'Recommendation Reports' for the 504 stewardship areas in the Western South Island. The Recommendation Reports provide reasons for their recommendations for each stewardship area. Both the Conservation Values Reports and the Panels' Recommendation Reports were made available to the public when the proposed classifications were notified.

29. The National Panel recommendations represented notification of your intention to classify stewardship land in a certain manner by notice in accordance with Section 49(2) of the Act (i.e. "Minister gives public notice of intention to exercise any power conferred by this Act"). The classification proposal for each individual stewardship area is a distinct exercise of power.

30. The Mana Whenua Panel recommendations were included in the material notified to inform public assessment of your notified proposals, as represented by the National Panel recommendations. However, as the legislation does not anticipate the Minister notifying more than one intention at a time for an area under Section 49 of the Act, the National Panel's recommendations (being the Panel appointed by the former Minister of Conservation for that purpose) are the intended proposals for the purposes of Section 49.

The Role of the Minister of Conservation

31. As Minister of Conservation, you are empowered to make decisions to reclassify stewardship land. Decisions can be delegated, but work on the Stewardship Land Reclassification Project has progressed on the basis that decisions will not be made under delegation due to the extensive scale and high-profile nature of the decision-making. Your role is to make a decision on the notified proposals, as represented by the National Panel recommendations.

32. Under Section 4 of the Act, in giving effect to Treaty principles, you need to consider the views and/ or recommendations from Treaty partners in your decisions, including those made by the Mana Whenua Panel. The 2024 Agreement with Ngāi Tahu includes that the Kaiwhakahaere and mana whenua will be given a reasonable opportunity to meet with you to provide separate view and/or recommendations before any final decisions are made.

33. To inform your decisions, this Section 49 report includes my recommendations regarding the notified proposals, considering the submissions received. In making recommendations, I have been conscious that your ultimate decision whether to proceed with the notified intention is binary in nature. You may:

    - Proceed with the notified proposal.

      Where possible, the Department will implement classifications under the Conservation Act 1987 and the Reserves Act 1977. Some classification decisions will trigger further processes before a final decision can be made, as defined in Chapter 3 of this report.

    - Decline to proceed with the notified proposal.

      These areas will remain held in stewardship. You can then decide whether or not to commence a new reclassification process, which may include public notification of any further proposals.

34. As part of their recommendations, the National Panel noted that some areas may warrant further investigation by the Department regarding the addition of a secondary/overlay classification (e.g. ecological area). Some submitters also commented on this aspect (additional protection) or advocated for an alternate classification to achieve a similar outcome. My recommendations do not address alternative land classifications, as this did not constitute the notified proposal under s.49 of the Act, and it is not a matter which requires your decision as part of this report.

3. Legal Framework

The Reclassification Framework

35. The Conservation Act 1987 is New Zealand's primary conservation statute; it has an overarching statutory purpose "to promote the conservation of New Zealand's natural and historic resources".

36. Conservation, as defined in the Act, means preservation[6] and protection[7] of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations.

37. Natural resources and historic resources are also terms that are defined:

    - Natural resources are plants and animals of all kinds; the air, water and soil in or on which any plant or animal lives or may live; landscape and landform; geological features; and systems of interacting living organisms, and their environment; and includes any interest in a natural resource.
    - Historic resources are historic places[8]; including any interest in a historic place.

38. Section 4 of the Act requires the Minister and the Department to give effect to the principles of the Treaty when interpreting and administering the Act (including the legislation listed in Schedule 1 of the Act). That obligation applies to the process of reclassifying stewardship land and extends to decisions and other statutory actions of the National Panel (established as an advisory committee under section 56(1) of the Act) and the New Zealand Conservation Authority (NZCA) in the reclassification process. The application of Treaty principles in relation to the reclassification of stewardship land is addressed in Chapter 5, 'Treaty Principles Analysis'.

39. Reclassification proposals are based on an assessment of the natural and historic resources, and the identified Treaty interests, present on the land being considered. An appropriate classification would be that which is most consistent with preserving and protecting those resources to maintain their intrinsic values, provide for their appreciation and recreational enjoyment by the public, and safeguard options for future generations, while giving effect to Treaty principles.

40. Further statutory direction is provided by section 17A of the Act, which directs the Department to administer and manage all conservation areas in accordance with statements of general policy. Conservation General Policy 6(b) sets out requirements for the reclassification of conservation land, consistently with the statutory purpose of the Act:

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[6] "Preservation, in relation to a resource, means the maintenance, so far as is practicable, of its intrinsic values". Section 2, Conservation Act 1987.

[7] "Protection, in relation to a resource, means its maintenance, so far as is practicable, in its current state; but includes— (a) its restoration to some former state; and (b) its augmentation, enhancement, or expansion". Section 2, Conservation Act 1987.

[8] As defined in the Heritage New Zealand Pouhere Taonga Act 2014. "(a) Means any of the following that forms a part of the historical and cultural heritage of New Zealand and that lies within the territorial limits of New Zealand: (i) land, including an archaeological site or part of an archaeological site: (ii) a building or structure (or part of a building or structure): (iii) any combination of land, buildings, structures, or associated buildings or structures (or parts of buildings, structures, or associated buildings or structures); and (b) includes anything that is in or fixed to land described in paragraph".

> 6 (b) Subject to statutory requirements, the classification of any public conservation lands may be reviewed from time to time to ensure that the classification of such lands continues to either:
>
> i. give appropriate protection and preservation for their natural resources, and/or historical and cultural heritage; or
>
> ii. give appropriate protection and preservation for their educational, scientific, community, or other special features, for the benefit of the public; or
>
> iii. enable integrated conservation management identified in conservation management strategies or plans; or
>
> iv. provide for access and enjoyment by the public where that is in accordance with the purposes for which the land is held; or
>
> v. reflect the values of public conservation lands that are present; or
>
> vi. enable specified places to achieve conservation outcomes in the future.

41. The legal framework for reclassifying stewardship land is comprised of various provisions of the Act, including:

    - Section 18 (18AA and 18AB, if applicable) which provides for conferring additional specific protection or preservation requirements over any conservation area.
    - Section 8(1) enables a conservation area to become a reserve, sanctuary, refuge or national park (or be added to one) under any enactment administered by the Department (other than the Conservation Act).
    - Section 8(1A) enables a conservation area to be declared a reserve subject to the Reserves Act 1977 and to have a classification under that Act or to be added to an existing reserve.

