Stewardship land – notes

What is it?

When DOC was formed it was allocated a large amount of land from other agencies. Stewardship land is a category that was created by the Conservation Act to pick up all lands that were un-classified when DOC acquired them (mostly Forest Service lands that weren't classified as forest parks or ecological areas). The land was called stewardship land because the intent was that DOC would hold it as a 'steward' until a decision was made about what to do with it – either reclassify it (e.g. as a reserve), or sell it as productive land.

Parliament envisaged that a process of wide-scale, systematic assessment, reclassification and/or sale would occur for stewardship land, but this has not happened as to date it has proven to be too time and resource intensive to undertake on a wide-scale basis, given the relatively low-level of priority and resourcing it has had within DOC.

There is a large amount of stewardship land – it makes up around 30% of all DOC land or approximately 2.5 million hectares. The majority of stewardship land is in the South Island, with a significant amount of that on the West Coast. There are smaller parcels of stewardship land in the North Island, primarily in the Waikato, Taranaki and across the Central North Island.

Stewardship Land reclassification

Stewardship land reclassification is part of DOCs ongoing work. The work is currently advancing on a region by region basis. Many areas have already been reclassified. The broad approach is to engage as partners with iwi groups (required under Section 4 of the Conservation Act and sometimes by specific treaty settlements) on a case-by-case basis to see if there is interest in co-designing a reclassification process in the area. This process is informed by working closely with the relevant DOC staff and Conservation Boards to identify priority areas.

Any reclassification project begins with a substantial programme of research to identify:

- whether the area in question is of national, regional, or local importance;
- any relevant land classifications in the wider region, including in respect of contiguous lands;
- whether the area in question contains one or more DOC-prioritised ecosystems;
- recreation and historic values;
- known cultural values; and,
- any other relevant factors (e.g. presence of threatened species, outcomes of any pest control and restoration work undertaken in the area, capacity of the area to regenerate from any historical or recent impacts).

To assess the historic, cultural, recreation and biodiversity values of the area DOC seeks advice from Treaty Partners, Conservation Boards, the New Zealand Conservation Authority and other experts. A site visit is sometimes required to confirm the values present. Once the values have been identified, DOC uses them along with the other factors noted above to develop a reclassification proposal.

Public consultation requirements vary depending on the new classification being proposed. For example: for a small scenic reserve the consultation requirements would be limited; an addition to a national park would require public notification, a submission period, and potentially a public hearing. The final decision on reclassification is made by the Minister (although it may be delegated).

Following approval, the reclassification is finalised through notification in the Gazette. The current standards for description of each parcel for the Gazette notice entail that surveying is required in most cases. Survey requirements can be costly and time-consuming.

The main area being worked on currently is the Remarkables, where they are planning to go public and call for submissions from 1 December 2020 to 31 January 2021. This will be phase 1 of a two-phase consultation. The first step involves publishing 5 reports that identify the values inherent in the land to be reclassified. The 2nd phase will involve the reclassification itself.

Other areas underway are St James Station inland from Kaikoura and a project in the Bay of Plenty. These are less far along.

These are long, slow processes – the Remarkables project has gone on for a year and a bit, St James for 7 years.

Why is reclassification slow and difficult?

Reclassification can be difficult because people have contested views and interests in the land and because of the requirements of reclassification under the Conservation Act.

In order to reclassify land, its values must be assessed. In practice this involves doing assessments of the values inherent in the land – ecological, recreational, historic, landscape and mana whenua. The results of these assessments are needed to inform what the best classification is. Working with Iwi can also slow the process in some situations. Proposed reclassifications then need to be publicly notified and consulted on, which also adds time and difficulty.

DOC has not been resourced to undertake wide-ranging reclassification to date.

What are the costs?

Reclassification is also expensive. The major cost is generally definition of boundaries, but public notification processes may also be expensive. Reclassification costs include:

- Undertaking analysis of the classification proposal. That may be relatively simple and low cost, or (e.g. in the case of a section 8 investigation) be an expensive exercise.
- Defining the land area to be re-classified. If a new definition is required (e.g. a survey) that will significantly increase the costs.
- Undertaking any required public process – public advertisements, hearings and decision-making.
- Undertaking any necessary Treaty-related process.

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Problem definition

Stewardship land was originally created as a 'holding' category for previously uncategorised land. The uncertainty about its status has led to public controversy about if/when it is appropriate to allow economic activity/development on it, or conversely, to protect it. Attempts to clarify its status through reclassification have been slow and piecemeal.

In the meantime, the blanket policy settings that apply to such a broad range of land types arguably result in sub-optimal land use. Much of stewardship land is of high conservation value, but arguably has a lower level of protection than is optimal and that which is of lower value is arguably more

difficult than necessary to develop or use for economic activity – particularly in light of recent court decisions.

