



Briefing: Background and progress update on the reclassification of stewardship land

To	Minister of Conservation	Date submitted	1 February 2024
Risk Assessment	High 9(2)(g)(i)	Priority	High
Reference	24-B-0015	DocCM	DOC-7540608
Security Level	In Confidence		
Action sought	Direction on your preferred approach for completion of the Western South Island process	Timeframe	22 February 2024
Attachments	<p>Attachment A: Map of stewardship land across Aotearoa</p> <p>Attachment B: Agreement between former Minister of Conservation and the Kaiwhakahaere of Te Rūnanga o Ngāi Tahu</p> <p>Attachment C: Summary of benefit, risk and resource analysis of options for Western South Island process</p>		
Contacts			
Name and position			Cell phone
Ruth Isaac, Deputy Director General Policy and Regulatory Services			s9(2)(a)
Nicole Kunzmann, Reclassification Manager			s9(2)(a)

Executive summary – Whakarāpopoto ā kaiwhakahaere

1. 'Stewardship land' is a holding classification for approximately 2.7 million hectares of land managed by DOC, or one third of the conservation estate. This land has not yet had its conservation values identified or assessed.
2. Reclassifying stewardship land once its conservation values are understood ensures it can be managed appropriately. A clearly defined land classification provides clarity for users of the land, both recreational and commercial, and reduces the risk of legal challenge of decisions about the land's management.
3. Reclassifying land also identifies land with very low, or no, conservation values which may be considered for disposal.
4. The Stewardship Land Reclassification Project (Reclassification Project) was established in May 2021 to streamline reclassification work through a focus on technical assessments and the use of independent National Panels, taking a region-by-region approach, beginning in the Western South Island and Northern South Island.
5. Under the Reclassification Project, two National Panels are currently operating:
 - The Western Southern Island (WSI) National Panel
 - The Northern South Island National Panel (NSI) currently working in the northern Ngāi Tahu takiwā
6. In July 2021, Te Rūnanga o Ngāi Tahu (Ngāi Tahu) legally challenged the appointment of the National Panels as being in breach of DOC's section 4 requirements. As a result of these legal proceedings, an Agreement was signed between the Minister and the Ngāi Tahu Kaiwhakahaere in October 2021. This Agreement allowed for a Ngāi Tahu-appointed Mana Whenua Panel to work alongside the National Panels to provide recommendations on land classification through to the Minister of Conservation for decision.
7. s9(2)(g)(i) [REDACTED]
8. The WSI process is the most advanced. Your role as decision maker will be to consider reclassification recommendations for the 504 stewardship areas which were publicly notified in May 2022.
9. Your decisions on these final recommendations will be supported by a summary of submissions report as required under section 49(2)(d) of the Conservation Act, a statutory requirement following public notification. Additional documentation to support your decisions will include Departmental advice and comment on the recommendations from the relevant Conservation Board.
10. s9(2)(f)(iv) [REDACTED]
11. s9(2)(f)(iv) [REDACTED]
12. s9(2)(f)(iv) [REDACTED]
13. Once the WSI process is complete, we have the opportunity to explore delivery of reclassification in a different way which might not use national panels. Options include a DOC-led model to bring the work in house and utilise the expertise the DOC team have built up during the Reclassification Project. Advice will be provided on whether and how future work progresses beyond the Western South Island.

14. This briefing seeks your direction on the options for progressing the Reclassification Project and sets out the potential advantages to transitioning to a new approach and exploring alternative options.

We recommend that you ... (Ngā tohutohu)

		Decision
a)	Note your role as a decision maker for the notified Western South Island reclassification recommendations.	
b)	Note that the Ngāi Tahu Agreement has expired and a new arrangement is required to complete the WSI and northern Ngāi Tahu takiwā reclassification processes.	
c)	s9(2)(f)(iv)	
d)	<p>Approve your preferred option for completion of the WSI process:</p> <p>i) Option one (Recommended): Retain the status quo and continue the work of the National Panel and Ngāi Tahu Mana Whenua Panel to prepare final recommendations for your decision.</p> <p>OR</p> <p>ii) Option two: Stop the work of both panels and complete the process only using the s49 report and a different form of engagement with our Treaty partner.</p> <p>OR</p> <p>iii) Option three: Decline to make decisions on WSI land classification recommendations and stop the work of both panels.</p>	<p>Yes / No</p> <p>Yes / No</p> <p>Yes / No</p>
e)	s9(2)(f)(iv)	
f)	s9(2)(f)(iv)	



Date: 01/02/2024

Ruth Isaac
Deputy Director-General Policy and
Regulatory Services
For Director-General of Conservation

Date: / /

Hon Tama Potaka
Minister of Conservation

Purpose – Te aronga

1. The purpose of this briefing is to provide you with an overview on the Stewardship Land Reclassification Project to date and seek your preferred option for the completion of the reclassification work currently underway in the Western South Island.

Background and context – Te horopaki

2. Stewardship land makes up around one third of the land managed by the Department of Conservation (DOC), totalling over 2.7 million hectares. Most of this land (approx. 2 million hectares) is found on Te Waipounamu/South Island (see **Attachment A** map).
3. Land that comes into DOC is held as stewardship land until classified. This includes land that came to DOC following its inception in 1987, land purchased through the Nature Heritage Fund, and land acquired through Tenure Review.
4. Stewardship is effectively a generic holding status under the Conservation Act 1987. The status protects the natural and historic resources present until the land is assessed and assigned an appropriate classification.
5. Stewardship land differs from other categories of conservation land in that it can be swapped out of the conservation estate, or it can be disposed of if it holds very low to no conservation value and meets criteria described in the Conservation General Policy.
6. There are many common misconceptions around stewardship land such as those that claim it has low or no conservation values through to claims that it is not part of the DOC estate.
7. Reclassifying stewardship land ensures it can be managed in accordance with its values whilst providing certainty to users of the land and minimising the risk of successful legal challenges to decisions about its management.
8. Since DOC was established, and prior to the start of this project, approximately 100,000ha of stewardship land had been reclassified. During the same period, 40,000ha of stewardship land came into DOC management through tenure review and Nature Heritage Fund purchases.
9. In 2013 the Parliamentary Commissioner for the Environment released a report “Investigating the future of conservation: The case of stewardship land” which strongly recommended that DOC reclassify stewardship land and was critical of the lack of progress to date. A follow up report was released in 2015.
10. In 2018, then Minister Sage instructed DOC to design a pilot to begin reclassifying stewardship land on the Western South Island and the Remarkables Conservation Area near Queenstown but this work was not completed due to a change in Minister and the launch of the current reclassification project.
11. In April 2021 Cabinet agreed to a programme of work to speed up and improve how we reclassify stewardship land. The resulting Stewardship Land Reclassification Project included:
 - The appointment of two National Panels of independent experts to provide recommendations to the Minister of Conservation about how to reclassify stewardship land (**operational delivery workstream**).
 - Legislative amendments to streamline processes for the reclassification or disposal of stewardship land, better enabling the work of the National Panels.
12. The focus of this briefing is the operational delivery workstream of the Stewardship Land Reclassification Project, specifically the options available for completing the Western South Island process. No legislative amendments have been enacted so the

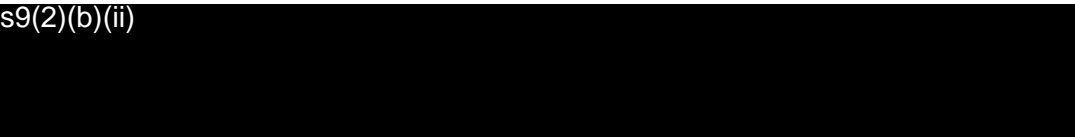
National Panels are operating in the Western South Island and Northern South Island under current legislation.