42. Section 49 directs the process for public notification. When public notification is required, and when public notice of an intention to exercise a power is given, the process in Section 49(2)(a-e) applies. This report has been prepared in accordance with the requirement in Section 49(d) to send you, with a recommendation, a summary of the objections and comments received in response to notification, and a recommendation as to the extent to which they should be allowed or accepted.

43. For consistency, public feedback was sought on all proposals in line with the Section 49 notification process. This includes proposals which do not require a notice under statute (e.g. referral of an area to the Department to investigate the suitability of a disposal proposal).

Subsequent Steps

44. For some proposals, further steps will be required after a decision to proceed because additional considerations and/or processes are required before a final classification can be implemented.

Disposals

45. Prior to disposing of any conservation land, Section 26 of the Act and Conservation General Policies 6(c) and 6(d) apply and must be considered when a disposal process is instigated:

6 (c) Land disposal may be considered where the legislation to which it is subject allows for disposal and the land has no, or very low, conservation values.

6 (d) Subject to policy 6 (c), land disposal should not be undertaken where the land in question either:

i. has international, national or regional significance; or

ii. is important for the survival of any threatened indigenous species; or

iii. represents a habitat or ecosystem that is under-represented in public conservation lands or has the potential to be restored to improve the representation of habitats or ecosystems that are under-represented in public conservation lands; or

iv. improves the natural functioning or integrity of places; or

v. improves the amenity or utility of places; or

vi. improves the natural linkages between places; or

vii. secures practical walking access to public conservation lands and waters, rivers, lakes or the coast.

46. Where the Panels considered the land did not have attributes consistent with being held for conservation purposes, their recommendation was for a further investigation by the Department regarding the suitability of disposal, considering factors such as Section 26 of the Act and Conservation General Policies 6(c) and 6(d). If you decide to proceed with any notified disposal proposals, those areas will be referred to the Department to investigate the suitability of disposal.

National parks

47. Additions and changes to the boundaries of existing national parks are made by the Governor-General by Order-in-Council on your recommendation. Sections 7 and 8 of the National Parks Act 1980 and Policy 6 of the General Policy for National Parks set out the process for adding land held for conservation purposes to an existing national park.

48. The statutory process steps include the requirement that you shall not make a recommendation to the Governor-General except on the recommendation of the New Zealand Conservation Authority (NZCA) made after consultation with the relevant Conservation Board (section 7(2)). Section 8 also includes a process for the NZCA to request the Director-General to investigate and report on any proposal to add land to existing national parks. Section 4 of the Conservation Act applies to your decisions and extends to decisions and other statutory actions carried out by the NZCA.

49. As such, the process undertaken for the Stewardship Land Reclassification Project will still need to comply with the obligation at section 7 (and potentially section 8, depending on the response from the NZCA) of the National Parks Act, before you can recommend to the Governor-General that any conservation area shall be added to any national park. The Department will engage with the NZCA following your decisions to complete the full process, and the NZCA may choose to draw on the outputs of the reclassification process to inform their recommendation.

50. If you decide that any notified proposals for additions to a national park should proceed, the Department will inform the NZCA which will then consider whether it wishes to make a recommendation. The Department will collate the information required by the NZCA to enable them to consider their own recommendation, which will include existing assessments completed by DOC such as the relevant Conservation Value Reports.

51. The NZCA may exercise its discretion as to whether to make a recommendation based on its assessment as to whether the land meets the criteria for national park status. The 2005 General Policy for National Parks was adopted by the NZCA and includes direction and guidance for the additions and changes to the boundaries of existing national parks. Policy 6(a) to (6(c) describes particular criteria or values for land recommended for addition to a national park.

52. In considering a proposal, the NZCA must first carry out the steps set out under Policy 6(d) of the General Policy for National Parks:

> "Before requesting an investigation and report on any proposal that land should be declared to be a national park or part of a national park, the Authority:
>
> i. will advise the Minister of Conservation of the proposal
>
> ii. will seek the views of the conservation board within whose area of jurisdiction the land is located;
>
> iii. will seek the views of tangata whenua within whose rohe the land is located.
>
> iv. should seek the views of the any territorial authority and any fish and game council within whose area of jurisdiction the land is located."

53. If the Authority decides to proceed following their 6(d) engagement, it must decide if a Section 8 National Parks Act investigation is required to justify the addition to the national park, or if the addition can occur under Section 7 of the National Parks Act without a formal investigation.

54. I note that Policy 6(h) of the General Policy for National Parks considers circumstances whereby the NZCA may recommend additions to a National Park without requesting a formal investigation:

> "The Authority may recommend additions or boundary adjustments to a national park without requesting a formal investigation, when the land to be added has been specifically acquired for national park purposes, and in other circumstances, including one or more of the following:
>
> i. the addition or adjustment would create a boundary that more closely follows natural features;
>
> ii. the land to be added is contiguous with the national park or largely surrounded by the national park, with the same, or complementary, natural values;
>
> iii. the national park values have already been investigated or are already well documented;
>
> iv. there are no significant adverse effects on tangata whenua values;
>
> v. the land does not contain significant known mineral deposits with commercial potential which are economically viable for extraction;
>
> vi. the addition is considered unlikely to have significant adverse effects on communities beyond the boundaries of the national park."

55. The NZCA may consider that some aspects of Policy 6(h) have been met by the reclassification process completed to date. For example, that under Policy 6(h)(iii) national park values have already been investigated or are already well documented, because the WSI reclassification process has elicited public information that is available to the NZCA.

56. If a Section 8 investigation is initiated, under Policy 6(e) a number of reports will be required:

> "Investigation reports on any proposal that land should be declared to be a national park or part of a national park should include an assessment of the likely social, recreational, cultural and economic implications for tangata whenua and local and regional communities, as well as the nation generally."

57. In addition, under 6(f*)*:

> "The investigation process should include consultation with tangata whenua and seek written comments from, and have regard to the views of, interested people and organisations." The investigation process described in paragraphs 9 and 10 would be carried out by the Department at the direction of the NZCA.

58. Policy 6(i) is also relevant, as it sets out the matters that should be considered by the NZCA before recommending additions to existing national parks. In particular:

> i. "the need to protect natural, historical and cultural heritage in national parks from adverse effects of activities outside national park boundaries, and avoid any potential adverse effects of national park status on adjoining land;

ii. the goal of a representative range of ecosystems, natural features and scenery types being included in national parks;

iii. landscape units;

iv. readily identifiable natural features;

v. convenience for the efficient management of the national park; and

vi. access options, consistent with the need to preserve national park values."

