

# Submission from Straterra

## To the Department of Conservation

### Stewardship Land Review

#### March 2022

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#### Key Points

- We question the need for the stewardship land review as a way to achieve protection of high value conservation land because such protections already exist under the RMA which allows non-conservation activities to be considered on a case-by-case basis.
- Reclassification of stewardship land to a higher category of protection may well prevent the use of the land for other equally important uses.
- There needs to be careful consideration to avoid irreversible decisions. We do not agree with the desire to speed up the process by shortening the period for consultation.
- The economic consequences and the lost opportunities from ending the right to apply for access to conservation land for other uses could be considerable.
- Minerals prospectivity of stewardship land needs to be considered either as part of the review or in the minister's subsequent decisions.
- We would be concerned if large areas of stewardship land were directly reclassified as national park and other Schedule 4 land as this would automatically rule out the ability to apply for access.
- The criteria as to how land is to be categorised into different categories should be released.

#### Introduction

1. Straterra is the industry association representing the New Zealand minerals and mining sector. Our membership is comprised of mining companies, explorers, researchers, service providers, and support companies.
2. We welcome the opportunity to make this submission on the Discussion Document, [Stewardship land in Aotearoa New Zealand - Options to streamline processes for reclassification and disposal](#). This is a review of the legislation relating to stewardship land and is one of two workstreams for the stewardship land review.
3. We note the good progress being made with the Western South Island review which could be completed soon. This means the legislation is unlikely to have passed in time for it to apply to the Western South Island and so the review of that area and possibly others will be under the existing legislation.

## Straterra Position on the Stewardship Land Review

4. The government is reviewing stewardship land to ensure land with “high conservation value” is protected while “low- value” land can be considered for other uses.
5. Straterra’s main interest in the stewardship land review is that mining’s right to apply for access to conservation land generally and stewardship land specifically is retained.
6. We are actually agnostic about the review from a mining perspective. Essentially, we don’t see the conservation land classifications as relevant under a system which allows mining and other activities to be considered on a case-by-case basis which the current system allows.

### Access to conservation land for mineral extraction

7. New Zealand has allowed mining on conservation land, excluding national parks and Schedule 4<sup>1</sup> land for many decades. Such activity is consented under the RMA and other regulatory hurdles on a case-by-case basis. The RMA and the Environment Court provide an independent, contestable, and robust forum to assess resource proposals. Our view is that while this process could be improved, the RMA has served the conservation estate and broader societal objectives well, insofar as mining is concerned.
8. Our most recent assessment is that only 0.04% of the conservation estate is currently disturbed by mining and quarrying. The footprint is small because of the realities of commercial mining. Economic mineral resources are hard to find. Mining only occurs where the minerals are present and economically recoverable and where the consent conditions imposed under the RMA and other applicable legislation can be met.
9. The stewardship land review is looking at the conservation values of stewardship land and does not refer directly to mining but we raise this because mining on conservation land has been linked to the stewardship land review in the past. Also, there is a possibility that the review will result in the reclassification of stewardship land as national park or other Schedule 4 land which means it would automatically become off limits to mining.

### Strategic minerals

10. We urge that minerals prospectivity on conservation land is considered – either as part of the review or in the minister’s subsequent decisions.
11. Demand for minerals and aggregates is increasing, particularly for low-emission technologies – copper, nickel, vanadium, rare earths, lithium, coking coal, gold... the list goes on. New Zealand has potential for some of these minerals and GNS Science has assessed that much of that potential, lies in the conservation estate. So, it makes sense to keep the option open for mining on the conservation estate (excluding S4).

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<sup>1</sup> Schedule 4 land refers to land listed under schedule 4 of the Crown Minerals Act 1991 where access restrictions apply to land within it. National parks are listed in the schedule.

## Mining can contribute to the indigenous biodiversity challenge

12. We fully support the government's conservation objectives, but we think the negative impact of mining has been overstated. If we look at the conservation estate in a macro sense, the biggest challenge to indigenous biodiversity and conservation is pests and weeds. Mining is not the problem – in fact mineral extraction, suitably regulated, can and should contribute to the solution by providing a 'no net loss' under the RMA. That is achieved through the value of the activity itself and by use of flexibility mechanisms, such as mitigation, offsets and compensation.