Operational Delivery

The National Panels

13. A region-by-region approach was envisioned for the project, with the intention that the process would take 8 months per region to complete. At the direction of Minister Allan, work started in the Northern South Island (NSI) and Western South Island (WSI) regions.
14. Two National Panels were originally established for a 2-year period through to June 2023. The appointments were later extended through to June 2024 to allow work already underway to continue under the current model.
15. Members were Ministerially appointed and made up of non-partisan representatives with technical expertise in ecology, earth sciences, landscape, recreation, heritage, and mātauranga Māori.
16. Each Panel has a Chair, with five panel members on the WSI Panel and four panel members on the NSI Panel.
17. It was intended that s4 obligations would be fulfilled by engaging with mana whenua at place as the project progressed around the motu, and Treaty partners therefore would not form part of the National Panel.
18. Remuneration for the Panels was approved by Cabinet in April 2021 at a rate consistent with Cabinet Fees Framework of \$650/day for the Chair and \$450/day for members.
19. To support and inform the Panels' work, DOC has undertaken extensive technical assessments of the conservation values present in each parcel of stewardship land and provides ongoing technical and secretariat support. In addition to supporting the panels with their considerations, the technical assessments are now a valuable resource for DOC's Operations teams.
20. The Panels use the technical advice, site visits, discussions with relevant experts and local DOC staff, and their own personal knowledge and experience to develop recommended classifications for each piece of land based on the values present.

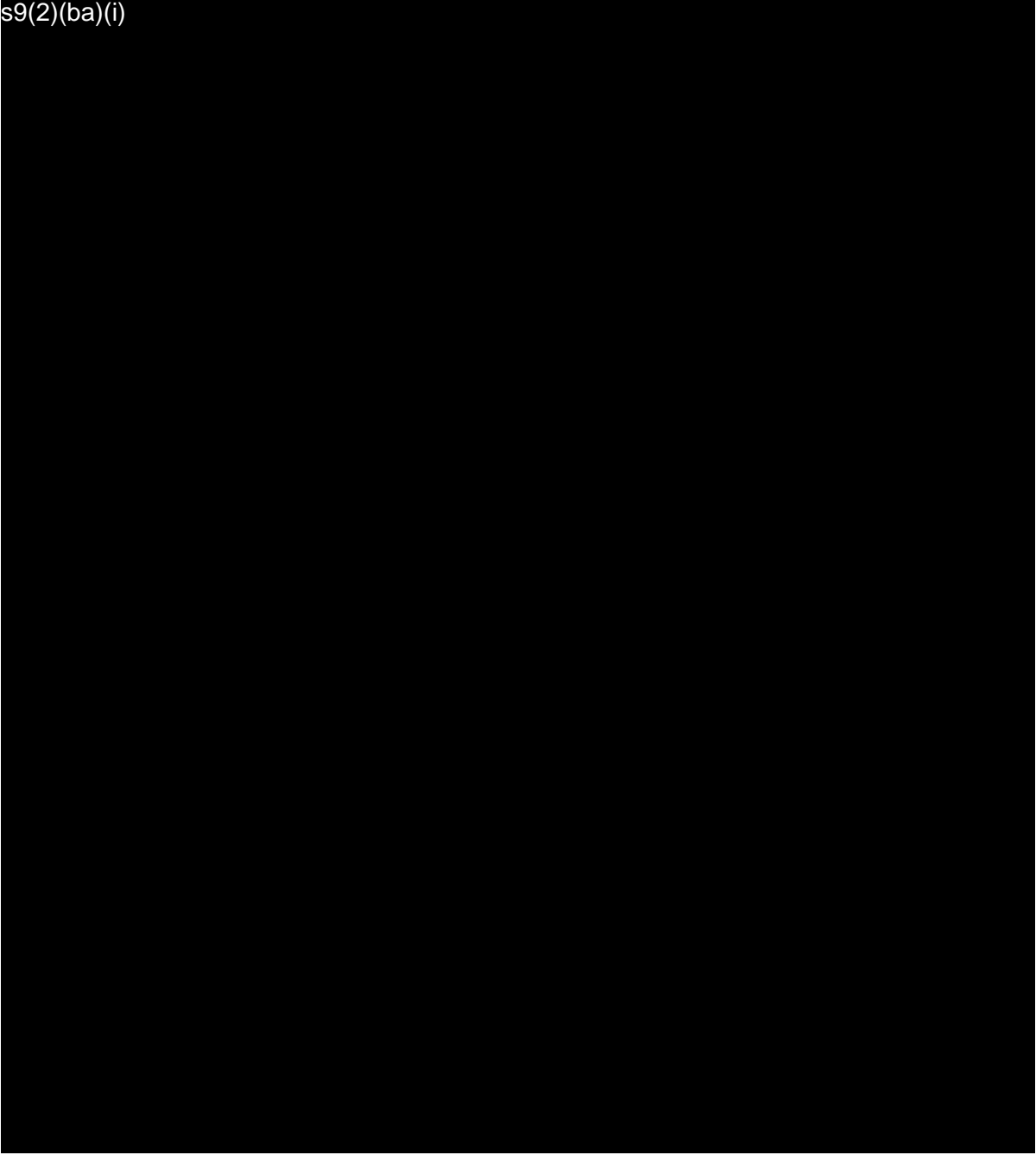
Engagement with Ngāi Tahu

21. Following announcement of the Reclassification Project, Te Rūnanga o Ngāi Tahu (Ngāi Tahu) filed an application for judicial review in the High Court as they considered the project as announced to be in breach of s4 of the Conservation Act 1987.
22. The litigation was resolved by an agreement (Agreement) (**Attachment B**) between the Minister of Conservation and the Ngāi Tahu Kaiwhakahaere, for a Ngāi Tahu-appointed Mana Whenua Panel to work alongside the National Panels.
23. s9(2)(b)(i)

24. The Agreement set out process steps for how the Mana Whenua Panel and National Panel would work together, including direction on the preparation of recommendations. A number of steps allowed for the Mana Whenua Panel and Kaiwhakahaere to assist, and comment on, the National Panel recommendations to you. There are also allowances for the Mana Whenua Panel and Kaiwhakahaere to provide separate views and/or recommendations directly to you, and the Kaiwhakahaere to meet with you before any final decisions are made.