Novel local purpose reserves

59. Prior to classifying land as a local purpose reserve, further policy work by the Department maybe required where the purpose is novel or new. The purpose of any novel reserve needs to be accurately described for public notice and gazettal, and to identify any potential management implications.

60. If you decide to not proceed with any notified local purpose reserve proposals due to the need for further policy work, those areas will remain held in stewardship at this time. After any required policy work has been concluded, a future decision would be required whether to assign the revised reserve purpose, which may include a subsequent public notification.

Scope of Considerations

61. The applicable section of the Act for this report is Section 49(2), particularly subsections (d) and (e), which states:

> "49 Public notice and rights of objection
> (...)
> (2) Where the Minister gives public notice of intention to exercise any power conferred by this Act or gives public notice of an application for a concession—
> (...)
> (d) the Director-General shall send to the Minister with a recommendation a summary of all objections and comments received and a recommendation as to the extent to which they should be allowed or accepted; and
> (e) the Minister shall consider the recommendation and the contents of the summary before deciding whether or not to proceed with the proposal".

62. This report sets out my recommendations to you as required in Section 49(2)(d). My recommendations follow a two-step consideration of submitters' objections and comments:

- The extent to which they should be 'allowed'.
- The extent to which objections and comments that are allowed should be 'accepted'.

63. My summary recommendation is based on the merit of those submissions which have been both 'allowed' and 'accepted', having regard to the natural and historic resources present as well as Section 4 considerations. My recommendation does not advocate for any classification other than that which was notified.

The 'Allow' Test

64. Not all the material received through the submission and hearing process is relevant to decision-making. Submission points that are not relevant cannot have a bearing on the outcome and should not be factored into your decisions.

65. The relevance of submissions was analysed through the 'allow' test and only those within scope informed my recommendation to you.

66. Given the number of objections and comments received through notification and hearings, and the common issues raised, submission points have been grouped into thematic categories. Each theme is described in Chapter 6 of this report (Submission Themes and Allow Test), followed by my recommendation as to the extent to which objections and comments within those themes should be allowed.

67. I have recommended that objections and comments within a theme are allowed if the theme is:

- Directly relevant to the decision in the public notice (the intent to reclassify certain areas from stewardship land to the notified land classification, or to investigate the area for disposal).
- Concerning a matter which can be considered within the legal framework governing the reclassification of stewardship areas under the Act.

68. Relevant matters include, but are not limited to, the natural and historic resources present as defined in the Conservation Act, Section 4 considerations and the impact of associated legislation such as the Climate Change Response Act 2002.

69. Where objections and comments are not relevant, or cannot be considered under the Act, my recommendation is that they should be not allowed.

70. Matters that are not allowed include comments on process, consultation, permissions, economic factors, land use and other miscellaneous comments which are not relevant, for example comments clearly not referring to the intended piece of land.

The 'Accept' Test

71. If the objections and comments within a theme are 'allowed', further analysis is then undertaken as to the extent to which matters raised in submissions should be 'accepted'.

72. This involves assessing the extent to which objections and comments made in the context of classifying each stewardship area hold merit. I have considered whether objections and comments are specific, substantive, or provide relevant new information or a persuasive argument regarding whether a classification is appropriate for the natural and historic resources present.

73. The Conservation Value Reports were used as the starting point for assessing merit as they identify the natural and historic values present, alongside the Ngāi Tahu values and interests, as understood at the time of notification. Where new information was raised by submitters which was not similarly identified in Conservation Value Reports, or further context was required, additional resources such as management planning documents were consulted. In some instances, further advice was sought from DOC technical experts.

74. Where objections and comments are contradictory and cannot be reconciled, a decision must be made about which to accept based on the merits of the points made, in the context of the Act. Implementation of a land classification is a binary decision (it either is or isn't reclassified) and, unlike other statutory processes managed by the Department such as the concessions regime, concerns cannot be addressed through conditional approval.

75. The outcome of applying the accept test is that I recommend the extent to which those objections and comments should be accepted, informing you in your decision to proceed or not proceed with the proposed classification. The reasoning for my recommendations is explained separately for each of the 576 notified proposals in the summary reports.

4. Analysis of Submissions

76. A large volume of information was received in response to public notification, through a total of 6,631 submissions. This included 5,976 submissions made using a template prepared by the Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest and Bird), 1,078 of which also included additional individual comments, and 655 other submissions. One submission, from the Coal Action Network, included a petition signed by 2,113 people. Most submissions included comments in relation to several stewardship areas, with some commenting on all 576 notified proposals.

77. There were four avenues by which submission comments were received:

    i. *Survey submissions.*

    An online submission platform was available. Submitters could select a position (i.e. support, oppose, no opinion) in relation to a specific recommendation, and were able to make a comment. Some submitters selected a position but did not include a comment.

    ii. *Written submissions.*

    These were received via email or in physical form. An analyst then reviewed these submissions to identify comments which could be assigned to specific stewardship areas. Analyst judgement has determined the position of those submission comments in relation to relevant recommendations (i.e. support, oppose, no opinion).

    iii. *Template submissions.*

    Some submissions were received through a third-party template, supplied by Forest and Bird. A review of the template text identified comments which could be assigned to specific recommendations. Some template submissions also included unique comments. These were reviewed and assigned to relevant stewardship areas, including the comment's position in relation to relevant recommendations.

    iv. *Hearing submissions.*

    Some submitters presented at a hearing in support of their submission, with notes taken by the DOC technical team. Where comments could be assigned to specific recommendations, they have been

78. For each recommendation, the numbers of submissions in support or opposition are shown. Where the 5,976 Forest and Bird template submissions in support of recommendations for national park investigation were applicable, they have been included in the relevant numbers.

79. Submissions from all sources have been analysed together, and grouped into themes. Where submissions cover multiple themes a 'primary theme' has been assigned to each comment, which most accurately reflects the main focus of the comment. Secondary themes have also been assigned where applicable.

80. Submitters frequently commented on both the National Panel and Mana Whenua Panel recommendations. All comments for a particular stewardship area have been summarised as they relate to each separate recommendation, under the groupings of 'support', 'oppose' and 'no opinion/position stated'. Within these groupings, comments are presented under thematic headings. These thematic groupings are defined in the Chapter 6.