Attempts to clarify the status of stewardship land through reclassification have been slow and piecemeal because:

a. people have contested views over the values inherent in the land and whether it should be protected or made available for development,
b. it can be time-consuming and resource intensive to identify all the values inherent in a parcel of land, survey it, and come up with reclassification proposals,
c. the process in the Conservation Act around working with iwi, public notification and submissions is time consuming.

The Parliamentary Commissioner for the Environment argued that stewardship land is less well protected than other land despite often being of high conservation value.

The 2015 PCE report on stewardship land identified that stewardship land has a lower level of protection than other DOC land for a couple of reasons:

i. Stewardship land is held for the vague purpose of "protecting natural and historic resources" which makes it easier to get permission to undertake commercial activities on it.
ii. It is also the only category of DOC land that can be sold or swapped – and the PCE report argues that the provisions governing its exchange are only suitable for small, simple swaps, but have been used for larger more complex swaps that PCE claims have been controversial. This can allow large projects/developments to proceed without a good process.

Stewardship land also suffers from a 'perception problem' - the widespread belief that it is of low conservation value (whereas in reality its conservation value varies greatly - it includes some areas of very high value (e.g. the northern end of Great Barrier Island) and some areas of lower value (e.g. grazed river flats and heavily logged forests)). This has resulted in ongoing debates about stewardship land, and loss of actual protection (e.g. a past Minister cited the stewardship status of some lands as a reason to allow mining on it.) As the high-conservation-value pieces of stewardship land are reclassified over time, it sends a signal that the remaining pieces are of low-value, leaving them increasingly vulnerable to development.

Recent court decisions have made it more difficult to make productive use of stewardship land

On the other hand recent court decisions have made it clear that DOC has a very limited legal ability to exchange or dispose of stewardship land - the High Court in relation to a proposal to dispose of land for a hydro dam on the Ngakawau River confirmed that stewardship land can only be disposed of in very restricted circumstances (i.e. the land cannot be sold if it has conservation values). More recently, the Ruataniwha court decision affirmed that stewardship land should be managed in the same way as conservation land to preserve options for its future use.

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Background

Expediting the reclassification and/or disposal of stewardship land is a high priority for the Minister.

There has been uncertainty and public debate around if and when stewardship areas ought to be protected for conservation reasons or used productively, e.g. for mining. In response to questions about why the government was still allowing mining on conservation land, despite a promise to prevent it, Prime Minister Jacinda Ardern pointed out that there was a difference between Stewardship Land and Conservation Land and that mining is still being allowed on stewardship land because it is less protected under current policy settings. The Prime Minister has also said that the government will review stewardship land before allowing mining on it.

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STEWARDSHIP LAND RECLASSIFICATION – DISCUSSION OF SURVEY REQUIREMENTS

This note summarises a discussion between David Griffin, Sheryll Johnson, Lorraine Sorley and William McGimpsey on the requirements to survey when reclassifying stewardship land.

Where does the requirement to survey come from?

The current definitions of land are held in the LINZ land online system. The "cadasta" is all of the survey information for the country which sits in the LINZ system in the form of the shapes in the GIS mapping system. LINZ is interested in improving the quality of the cadasta over time, which means doing more detailed surveys of land over time – particularly land for which we have poor data, such as stewardship land.

Any land which has a legal title is also required to contain specific information which you would get from a survey. The legal definition of the title is subject to Surveyor-General and Land Act requirements. The National Survey Act sets the rules/methodology for surveying.

Problems with the way stewardship land is currently defined

Most stewardship land is currently poorly defined. The process undertaken when the Conservation Act came into force and DOC was formed in 1987 didn't survey all stewardship land, instead allocation schedules were produced. These allocation schedules are diagrams certified by the chief surveyor. They rely on pencil lines on record maps.

Most stewardship land is defined by these allocation schedules, although some – parcels that were inherited post 1987 for example – have a survey and definition. Some reserves also have very old descriptions.

Stewardship land defined under these allocation schedules is not sufficiently well defined to have a title. A title is needed to dispose or exchange of land.

What do you need to do a survey for?

If land leaves Crown ownership, it needs to have the correct description in the title. This requires surveying.

You don't need a survey to change the lands description, or level of protection, if it remains in Crown ownership. But you would need to do a survey if the land was to be:

- Disposed of (i.e. sold)
- Exchanged
- Split up - A recent change to the Survey Act means that if you want to split up a bit of stewardship land, you have to survey both halves rather than just the bit you want to split off, as it was previously.
- LINZ expectations are that there would also be some sort of unique identifier that would enable them to find the land to publish a piece of land in the NZ Gazette.

There have been some discussions with LINZ on the level of survey required, and they have entertained the idea of a lighter touch survey in some situations.

Survey costs

Going to remote areas to do a survey is costly, but there are also issues with doing a desk-based survey in the office – it doesn't produce the information you need.

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