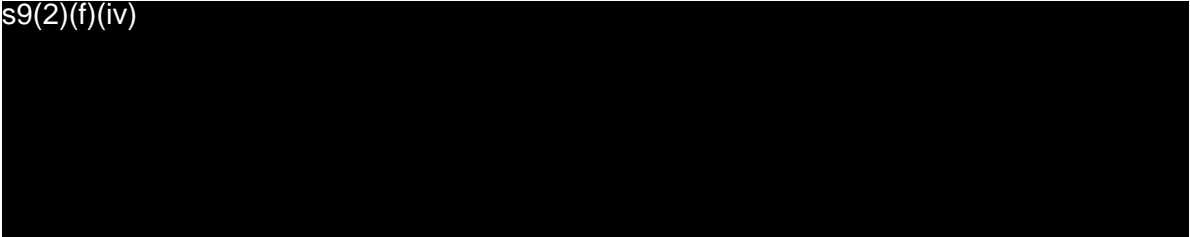
25. When the Agreement expired in October 2023 letters were exchanged between the Director-General of Conservation (DG) and Ngāi Tahu Chief Executive agreeing to continue to work to the conditions of the expired Agreement until guidance was provided by both yourself and the new Ngāi Tahu Kaiwhakahaere (Justin Tipa was elected into the role on 28 November 2023).
26. In July 2023, prior to the Agreement expiring, the previous Minister of Conservation and the Kaiwhakahaere met and agreed that the Agreement should be extended but that financial remuneration should be milestone-based.
27. s9(2)(f)(iv) [Redacted]
28. s9(2)(ba)(i) [Redacted]
29. s9(2)(g)(i) [Redacted]
30. s9(2)(g)(i) [Redacted]
31. The 31 Jan 2024 announcement of the resignation of Arihia Bennett as Chief Executive, effective from March 2024, may also have an impact on this project and its delivery.

s9(2)(h) [Redacted]

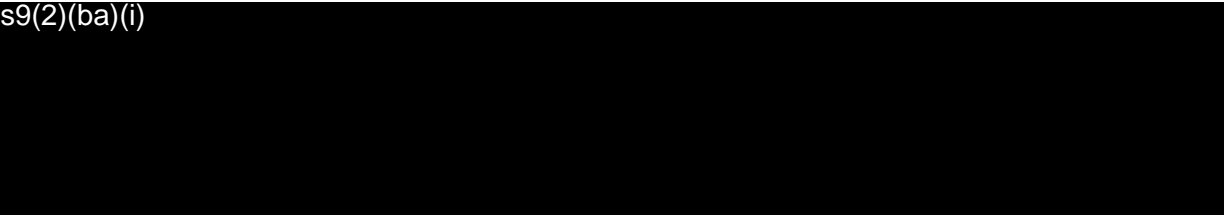
s9(2)(ba)(i)




s9(2)(f)(iv)



s9(2)(ba)(i)



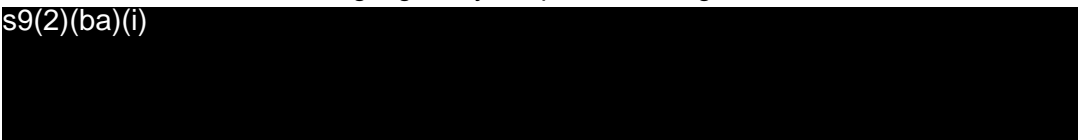
s9(2)(ba)(i)



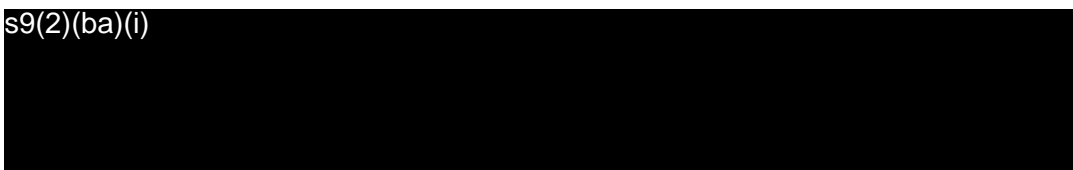
The WSI process

56. The WSI process is a live statutory process. The National Panel, led by Neil Clifton, has recommended classifications for 504 pieces of land.
57. The National Panel recommendations were publicly notified in May 2022, alongside the independent recommendations of the Mana Whenua Panel.
58. There was significant public interest in the public process: 550 unique submissions and 5980 pro forma submissions were received. The Director-General's delegate heard from submitters during eight days of public hearings.


59. s9(2)(ba)(i)



60. s9(2)(ba)(i)



s9(2)(g)(i)



s9(2)(ba)(i)

61. s9(2)(ba)(i)

62. s9(2)(f)(iv)

63. s9(2)(g)(i)

64. s9(2)(g)(i)

Northern Ngāi Tahu takiwā process

65. The NSI National Panel chaired by Hon Philip Woollaston has been working alongside the Mana Whenua Panel to draft recommendations for the northern part of the Ngāi Tahu takiwā, including Murchison, Kaikōura, St James and northern Hurunui.

9(2)(f)(iv)