81. All comments and objections have been summarised, with illustrative quotes included. Obvious spelling or grammatical errors have been amended for clarity.

5. Treaty Principles Analysis

82. Section 4 of the Act requires the Minister and the Department to give effect to the principles of the Treaty when interpreting and administering that Act (including the legislation listed in Schedule 1 of that Act). That obligation applies to the process and to the substance of the decision making of reclassifying stewardship land.

83. The Treaty principles of particular relevance to the Stewardship land Reclassification Project in relation to the preparation of this Section 49 report include:
    - Partnership
    - Informed decision making
    - Active protection

84. Other principles may apply, depending on the circumstances. How these principles play out in practice is necessarily context dependent. Treaty principles do not dictate any particular result but require good faith and reasonable action by both Crown and Māori in the circumstances. The proper approach to Treaty principles is that they themselves require a balance of tangata whenua and other interests.

Partnership

85. The principle of partnership involves engaging with affected iwi in the reclassification of stewardship land in good faith, fairly and reasonably. Acting fairly and reasonably includes honouring any previous commitments made to a group[9].

86. The Agreements with Ngāi Tahu are addressed above and reflect the parties' desire to work together on the reclassification project in a manner consistent with Section 4 of the Act. The Mana Whenua Panel worked alongside the National Panels to provide information on mahinga kai, mātauranga Māori, and Ngāi Tahu interests, and to make recommendations about the appropriate classifications for the land. The Agreements also provide an opportunity for the Mana Whenua Panel and the Kaiwhakahaere to also provide separate views or recommendations directly to the Minister if need be.

87. The Department considers it has engaged with Treaty partners reasonably and in good faith, consistently with Section 4, having regard to the context.

Informed Decision Making

88. The Treaty principle of informed decision making requires that you have sufficient information to fully understand the relevant interests of Treaty partners and any implications of classification decisions on those interests. For example, different classification options may have consequences for how whānau, hapū, and iwi can connect to their ancestral lands by taking up opportunities on the conservation estate (whether through concessions or otherwise)[10].

89. Making an informed decision requires that you understand the interests and views of the relevant Treaty Partners. Engaging properly with iwi/hapū and undertaking Treaty due diligence enables the Department and you to properly understand the nature of the rights or interests.

90. Where specific Ngāi Tahu interests were raised for consideration by the Mana Whenua Panel or where Treaty interests were raised in submissions from Treaty partner organisations, these are identified in my summary recommendation for each stewardship area.

91. In addition, I acknowledge statements of the Mana Whenua Panel that "the Mana Whenua Panel expressly reserves the right of Ngāi Tahu to seek to have the classification of this area reviewed in the future. There is a deep

[9] As described at [70]. *Hart v Director-General of Conservation* [2023] NZHC 1011.

[10] As described at [52]. *Ngāi Tai Ki Tāmaki Tribal Trust v Minister of Conservation* [2018] NZSC 122.

connection between Ngāi Tahu and all of the whenua in the Ngāi Tahu takiwā. The interests of Ngāi Tahu in this area may change over time which may require the classification to be revisited. In addition, more appropriate forms of protected area classifications from a Ngāi Tahu perspective may be developed through conservation law reform".

Active Protection

92. The Treaty principle of active protection imposes a positive duty to protect Māori property interests and taonga retained under the Treaty as part of the promises made in the Treaty for the right to govern. This includes the obligation that reasonable steps be taken to actively protect the relevant values and interests in stewardship land identified by affected iwi through this process.

93. The economic opportunities and interests of Treaty partners is a matter that may be taken into account in considering the active protection principle (for example the economic benefit that could potentially accrue as a result of a concession) in your decisions on reclassifying stewardship land, This is a matter that was central to the *Ngāi Tai ki Tamaki* case (mentioned below), although that was in the context of a concession application, it has some broader application across conservation decision making. Also, as noted above, General Policy for National Parks 6(e) considers that social, recreational, cultural and economic implications for tangata whenua are relevant matters to consider when a national park proposal is being investigated.

94. Active protection requires you to properly understand the nature of the interest claimed and to reconcile that material with any wider or competing rights or interests, and to make informed decisions that are reasonable in the circumstances.

Section 4 of the Conservation Act – case law

95. The meaning and application of section 4 of the Act was considered by the Supreme Court in 2019 in the landmark *Ngāi Tai ki Tamaki* case. The judgment confirmed, amongst other things, that:[11]

- Section 4 of the Conservation Act is a powerful provision and should not be narrowly construed – at [52(a)].
- Section 4 requires more than procedural steps – substantive outcomes for iwi may be necessary – at [52(b)].
- Enabling iwi or hapu to reconnect to their ancestral lands by taking up opportunities on the conservation estate (whether through concessions or otherwise) is one way that the Crown can give practical effect to Treaty principles – at [52(c)].
- In applying s 4 to a decision relating to a concession application, the Department must, so far as is possible, apply the relevant statutory and other legal considerations in a manner that gives effect to the relevant principles of the Treaty - at [53].
- Section 4 does not exist in a vacuum and must be reconciled with other values, such as values of public access and enjoyment at issue in the case. But section 4 should not be seen as being trumped by other conservation-related considerations like those mentioned in [54] of the judgment. Nor should section 4 merely be part of an exercise in balancing it against the relevant considerations – at [54].
- What is required is a process under which the meeting of other statutory or non-statutory objectives is achieved to the extent this can be done consistently with section 4, in a way that best gives effect to the relevant Treaty principles – at [54].
- The factual context is important in terms of how section 4 and the Treaty principles should be applied in any particular case – at [52].

[11] *Ngāi Tai Ki Tāmaki Tribal Trust v Minister of Conservation* [2018] NZSC 122. The case involved the judicial review of the Minister's decisions to grant concessions to two operators to undertake commercial guiding concessions on Motutapu and Rangitoto islands, which was opposed by Ngāi Tai ki Tāmaki Tribal Trust. Ngāi Tai ki Tāmaki Tribal Trust itself held their own concession for guiding activities but with a cultural focus.