Te Taihu - the Northern South Island and future regions

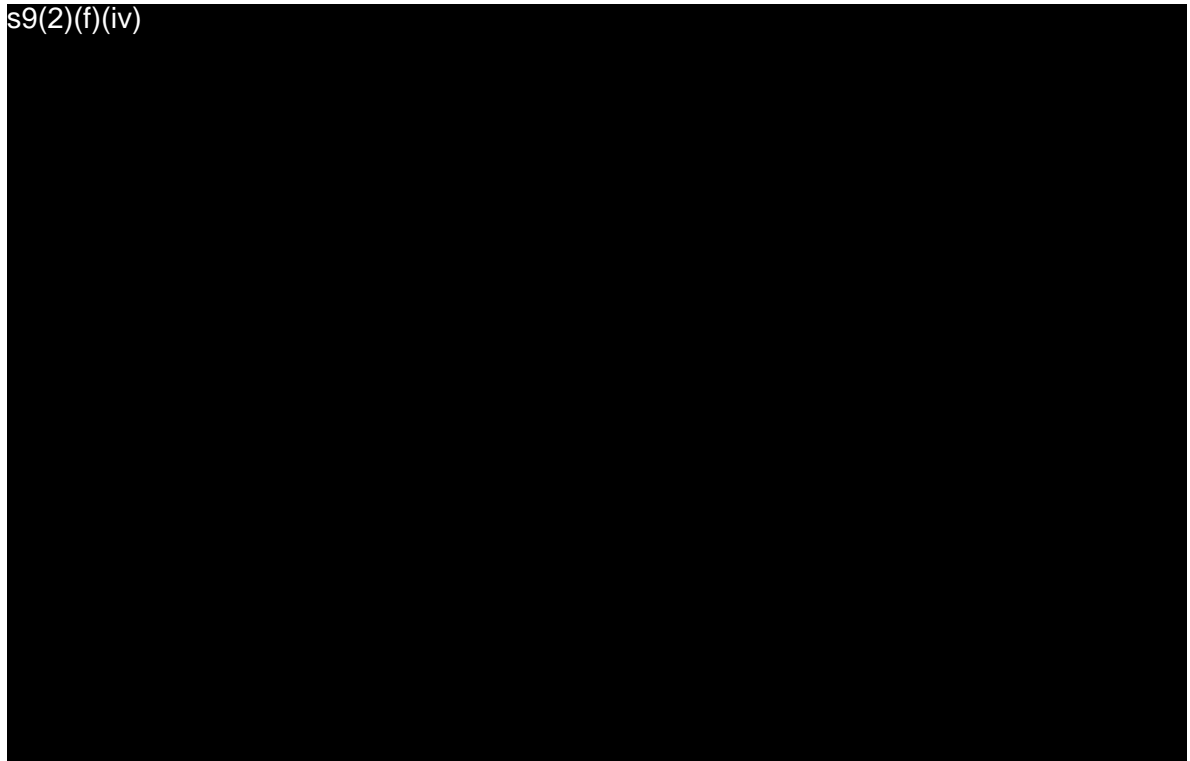
69. 9(2)(f)(iv)

70.

71.

72. Work has not begun to design a process that could work in Te Ika-a-Maui/North Island.

s9(2)(f)(iv)



Your role in the Reclassification Project

78. You are the decision maker for recommendations prepared as part of the Reclassification Project for WSI.
79. While decisions to reclassify land under the Conservation Act 1987 and the Reserves Act 1977 can be delegated within DOC, we recommend you make decisions for land already notified, due to the high-profile nature and scale of this work, and expectations established with the public and stakeholders.
80. Your decision making will be informed by advice from our Treaty partners, the National Panels and a summary of submissions report prepared by the Director-General's delegate as required under section 49(2)(d) of the Conservation Act 1987. The report will include recommendations as to the extent to which the submissions received should be allowed or accepted.
81. The decisions required are binary - to proceed with the classifications notified as your intent under s49(2) of the Conservation Act, or not. If you consider an alternative classification may be more appropriate, including any recommendations put forward by our Treaty partner, then (depending on the alternative) a new notification or other statutory process may be required prior to implementing that alternative.
82. The NZCA has a role in reclassifying land as national park under the National Parks Act 1980. When making decisions on national park recommendations, you will be deciding whether or not to refer recommendations to the NZCA.
83. Similarly, for disposals, a further process is required, and decisions must be consistent with relevant Conservation General Policies before any disposal is instigated. You will be deciding whether or not to refer these recommendations to DOC to investigate further.
84. DOC will work with your office to ensure that you are well supported prior to making your final decisions on the recommendations. We will provide you with a briefing on the recommendations outlining risks and implications following the finalising of the

recommendations, and comment on the recommendations from the relevant Conservation Board.

Decisions and recommendations

WSI process

85. As a live statutory process, the WSI process requires resolution and is our highest priority for completion. 9(2)(g)(i)

9(2)(g)(i)

86.

9(2)(f)(iv)

87. You may wish to consider different methods to proceed for WSI which still deliver sound outcomes. To provide you with alternate options we have considered a second approach which may reduce time, complexity and cost. 9(2)(f)(iv)

88. 9(2)(g)(i)

89. The high-level options are:

- **Option one: Retain the status quo (recommended)**

Continue the work of the WSI National Panel and Mana Whenua Panel under the current model. Begin delivering final recommendations to you by June 2024.

Delivery of the project so far indicates this option is operationally the most complex, time consuming and expensive, but potentially at lowest risk of challenge as it is a continuation of the process expected by the public and stakeholders.

9(2)(g)(i)

- **Option two: Instigate a DOC-led model**

Stop work with the WSI National Panel and Mana Whenua Panel. Begin delivering final recommendations through the Director-General's summary of submissions s49 report to you by 9(2)(f)(iv)

9(2)(f)(iv)

This option is less resource intensive in terms of time and finance as well as being less complex from a delivery and relationship perspective. 9(2)(g)(i)

- **Option three: Decline to make decisions on WSI land classification recommendations**

Decline to make decisions on land classifications for WSI and stop the work of the National Panel and Mana Whenua Panel.

s9(2)(g)(i) [Redacted]

90. The benefits, risks and resource implications for each model are set out in greater detail in **Attachment C**.

91. s9(2)(g)(i) [Redacted]

92. s9(2)(g)(i) [Redacted] General's [Redacted]

93. s9(2)(ba)(i) [Redacted]

[Redacted]

s9(2)(f)(iv) [Redacted]

s9(2)(g)(i) [Redacted]

[Redacted]

[Redacted]


[Redacted]

Risk assessment – Aronga tūraru

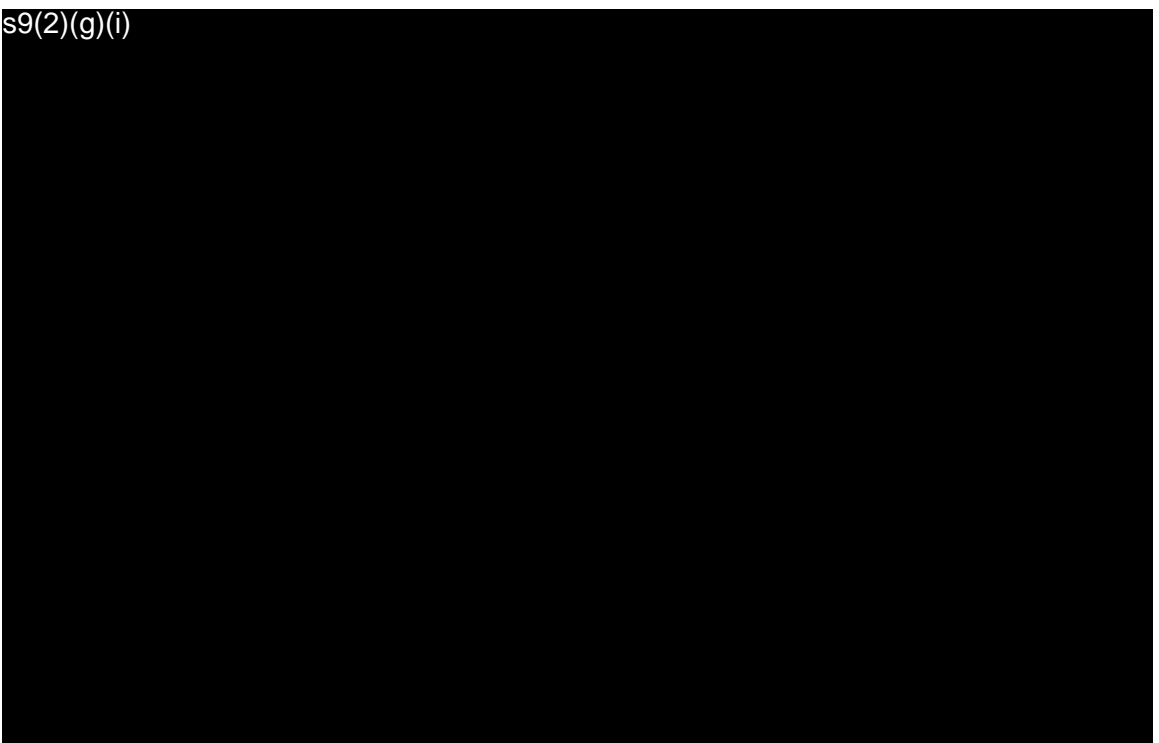
Overall reclassification work

102. This work is of significant interest to a wide range of groups including iwi, environmental NGOs, and those with commercial interests such as mining groups. The scale of response received through the public process indicates the high level of public interest in this process and decisions that will be made.

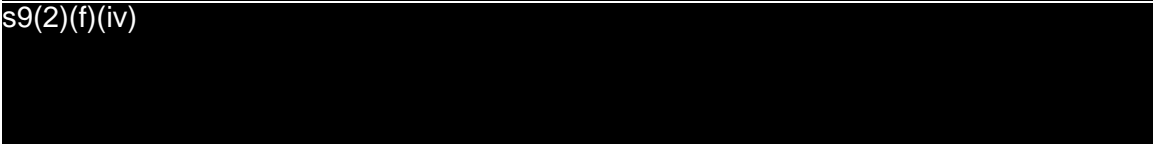
s9(2)(g)(i)



s9(2)(g)(i)



s9(2)(f)(iv)



s9(2)(g)(i)

s9(2)(g)(i)

s9(2)(ba)(i)

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

121. As rangatira and kaitiaki, whānau, hapū, and iwi have a strong interest in any decisions around the reclassification of stewardship land. 9(2)(ba)(i)

122.

123.

124.

Consultation – Kōrero whakawhiti

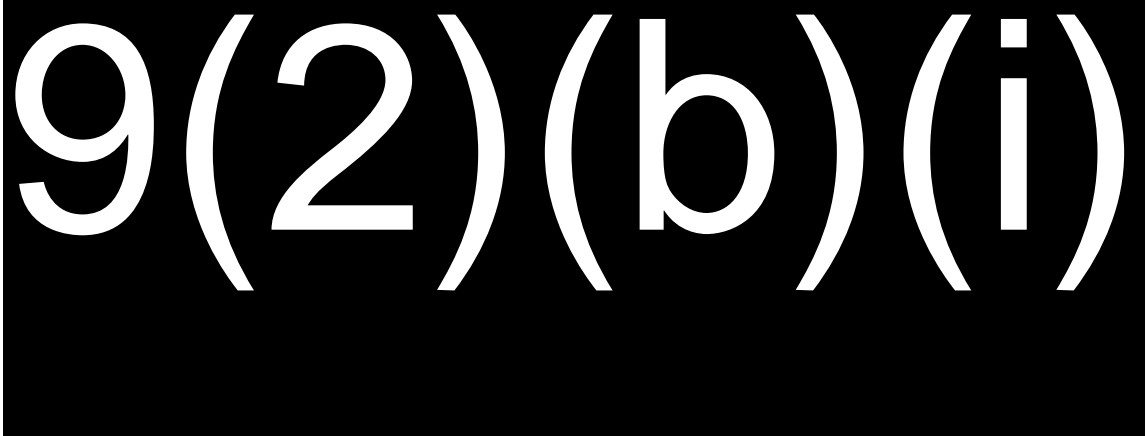
125. s9(2)(f)(iv)

126.

Financial implications – Te hiraunga pūtea

127. The cost for delivering the operational work will be financed out of our baseline funding.
128. To date, we have spent \$1.4million on this project. This can largely be attributed to the following:
- Ngāi Tahu Mana Whenua Panel = \$375,500
 - WSI National Panel (includes travel) = \$219,500
 - NSI National Panel (includes travel) = \$68,500
 - Public notification, including hearings = \$376,000
 - Landscape reports for WSI and NSI = \$108,000

129.



130. If a different delivery option was chosen to progress this work, the cost savings would be significant given that the costs of the two National Panels would be removed. Additionally, the mana whenua remuneration costs would likely be reduced with engagement only occurring directly with DOC rather than with both DOC and the National Panels.
131. Whilst the process to date has been complex and not yet produced decisions, it is still much more efficient and cost effective to reclassify multiple pieces of stewardship land at one time, provided that we are able deliver final recommendations to you for final decision. The approach taken prior to this project being launched was piecemeal as described in paragraph 8.

Legal implications – Te hiraunga a ture

s9(2)(f)(iv)



s9(2)(f)(iv)