- How the Court's observations are applied to a particular decision will depend on which Treaty principles are relevant and what other statutory and non-statutory objectives are affected – at [55].
- Section 4 does not create a power of veto by an iwi or hapu over the granting of concessions in an area which the iwi or hapu has mana whenua – at [95].
- The *Whales* case (Ngāi Tahu Maori Trust Board v Director-General of Conservation [1995] 3 NZLR 553 (CA)) held that, in the context of a matter under the Marine Mammal Protection Regulations, Ngāi Tahu were entitled to a reasonable degree of preference subject to overriding conservation considerations and the quality of service offered – at [50(d)].
- *Section* 4 does not exist in a vacuum and the court acknowledged the complexity of the task facing decision-makers – at [72].

96. The *Ngāi Tai ki Tamaki* Judgment largely confirms and builds on previous jurisprudence, including the Court of Appeal's 1995 *Whales* decision.[12] The full Court of Appeal in the *Whales* decision was clear that in the context of the legislation the conservation objective must remain paramount.[13] The *Ngai Tai ki Tamaki* judgment did not depart from this approach and is consistent with the Supreme Court's finding that s 4 does not apply in a vacuum and the need to reconcile Treaty principles with other relevant values.

97. While the context of the *Ngāi Tai ki Tamaki* case was in a concessions process, the messaging and direction from the Court will be relevant to the consideration of section 4 in this process, particularly the focus on the fact that section 4 is a powerful Treaty clause.

98. When preparing recommendations and applying the 'accept' test under Section 49(2)(d), I have considered how best to ensure this this obligation is discharged in any decision making.

Submissions from Treaty partner organisations

99. Submissions on the notified intentions were received from five statutorily recognised Treaty partner organisations[14].

- Te Rūnanga o Ngāi Tahu
- Te Rūnanga o Arowhenua
- Ōraka-Aparima Rūnaka Incorporated
- Te Rūnanga o Ōtakou
- Kāti Huirapa Rūnaka ki Puketeraki

100. These submissions are broadly summarised below. Where applicable, specific comments have also been included in the summary of submissions for specific stewardship areas. My section 49(2)(d) recommendation as to whether those comments should be accepted is explored on a case-by case basis, having regard to the context.

Te Rūnanga o Ngāi Tahu

101. The written submission from Te Rūnanga o Ngāi Tahu[15] expressed broad support or opposition in relation to categories of recommendations made by the Panels. The submission also included site-specific comments in support of fourteen proposed local purpose and historic reserves.

102. The submission from Te Rūnanga o Ngāi Tahu can be categorised into three groupings:

[12] Ngai Tahu Maori Trust Board v Director -General of Conservation [1995] 3 NZLR 533.
[13] At pages 12, 14 and 15.
[14] These Treaty partner organisations are listed in Te Rūnanga o Ngāi Tahu (Declaration of Membership) Order 2001.
[15] Available at: https://ftp.doc.govt.nz/public/folder/wZ3gQtR2hEetP0uosnIzUw/organisations/SLR-88880009%20-%20Te%20R%C5%ABnanga%20o%20Ng%C4%81i%20Tahu.pdf

Group 1: National Panel and Mana Whenua Panel in agreement; submission in support of Mana Whenua Panel

103. Te Rūnanga o Ngāi Tahu supported the Mana Whenua Panel's reclassification recommendation for stewardship areas where the Mana Whenua Panel made the same recommendation as the National Panel:

> "Areas where the Mana Whenua Panel and National Panel made the same recommendations. For all such areas, Te Rūnanga supports the recommendations of the Mana Whenua Panel on the basis that those recommendations reflect the values, interests, and perspectives of the Papatipu Rūnanga in whose Takiwā the relevant land is located".

104. Specific Treaty interests were identified in relation to the proposed Ngāi Tahu local purpose and historic reserves (e.g. "Pounamu fossicking area", "Nohoanga site", "Mahinga kai"). It was further noted that "the proposed reserves recognise sites of significance to Ngāi Tahu and ensure Ngāi Tahu values, alongside conservation values, are at the forefront of the classification".

Group 2: National Panel and Mana Whenua Panel disagree; submission in support of Mana Whenua Panel and in opposition to National Panel

105. Te Rūnanga o Ngāi Tahu supported the reclassification recommendations of the Mana Whenua Panel and opposed the recommendations of the National Panel for all stewardship areas where the Panels made divergent recommendations:

> "Areas where the Mana Whenua Panel and National Panel did not agree, with each making a separate recommendation. For all such areas, Te Rūnanga supports the recommendations of the Mana Whenua Panel and opposes the recommendations of the National Panel".

106. This was supported by the rationale that the recommendations of the Mana Whenua Panel "reflect the values, interests, and perspectives of the Papatipu Rūnanga in whose Takiwā the relevant land is located".

Group 3: National Panel and Mana Whenua Panel disagree on National Park classification – submission in support of Mana Whenua Panel and opposition to National Panel

107. Te Rūnanga o Ngāi Tahu opposed all National Panel recommendations for national park investigation and supported the Mana Whenua Panel's recommendation to retain these areas in stewardship, pending conservation law reform to create more appropriate forms of protected area classifications from a Ngāi Tahu perspective:

> "Te Rūnanga opposes all National Panel recommendations for stewardship land to be added to existing national parks and supports the Mana Whenua Panel recommendations for all such areas to remain as stewardship land".

108. The submission was supported by the rationale that a national park classification "obstructs Ngāi Tahu from maintaining ancestral relationships with the whenua, obstructs kaitiaki rights and responsibilities, limits the meaningful involvement of Ngāi Tahu in decision-making processes, and is less enabling of customary practices that are fundamental to sustaining tribal identity and mana".

Te Rūnanga o Arowhenua

109. The written submission from Te Rūnanga o Arowhenua[16] (Arowhenua) acknowledged that although the land under assessment is "not within the takiwā of Arowhenua, Arowhenua consider that the decisions made here are of importance to all Ngāi Tahu". Arowhenua expressed that when making reclassification decisions, it is important to:

- "Acknowledge the mana and rangatiratanga of Ngāi Tahu.

[16] Available at: https://ftp.doc.govt.nz/public/folder/wZ3gQtR2hEetP0uosnIzUw/organisations/SLR-10020726%20-%20Te%20R%C5%ABnanga%20o%20Arowhenua.pdf

- Provide for Ngāi Tahu wellbeing, to exercise kaitiakitanga and mahinga kai.
- Provide a role for Ngāi Tahu in management and decision-making.
- Give effect to the principles of the Treaty of Waitangi."