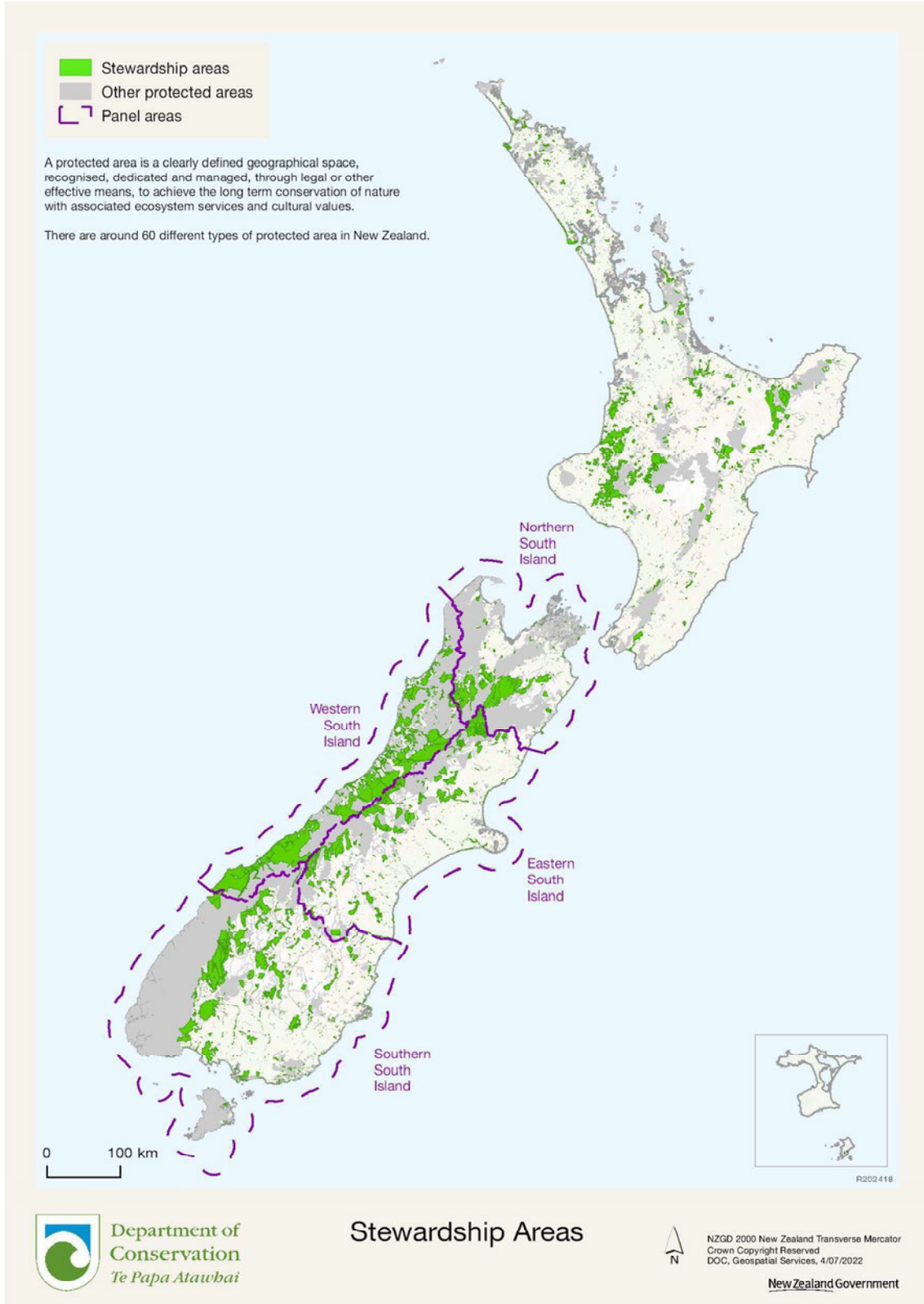
[REDACTED]

Next steps – Ngā tāwhaitanga

- 138. Once you have confirmed your preferred option for the WSI process we will start work on implementing the actions needed.
- 139. s9(2)(ba)(i) [REDACTED]
- 140. If you wish to meet with DOC to discuss your preferred approach for the delivery of this work, we will work with your office to schedule this.
- 141. We will keep you informed on the progress of this project and any emerging risks, through the weekly Status Report.

ENDS

Attachment A: Map of stewardship land across Aotearoa New Zealand



AGREEMENT – RECLASSIFICATION OF STEWARDSHIP LAND IN THE NGĀI TAHU TAKIWĀ (“AGREEMENT”)

This Agreement is dated this _____ day of _____ 20 _____

PARTIES

1. **Te Rūnanga o Ngāi Tahu (“TRONT” or “Ngāi Tahu”)**
2. **Minister of Conservation (“Minister”)**

BACKGROUND, PURPOSE AND GUIDING PRINCIPLES

- A. The Acting Minister of Conservation (“**Acting Minister**”) made a public announcement on 28 May 2021 that the Government planned to accelerate the reclassification of stewardship land held under the Conservation Act 1987 (“**Decision**”) by streamlining legislation and establishing two independent expert national panels (“**NPs**”). The NPs have been tasked with assessing stewardship land, commencing in the Northern South Island and Western South Island, and providing recommendations to the Minister on how to classify such land. Such reclassification fits with the Government’s manifesto commitment to protect, preserve and restore our natural heritage and biodiversity and is one of the Department of Conservation’s (“**DOC’s**”) core roles and responsibilities.
- B. The 19 April 2021 Cabinet paper¹ says that the guiding principle of the stewardship land reclassification process commenced by the Minister is to undertake genuine technical assessments of conservation values. Key desired outcomes outlined in the paper are that, within shortened timeframes, land with a high conservation value is identified and managed appropriately, and if appropriate, that land with very low or no conservation value is made available for other uses.
- C. While Ngāi Tahu supports the reclassification and appropriate disposal of stewardship land in its takiwā as defined in the Te Rūnanga o Ngāi Tahu Act 1996 (“**the Ngāi Tahu Takiwā**”), Ngāi Tahu considered the process announced by the Acting Minister on 28 May 2021 under the Decision to be in breach of the Treaty of Waitangi (“**the Treaty**”)

¹ “Improving the process for reclassification of conservation portfolio stewardship land” Cabinet paper (version proactively released on 24 August 2021).

partnership, Ngāi Tahu rangatiratanga, section 4 of the Conservation Act 1987 and the principles of the Treaty. For Ngāi Tahu, the intended process did not accord with the expectations of Ngāi Tahu as the Treaty partner for a process of this significance in the Ngāi Tahu Takiwā.

- D. Consequently, on 2 July 2021, TRONT and two Papatipu Rūnanga filed judicial review proceedings in the High Court challenging the Decision. Those proceedings are CIV-2021-485-342.
- E. On 21 and 22 July 2021, the Parties and senior DOC and TRONT officials met to discuss the issues raised by TRONT and endeavoured to find a way forward that addressed the concerns raised by Ngāi Tahu. TRONT agreed to pause the litigation temporarily while discussions between the Parties took place.
- F. At the 21-22 July 2021 meeting, the Parties:
 - a. discussed an amended process for the reclassification of stewardship land in the Ngāi Tahu Takiwā (“**Project**”), including the role of the Kaiwhakahaere of Ngāi Tahu (“**Kaiwhakahaere**”) in the decision-making process (leading up to the Minister’s decisions, as described in clause 6.1 of this Agreement) and TRONT establishing a Mana Whenua Panel (“**MWP**”) to engage in the Project; and
 - b. agreed that the Project should be undertaken in a manner that is consistent with any relevant legislative obligations, including the requirement under section 4 of the Conservation Act 1987 for that Act to be so interpreted and administered as to give effect to the principles of the Treaty of Waitangi. A recognised principle of the Treaty of Waitangi is partnership.
- G. The Parties acknowledge that section 6 of the Ngāi Tahu Claims Settlement Act 1998 states that “the Crown recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.”
- H. The Parties have agreed on a way forward and have recorded the terms and conditions of that agreement in writing in this Agreement.

- I. The Parties intend for this Agreement to:
 - i. Reflect the Parties' desire to work together on the Project in a manner consistent with section 4 of the Conservation Act 1987;
 - ii. Acknowledge the respective roles of TRONT / the Kaiwhakahaere / MWP and the Minister / DOC / NPs in the Project; and
 - iii. Promote cooperation, collaboration, effective communication, and reciprocal facilitation between the Parties during the Project.