110. The submission from Arowhenua can be categorised into two groupings:

Group 1: Submission in support of local purpose and historic reserves proposed by Mana Whenua Panel

111. Arowhenua expressed support for "all fourteen local purpose and historic reserves that have been proposed by the Mana Whenua Panel". It was further noted that these recommendations "recognise sites of significance to Ngāi Tahu and ensure Ngāi Tahu values and interests are at the forefront of the classification alongside conservation values".

Group 2: Support Mana Whenua Panel opposition to national park additions

112. Arowhenua did not explicitly offer a view on the recommendations of the National Panel, although did express opposition to "further additions to national parks". This position was interpreted, and applied, as opposition to all national park investigations proposed by the National Panel.

113. This position was supported by the rationale that "National Parks have stringent preservation and protection which obstruct Ngāi Tahu from maintaining ancestral relationships with the whenua, obstructs kaitiaki rights and responsibilities, limits the meaningful involvement of Ngāi Tahu in decision-making processes, and is less enabling of customary practices that are fundamental to sustaining tribal identity and mana".

Ōraka-Aparima Rūnaka Incorporated

114. The written submission from Ōraka-Aparima Rūnaka Inc[17] (Ōraka-Aparima) expressed general support for "the recommendations of the Ngāi Tahu Tai Poutini (West Coast) Mana Whenua Panel in the Stewardship Land Reclassification process", noting their status as "one of 18 Papatipu Rūnanga of Ngāi Tahu".

Te Rūnanga o Ōtakou

115. The survey submission from Te Rūnanga o Ōtakou[18] noted general support for those local purpose and historic reserves supported by the Mana Whenua Panel.

Kāti Huirapa Rūnaka ki Puketeraki

116. The survey submission from Kāti Huirapa Rūnaka ki Puketeraki[19] commented on several recommendations made by the Panels, with a focus on those local purpose and historic reserves supported by the Mana Whenua Panel.

117. The comments highlighted particular values and interests associated with specific areas (e.g. "There are pounamu traditions, trails & passes (particularly Rakimaurikura, Te Tarahanga o Kaniere & Amuri) there were trading routes for pounamu & kai in times of war & peace, connecting Te Poutini with the east coast").

[17] Available at: https://ftp.doc.govt.nz/public/folder/wZ3gQtR2hEetP0uosnIzUw/organisations/SLR-10020740%20-%20%C5%8Craka-Aparima%20R%C5%ABnaka%20Inc.pdf

[18] Available at: https://ftp.doc.govt.nz/public/folder/wZ3gQtR2hEetP0uosnIzUw/organisations/SLR-10019189%20-%20Te%20Runanga%20o%20Otakou.pdf

[19] Available at: https://ftp.doc.govt.nz/public/folder/wZ3gQtR2hEetP0uosnIzUw/organisations/SLR-10019378%20-%20Kati%20Huirapa%20Runaka%20ki%20Puketeraki.pdf

6. Submission Themes and Allow Test

118. Each submission theme is described in this section, followed by my recommendation as to the extent to which objections and comments within those themes should be allowed, including the rationale behind that recommendation. This approach endeavours to ensure consistency in the consideration of which submission points should be allowed.

Submission Theme	Allow/Not Allow
Access and Recreation	Allow
Climate Change and Natural Hazards	Allow
Community	Allow
Ecology and Landscape	Allow
General	Allow
Historic and Cultural Values	Allow
Treaty Considerations	Allow
Other	Not Allow
Permissions, Economic Factors and Land Use[20]	Not Allow
Position Error	Not Allow
Process and Consultation	Not Allow

Access and Recreation

119. Submissions in this theme include references to public access, hunting, tramping, water sports, dog access, the development of recreation opportunities/potential, and appreciation of (or wellbeing due to) natural and/or historic values, and were identified as having an 'access and recreation' theme.

120. Examples of comments include "Disposal puts public access at risk. Recommend reclassification as Local Purpose Reserve for River Access" or "As someone who lives on the West Coast, and enjoys bringing my dog with me during outdoor recreation, I have concerns that some of the proposed changes will needlessly create barriers to this".

121. I recommend that objections and comments in this theme are allowed.

122. My recommendation to allow comments on recreation is based on recognition in the Act that recreational values are an element of conservation values. The definition of conservation is "protecting and preserving natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public, and safeguarding the options of future generations" (Conservation Act 1987, s. 2). The definition means the public's recreational enjoyment of natural and historic resources needs to be treated as a conservation value.

123. Objections and comments related to 'access and recreation', being consistent with the definition of conservation, are relevant matters to consider in the reclassification of stewardship land.

Climate Change and Natural Hazards

124. Submissions in this theme include general comments relating to climate change mitigation or the conservation of stewardship land to protect from natural hazards, giving this reasoning either in support of (or opposition to) the notified reclassification recommendation(s).

[20] This theme does not include submissions related to Treaty partner interests, which are addressed under Treaty Considerations.

125. Comments include references to the use of stewardship land to mitigate the scale or impacts of climate change, including the restoration of ecosystems, carbon sequestration, ecosystem resilience, buffer against ecological shock, avoiding further loss of carbon, nature-based solutions, and revegetation for the purposes of flood buffers and erosion protection (e.g. "this stewardship area should be restored to promote carbon fixation," or "restoring the coastal ecosystem on this stewardship area will act as a flood buffer against coastal erosion").

126. Comments including references to adaptation, managed retreat or relocation and engineered infrastructure (sea walls/flood banks) are addressed in the theme 'Permissions, Economic Factors and Land Use' (e.g. "this area could be used for housing development as part of the managed retreat of nearby towns").

127. I recommend that objections and comments in this theme are allowed.

128. This is supported by future-focused elements within the definition of conservation, including:
    - "Safeguarding the options of future generations",
    - In relation of 'natural resources', "the air, water and soil in or on which any plant or animal lives or may live", and,
    - In relation to 'protection' of a resource, "restoration to some former state and its augmentation, enhancement, or expansion," (Conservation Act 1987, s. 2).

129. The consideration of objections and comments within this theme is further supported by section 5ZN of the Climate Change Response Act 2002. This permits public decision-makers to take into account New Zealand's emissions target, budget and reduction plans. The New Zealand Emissions budget aims for net zero greenhouse gas emissions by 2050.

130. Objections and comments related to 'Climate Change and Natural Hazards' being consistent with the definition of conservation, are valid considerations under the Act in terms of reclassification of stewardship land.

Community

131. Submissions in this theme relate to the effects of reclassification on community use and community activities that are not conservation values (i. e. recreation-based or historic), or social impacts on the community more broadly, giving this reasoning either in support or opposition to the notified reclassification recommendation. This does not include discussion of broader economic impacts, which are discussed under Permissions, Economic Factors and Land Use.

132. Comments include discussion of community-related infrastructure, Civil Defence, community halls, community services, and other community elements (e.g. "this stewardship area is adjacent to the town hall and is currently used as a parking and barbecue area"; "this stewardship area is used as a Civil Defence assembly point"; "A greater degree of protection would relieve the local community of the constant presence of test drilling and exploration, and the social disruption this causes").

133. I recommend that objections and comments in this theme are allowed.

134. While community uses that are not recreation-based or cultural do not constitute 'conservation values' under the central purpose of the Act, section 17A directs the Department to administer and manage all conservation areas in accordance with statements of general policy. Conservation General Policy 6(b) states that the classification of any public conservation land should "give appropriate protection and preservation for their educational, scientific, community, or other special features, for the benefit of the public".

135. Objections and comments related to 'community', being consistent with the direction in Section 17A of the Act and Conservation General Policy 6(b), are valid considerations in terms of reclassification of stewardship land under that Act.

Ecology and Landscape

136. Submissions in this theme include references to landscape features, landscape context (including adjoining classifications) and ecological features, either in support or opposition to the notified recommendation.

137. These include natural features, patterns and processes, natural values, scenic values, landscape features, geological values, and features like moraines, karst, terraces, cliffs, sandspits, beaches, terraces, cliffs, dunes, flora, fauna, biodiversity, habitat, forests, ecosystems, breeding sites, water quality, freshwater habitat/systems and current specific protections or initiatives (e.g. Ecological/Species Management Units (EMU/SMU) or discussion of conservation projects or groups active in area). They also include references to the classification status of adjoining land, adjacent conservation covenants such as QEII, and adjacent private or Crown-owned land.

138. Comments in this theme include general statements such as, "the landscape values in the Area require a different level of protection, preferably either a National Park or Scenic Reserve"; "we need to protect the biodiversity we have left and therefore a National Park status is more appropriate"; "the stewardship area should be added to the adjacent scenic reserve as it provides an ecological buffer for threatened biodiversity".

139. Also included are more specific statements such as, "As a rare example of granite gneiss on the NZ coastline, this is well worth inclusion in the National Park"; "the braided riverbed provides an important habitat for banded dotterels and should be given a higher level of protection as an Ecological Area".

140. I recommend that objections and comments in this theme are allowed.

141. 'Ecology and landscape' values are derived from the definition of 'natural resources' which are protected and preserved under the Act, which includes "(a) plants and animals of all kinds; and (b) the air, water, and soil in or on which any plant or animal lives or may live; and (c) landscape and landform; and (d) geological features; and (e) systems of interacting living organisms, and their environment" (Conservation Act 1987, s.2).

142. Objections and comments related to 'ecology and landscape, being consistent with the definition of conservation, are valid considerations under the Act in terms of reclassification of stewardship land.

General

143. Submissions in this theme include those which express general support or opposition to a proposed recommendation. This includes those which do not include further justification or reasoning (e.g. "Support recommendation as National Park" or "Agree with Mana Whenua Panel recommendation").

144. It also includes those which provide justification without referring to specific values (e.g. "Agree with recommendation for the reasons given in the technical reports") or make broad statements that do not specifically reference the area of land in question (e.g. "Support all stewardship land being given the highest possible protection").

145. I recommend that objections and comments in this theme are allowed.

146. Objections and comments in this theme are directly relevant to the public notice (the intent to reclassify certain areas from stewardship land to another land classification), noting general support or opposition to the proposed recommendation.

Historic and Cultural Values

147. Submissions in this theme include reference to identified heritage or cultural values, either in support or opposition to the notified recommendation.

148. Comments include references to archaeological sites such as pā, umu, middens, nohoanga sites, mahinga kai and pounamu trails, historic buildings, and sites associated with historic mining and historic farming practices. Examples include "Support the recommendations of the Mana Whenua Panel for reclassifications to local purpose reserves on the basis of specifically identified cultural and historical values" or "This area needs to be better

recognised for its historic values. The area is a maze of water races, tunnels, old hotel and house sites that represents a treasure trove of archaeological remnants".

149. I recommend that objections and comments in this theme are allowed.

150. 'Historic and cultural values' are derived from the definition of 'historic resources' which are protected and preserved under the Act, defined as having the same meaning as a 'historic place' within the meaning of the Heritage New Zealand Pouhere Taonga Act 2014 (Conservation Act 1987, s. 2). 'Historic place' refers to land, buildings and structures that 'form part of the historical and cultural heritage of New Zealand. Objections and comments related to 'heritage and culture', being consistent with the definition of conservation, are valid considerations under the Act in terms of reclassification of stewardship land.

151. The consideration of Māori cultural values is further supported by Section 4 of the Act; "this Act shall so be interpreted and administered as to give effect to the principles of the Treaty of Waitangi". In the context of the reclassification of stewardship land, this involves the consideration of any Māori cultural value alongside the identified natural and historic resources. This relates to all submissions received extends beyond the values and interests identified by affected iwi.

Treaty Considerations

152. Submissions in this theme refer to Treaty of Waitangi principles and/or iwi/hapū/whānau Treaty interests and considerations as they relate to the classification of areas of stewardship land, giving reasoning either in support or opposition to the notified reclassification recommendation.

153. Comments include references to Treaty of Waitangi principles and Treaty interests, including mana whenua rights and relationships with the land, rangatiratanga, kaitiakitanga, the effect of a proposed classification on mana whenua, and iwi wellbeing and aspirations, including economic opportunities and climate change considerations (e.g. "classifying this stewardship area as National Park limits ancestral relationships, rangatiratanga and customary practices" or "support classifications which provide for iwi/hapū/whānau aspirations").

154. This theme includes comments from both individual submitters and statutorily recognised Treaty partner organisations.

155. I recommend that objections and comments in this theme are allowed.

156. In the context of the reclassification of stewardship land, the Treaty principle of informed decision making requires you to have sufficient information to fully understand the relevant Treaty partner interests and any implications of decisions on those interests. This may include consideration of the cultural, social, and economic implications of reclassification on affected iwi. For example, enabling iwi or hapū to reconnect to their ancestral lands by taking up opportunities on the conservation estate (whether through concessions or otherwise)[21].