- J. To enable outcomes to be delivered effectively and efficiently, the Parties also intend to:
 - i. Act in good faith and demonstrate honesty, integrity and accountability in their dealings with one another;
 - ii. Work in a collegial and open manner and adopt a "no surprises" approach whenever possible;
 - iii. Conduct day to day business in a way that respects the mutual interests of each Party;
 - iv. Provide appropriate time and information to allow for meaningful participation in the Project; and
 - v. Provide open and constructive feedback in an effort to achieve a high-quality outcome.

- K. The Parties intend for the recommendations of the MWP and NPs to be provided to the Minister within eight (8) months of the induction of the MWP and NPs.

SCHEDULE

1 Discontinuance of Proceedings in CIV-2021-485-342

- 1.1 TRONT and the Papatipu Rūnanga agree to discontinue their proceedings in CIV-2021-485-342 as soon as reasonably practicable, but no later than two (2) weeks after the date on which the Agreement is signed by both Parties.
- 1.2 If the proceedings in CIV-2021-485-342 are not discontinued by TRONT and the Papatipu Rūnanga in accordance with clause 1.1 above, or new proceedings are brought by TRONT and / or the Papatipu Rūnanga in relation to the process announced by the Acting Minister on 28 May 2021, either Party has the right to terminate this Agreement immediately.

1.3 For the avoidance of doubt, if this Agreement is terminated in accordance with clause 1.2 above:

1.3.1 Any remaining instalments under clause 7.2 (as at the date of the termination) will not become due, and will not be paid, to TRONT; but

1.3.2 Any instalments paid to TRONT prior to the date of the termination will not be affected by the termination and these funds will remain the sole property of TRONT.

1.4 There will be no costs sought against or payable by any party to the proceedings on the discontinuance of those proceedings.

2 Design and Establishment of Mana Whenua Panel

2.1 TRONT agrees to design and establish a MWP to engage in the Project as set out in this Agreement.

2.2 TRONT will use best endeavours to notify DOC of the composition and terms of reference for the MWP by 30 September 2021.

3 Induction of National Panels

3.1 Once TRONT has established the MWP, TRONT and DOC will meet to jointly develop an induction programme for the NPs and MWP. The induction programme will include content provided by both TRONT and DOC.

3.2 The NPs will then be convened and TRONT and DOC will jointly induct the NPs in accordance with the programme referenced in clause 3.1 above.

4 Information Gathering and Sharing

4.1 Once established, the MWP will gather information on the stewardship land in the Ngāi Tahu Takiwā (including but not limited to information on mahika kai, mātauranga, commercial interests, development opportunities and future aspirations for use of the place).

4.2 The MWP will provide this information to the NPs to enable the NPs to carry out their respective role in the Project. The format for the information provided by the MWP will be decided by the MWP (acting reasonably).

4.3 DOC will also make all the same information available to the MWP as the NPs, as well as access to DOC staff and technical expertise to enable the MWP to carry out its respective role in the Project to the same standard as the NPs.

- 4.4 The MWP will also be given the opportunity to review and provide input into the information on conservation values that is being collated into Conservation Value Reports and any other information provided to the NPs by DOC's technical teams. This opportunity will be provided to the MWP before the information is provided to the NPs.
- 4.5 The Parties acknowledge that DOC's technical teams have already begun to compile information on the conservation values of the stewardship land in the Ngāi Tahu Takiwā.

5 Information Analysis and Recommendations to the Minister

- 5.1 Once information is provided to the NPs, the Parties agree that:
- 5.1.1 DOC and the MWP will support the NPs while the NPs develop their draft recommendations to the Minister. This will involve at least one meeting directly between the MWP and the NPs and further meetings if requested by the MWP (acting reasonably);
- 5.1.2 The NPs will then work with DOC and the MWP to develop and implement a public consultation process. The MWP (as part of the public) will have the right to be involved in this consultation process if they consider that appropriate;
- 5.1.3 Following the public consultation process, the NPs will review and / or finalise their draft recommendations with assistance from the MWP;
- 5.1.4 The MWP will be provided the NPs' draft recommendations and the MWP will have an opportunity to provide recommendations and commentary on those recommendations;
- 5.1.5 The NPs will then provide their recommendations to the Kaiwhakahaere and invite comment. At this stage, the recommendations will still be in draft form and will include any recommendations / commentary from the MWP pursuant to clause 5.1.4 above;
- 5.1.6 Any feedback from the Kaiwhakahaere and the MWP will be considered by the NPs in finalising their recommendations and will be provided with the NPs' final recommendations to the Minister;
- 5.1.7 The MWP and Kaiwhakahaere will have an opportunity to provide separate views and / or recommendations directly to the Minister if need be; and
- 5.1.8 The Minister will consider all views / recommendations in good faith and in accordance with this Agreement and the Kaiwhakahaere will be given a reasonable opportunity to meet with the Minister before any final decisions are made.

6 Minister's Decision on Reclassification

- 6.1 The Parties acknowledge that the final decision on any reclassification (or potential disposal) of stewardship land in the Ngāi Tahu Takiwā sits with, and will be made by, the Minister. That decision must be made in a manner consistent with any relevant legislative obligations, including the requirement under section 4 of the Conservation Act 1987 for that Act to be so interpreted and administered as to give effect to the principles of the Treaty of Waitangi. As per Recital G, the Minister acknowledges that section 6 of the Ngāi Tahu Claims Settlement Act 1998 states that "the Crown recognises Ngāi Tahu as the tāngata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui".

7 Financial Support

- 7.1 The Minister has agreed that DOC will ^{s9(2)(1)} [REDACTED] to TRONT for the design, establishment and work of the MWP associated with the Western South Island and Northern South Island NP processes.
- 7.2 That payment will be made to TRONT in equal monthly instalments over the twelve (12) months following on from the later of:
- 7.2.1 The date on which this Agreement is signed by both Parties; and
- 7.2.2 The date on which the proceedings in CIV-2021-485-342 are discontinued by TRONT and the Papatipu Rūnanga.

8 Intellectual Property

- 8.1 The Parties agree that:
- 8.1.1 Any existing intellectual property rights held by the Parties or DOC remain the property of the relevant Party or DOC;
- 8.1.2 Any new intellectual property rights arising from TRONT's or the MWP's contributions to the Project are the property of the relevant Rūnanga or TRONT and neither the Minister nor DOC will make any claim to the ownership of these intellectual property rights.
- 8.2 For the avoidance of doubt, clause 8.1 is legally binding and survives any termination of this Agreement.

9 Confidentiality

- 9.1 In respect of this Agreement and the Project, the Parties agree that "Confidential Information" means any proprietary scientific, technical and / or business information disclosed in the course of the relationship between the Parties.

9.2 Except as required by law, the Parties agree that:

9.2.1 They will not disclose any Confidential Information to any third party (other than the Parties' professional representatives or advisers) without the prior written consent of the other Party; and

9.2.2 Each Party must use all reasonable endeavours to prevent the accidental publication or disclosure of any Confidential Information.

9.3 Clause 9.2 does not prevent:

9.3.1 The disclosure of Confidential Information to entities in the Te Rūnanga Group, Papatipu Rūnanga or Ngāi Tahu Whānui; or

9.3.2 The Minister from publicly sharing any Confidential Information when it is reasonably required to explain the Minister's reasons for a decision in respect of the Project or any reclassification or disposal of stewardship land in the Ngāi Tahu Takiwā.

9.4 For the avoidance of doubt, clauses 9.1 to 9.3 survive any termination of this Agreement.

10 Term and Effect of Agreement

10.1 This Agreement will take effect on and from the date on which the last Party to this Agreement signs it ("**Start Date**").

10.2 The Parties confirm all parts of this Agreement are binding, including the Background, Purpose and Guiding Principles section which is an operative and binding part of this Agreement.

10.3 The term of this Agreement will be two (2) calendar years from the Start Date ("**Term**").

10.4 Subject to earlier termination in accordance with this Agreement, the Parties agree to meet to consider the continuation or termination of this Agreement no later than three (3) calendar months before the end of the Term.

10.5 The Parties can agree in writing to terminate this Agreement at any time. If the Parties agree to terminate this Agreement, it will end on and from the date specified by the Parties. If only one Party wants to terminate this Agreement, the Parties will discuss this disagreement in accordance with the dispute provisions in clause 11.1.

11 Disputes

11.1 The Parties acknowledge that disputes in relation to the performance of this Agreement may occur from time to time and agree that:

11.1.1 The Parties will use their best endeavours to resolve any such dispute by such means of informal dispute resolution as the Parties may agree (such as good faith negotiation, mediation or independent expert appraisal); and

11.1.2 If a dispute is not resolved within two (2) weeks of the dispute arising, either Party (if the Parties agree) may refer the dispute to arbitration, to be carried out in accordance with the provisions of the Arbitration Act 1996 (or any equivalent Act) and seated in Christchurch, NZ.

11.2 Where appropriate, the Parties agree to involve the Kaiwhakahaere, MWP, DOC and NPs in any informal dispute resolution process contemplated by clause 11.1.1.

11.3 To avoid doubt, nothing in this Agreement prevents TRONT or any Papatipu Rūnanga commencing at any time court proceedings in relation to the Project for a Judicial Review Dispute,² including:

11.3.1 In relation to the matters that are the subject of announcement by the Acting Minister on 28 May 2021; and


11.3.2 By way of example, if it is considered that any action, inaction or process undertaken by any entity or person is in breach of relevant legal obligations, such as under section 4 of the Conservation Act.

12 Contact Details

12.1 The key contact details for TRONT are:

Rakihia Tau

Sec 9(2)(a)



12.2 The key contact details for the Minister are:

Karl Beckert

kbeckert@doc.govt.nz

² Disputes amenable to the jurisdiction of the High Court under the Judicial Review Procedure Act 2016, Part 30 of the High Court Rules 2016, or the High Court's common law jurisdiction to review exercises of public power.

Sec 9(2)(a)

This Agreement is signed by the following:



Hon. Kiritapu Allan
Minister of Conservation

Date: 13/10/2021

Sec 9(2)(a)



Witness signature

Name: Huia Lloyd

Occupation: Director

Address: s9(2)(a)

Date:

13/10/2021

Sec 9(2)(a)



Lisa Tumahai
Kaiwhakahaere
Te Rūnanga o Ngāi Tahu

Date: 28 October 2021

Sec 9(2)(a)



Witness signature

Name: Jacqui Veint

Occupation: Legal Executive

Address: 15 Show Place, Addington
Christchurch 8024

Date: 28 October 2021

Attachment C: Summary of benefit, risk and resource analysis of options for the WSI process

Option	Details	Benefits	Risks	Resources
<p>Retain status quo – recommended option</p>	<p>The National Panel continue under their current appointments to produce final recommendations.</p>	<p>The National Panel appointments are in place through to June 2024 and can be further extended if required.</p>	<p>The process is complex, and resource and time intensive.</p>	<p>Time: High</p>
	<p>9(2)(ba)(i)</p>	<p>The National Panel have expertise and knowledge of WSI stewardship land which will aid analysis of the public submissions, resulting in well informed decisions.</p>	<p>9(2)(g)(i)</p>	<p>All estimates are dependent on the outcome of engagement with iwi.</p>
	<p>9(2)(f)(iv)</p>	<p>Retaining the process meets the expectations of those involved to date, leading to a lower likelihood of challenge.</p>	<p>The DG’s s49 summary report will address much of what the National Panel are considering; double handling of submissions will occur resulting in inefficiencies.</p>	<p><u>Pre-work to bring the National Panel and Mana Whenua Panel together:</u> 4 weeks</p>
		<p>9(2)(g)(i)</p>	<p>9(2)(g)(i)</p>	<p><u>Combined Panel deliberations:</u> 6 weeks</p>
			<p>9(2)(ba)(i)</p>	<p><u>Final Recommendation reports:</u> 6 weeks</p>
				<p>Financial Cost: High</p>
				<p><u>National Panel:</u> Chair \$650 per day, Members \$450 per day</p>
				<p>9(2)(b)(ii)</p>

<p>Instigate a DOC-led model</p>	<p>The work of the National Panel is stopped and their input considered complete.</p> <p>The DG fulfils the steps required to produce final recommendations, using the s49 submissions report.</p> <p>9(2)(ba)(i)</p> <p>9(2)(f)(iv)</p>	<p>The process is faster, more efficient and lower cost with fewer relationships to manage.</p> <p>Using the DG's s49 submission report as the main report creates efficiencies by avoiding the creation of a second set of reports by the National Panel.</p> <p>The DG is familiar with the submissions and WSI sites and can provide robust analysis of the public submissions to support your final decision.</p> <p>The process allows space for DOC to meet our s4 obligations directly with iwi, creating more opportunities for engagement and discussion without involvement of a third party.</p>	<p>9(2)(g)(i)</p>	<p>Time: Medium</p> <p>Estimates are dependent on the outcome of engagement with iwi.</p> <p><u>Final recommendation report:</u> Incorporated into the DOC s49(2)(d) submissions report: 8 weeks.</p> <p>Financial Cost: Medium</p> <p>9(2)(b)(ii)</p>
----------------------------------	--	---	--------------------------	---

Decline to make decisions on WSI land classifications

This option would effectively stop the process to date.

The work of the National Panel and Mana Whenua Panel would be stopped and the significant amount of work undertaken to date abandoned.

An opportunity could exist to redesign the process, taking into account the criticisms of the WSI process to date. This could be a DOC-led approach that could be undertaken in a more sustainable fashion.

9(2)(g)(i)

Given the resources, both in terms of time and finance, spent to date on this process, criticism is likely to be high if it is abandoned at this stage.

9(2)(g)(i)

9(2)(g)(i)

9(2)(g)(i)

9(2)(g)(i)