157. The Treaty principle of active protection imposes a positive duty to protect Māori property interests and taonga. Through this process, you have an obligation to take reasonable steps to actively protect the relevant Treaty interests identified. What is reasonable depends on the context, including the nature of the interests and any overlapping interests [22].

158. The direction of Section 4 of the Act means that objections and comments related to Treaty considerations are a valid consideration in terms of the Treaty principles of partnership, informed decision making, and active protection in the reclassification of stewardship land. As noted, you must, so far as is possible, apply the relevant statutory and other legal considerations in a manner that gives effect to the relevant principles of the Treaty [23].

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[21] As described at [52]. Ngāi Tai Ki Tāmaki Tribal Trust v Minister of Conservation [2018] NZSC 122.

[22] *New Zealand Māori Council v Attorney-General* [1994] 1 NZLR 513 at 517; *New Zealand Māori Council v Attorney-General* [1987] 1 NZLR 641 (CA) at 665–666.

[23] As described at [53]. Ngāi Tai Ki Tāmaki Tribal Trust v Minister of Conservation [2018] NZSC 122.

What is required is a process under which the meeting of other statutory or non-statutory objectives is achieved, to the extent that can be done consistently with section 4, in a way that best gives effect to the relevant Treaty principles.

Other

159. Submissions identified as 'other' refer to other statutory and regulatory processes or discuss other topics not directly relevant to the reclassification process, the proposed classifications, or the values present.

160. Comments include those which relate to activities that should be allowed in a specific classification (e.g. "helicopter use should not be restricted in national parks"), vesting, subsequent management processes, conditions/caveats for land in a specific classification (e.g. fencing, setbacks, management actions), disposals process (e.g. "if land is disposed of there must be an access easement"), disposal recipients ("this area should be disposed of to current grazing lessee"), mining remediation ("reclassification of the piece should be deferred until mining remediation has been completed"), DOC funding or management actions, trapping programmes, or comments about using other legislative mechanisms (e.g. processes under the Heritage New Zealand Pouhere Taonga Act 2014).

161. I recommend that objections and comments in this theme are not allowed.

162. Objections and comments about other/subsequent processes or legislation are not the subject of the public notice (the intent to reclassify certain areas from stewardship land to another land classification) and are therefore not allowed for the purpose of this report.

Permissions, Economic Factors and Land Use

163. Submissions in this theme relate to economic considerations, permissions/concessions or land use as they relate to the classification of areas of stewardship land, either in support or opposition to the notified classification.

164. Comments include concerns about the potential effects of reclassification on current or potential future permissions, existing or potential uses of land, economic value of land or activities that could be carried out on the land (to individuals or community/local economy), economic ramifications for current users or the potential for future uses of the land for economic purposes, or broader economic considerations (e.g. "this area could be used for hydroelectric development").

165. Also included are comments including references to climate change adaptation, managed retreat/relocation, and the protection of infrastructure (e.g. "this area could be used for sea walls/flood banks"; "this area could be used for housing development as part of the managed retreat of nearby towns").

166. Not included in this theme are comments discussing economic factors or permission implications in relation to the application of Treaty of Waitangi principles and the impact of a proposed classification on Māori rights and interests, including economic interests and/or aspirations of Ngāi Tahu. These are addressed above under the theme 'Treaty Considerations'.

167. I recommend that objections and comments in this theme are not allowed.

168. Stewardship land is public conservation land, which must be managed consistently with protection of its natural and historic resources. Consideration of potential non-conservation-related uses for the land, and related economic implications, are not relevant decision-making factors when determining an appropriate classification that will be consistent with achieving the central conservation purpose of the Act.[24]

169. The purpose of reclassification is not to compare the benefits and dis-benefits of managing the land for conservation purposes by comparison with other possible uses. Rather, it is to identify the natural and historic

[24] As described at [p.352]. *Buller Electricity Ltd v Attorney-General* [1995] 3 NZLR 344.

resources present, in order to consider which classification status, of those available in the legislation, provides an appropriate framework for preservation and protection of those conservation values.

170. Comments regarding potential uses of the land for climate change adaptation are not within the scope of this reclassification process. However, any reclassification does not preclude the acquisition of land for public works under the Public Works Act 1981, if the relevant Minister or local authority determines this is required.

171. Although objections and comments regarding 'permissions, economic factors and land use' may be direct responses to the proposed classification publicly notified (the intent to reclassify certain areas from stewardship land to another land classification), they are not relevant considerations under the Act.

Position Error

172. Objections and comments in this category are factually inaccurate regarding the notified recommendation, are non-sequiturs, or are clearly not referring to the intended piece of land (e.g. "this is a precious piece of land just outside of Auckland").

173. I recommend that objectives and comments in this category are not allowed.

174. These points are not considered to be validly made and are not directly relevant to the public notice (the intent to reclassify certain areas from stewardship land to another land classification). Objections and comments in this category therefore are not allowed for the purpose of this report.

Process and Consultation

175. Submissions in this theme relate to the reclassification process itself, but not to specific stewardship areas or the Panels' recommendations for those areas. Comments include criticisms of the reclassification process or the Panels, the public consultation process (e.g. "consultation should have been undertaken with the users of the baches prior to recommendations being made", "further consultation is required"), and comments about the timelines of the reclassification process.

176. I recommend that objections and comments in this theme are not allowed.

177. The Stewardship land Reclassification Project has been initiated following direction from the Minister; this project itself and the way it has been implemented is not the subject of the public notice. Objections and comments regarding the reclassification process itself are not directly relevant to the public notice (the intent to reclassify certain areas from stewardship land to another land classification) and are therefore not allowed for the purpose of this report.

Appendices: Summary of Objections and Comments Received

178. The following appendices present summaries of the objections and comments received regarding recommendations for each individual stewardship area, grouped under relevant submission themes. This is supported by quantitative data, including the number of submissions received in support or opposition to each reclassification recommendation made by the National and Mana Whenua Panel.

179. For some stewardship areas, the National and Mana Whenua Panel made different recommendations, on which public submissions were received. In these instances, the objections and comments are broken down into those received in relation to each recommendation.

180. Each summary includes my recommendation as to the extent to which objections and comments, within the identified themes, should be 'accepted'. My Section 49(2)(d) summary recommendation whether to proceed, or not, with the notified proposal is informed by my assessment of the extent to which objections and comments should be accepted.