## Conclusion

13. The reclassification of stewardship land review in itself will not solve the indigenous biodiversity challenge. Pests and weeds ignore the sign that says stewardship land or scenic reserve.
14. We question the need for the stewardship land review as a way to achieve protection of high value conservation land because such protections already exist under the RMA. The RMA provides an independent, contestable, and robust forum to assess resource proposals and other non-conservation activities. While this process could be improved, the RMA has served the conservation estate and broader societal objectives well, insofar as mining is concerned.
15. It is not apparent that classification to higher values of conservation land will by itself lead to better conservation outcomes whereas a case-by-case approach is able to allow every application for alternative uses to be assessed on its merits.

## Response to the Reform Objectives

### Reform options - 1. Improving consistency of public notification and submission processes

16. The two options in this section of the document aim to streamline the consultation process by reducing the level of consultation currently required for land reclassification proposals.
17. Currently 40 working days must be allowed for written submissions on a proposal for the Minister of Conservation to classify stewardship land to certain classifications or dispose of it.
18. **Option 1.1** proposes shortening the period of consultation from 40 to 20 working days. We **oppose** this. It is important that the public and affected parties have sufficient time to consider all the issues at stake. A carefully considered process with sufficient time for feedback needs to be undertaken.
19. We understand stakeholders will be asked to consider all of the panels' recommendations at the same time. Given some submitters will have interests in more than one parcel of land, 20 days is not enough time to consider them all.
20. There needs to be flexibility so that where a proposed reclassification is likely to be controversial, consideration is given to extending the time period for submissions to allow submitters to commission expert opinion etc.
21. **Option 1.2** gives the panel the ability to decline a hearing where holding it would cause substantial delay to the process or cause substantial burden on the resources of the panel.
22. Hearings are an important part of the consultation process, and it may be beneficial for the national panels to interact with submitters.

23. We **oppose Option 1.2**, but we accept that there will be some circumstances where no hearing is required. For example, if there are no submissions opposing the reclassification, or the parcel of land in question is below a certain size. We also recommend that there be an opportunity for submitters to challenge a panel's decision to not have a hearing.

## **Reform options - 2. Enabling the national panels to carry out the public notification and submission process**

24. We **support** the amendment of the Conservation Act to enable the national panels to carry out the public notification and submission process (**Option 2.1**).
25. Currently the Conservation Act does not allow the delegation of notification and hearing powers to the national panels. An amendment of the Conservation Act to enable this is necessary for the review, as created by the government, to be undertaken.
26. So that they can independently carry out their role, we agree it is important that the panels are able to receive evidence from submitters first-hand to make independent recommendations to the Minister rather than be guided by officials. The panels need to be given sufficient time to do their work and be provided with the ability and funding to commission experts to provide objective evidence of the conservation land in question.

## **Reform options - 3. Clarifying responsibilities for making recommendations to reclassify stewardship land as national park**

27. **Option 3.1** proposes transferring primary responsibility for reclassifying stewardship land into national parks from the NZCA to the national panels and requires them to consult with the NZCA before making recommendations.
28. We are concerned with the premise of this option that presumes areas of stewardship land will be reclassified as national park.
29. National parks are the highest valued conservation land. It is possible that some, but not all, stewardship land has high enough conservation value to be classified accordingly.
30. The reclassification of stewardship land as national parks has significant ramifications for the minerals sector. National parks and certain other classes of conservation land are listed in Schedule 4 of the Crown Minerals Act 1991 where access restrictions apply. We fully support this exclusion because of the special status of national parks.
31. Classifying stewardship land as national park or other schedule 4 land would automatically rule out access for mining and exploration from that land which would be extremely short-sighted as discussed earlier in this submission.
32. The panels and the government must be judicious in making recommendations and decisions regarding the transfer of stewardship land to national parks and other schedule 4 land as the lost opportunities would be large. The conservation value and other characteristics justifying national park status must be proven and the economic consequences of the land coming under Schedule 4 and being excluded from mineral extraction must be considered.
33. We request that the criteria used to determine how the panel will distinguish between national parks and other categories of conservation land be released. Transparency around this is critical.

34. It is important that stewardship land is not tagged on to national parks for convenience just because it is adjacent to an existing national park.
35. We are also aware that there is nothing preventing parcels of land that are not adjacent to national parks to be added to national parks. There are some precedents for national parks not to have continuous borders (Kahurangi is a good example) but it would be unprincipled to classify parcels of land as little islands of national park just to ensure commercial activities can't occur. It would be equivalent imposing No New Mines on Conservation Land by another name.

**Reform options - 4. Removing the statutory step to declare all stewardship land to be held for conservation purposes before it can be reclassified or disposed of.**

36. Currently, under the Conservation Act, only stewardship land that is held for conservation purposes can be reclassified or disposed of. We accept the removal of this requirement would streamline the process and remove an unnecessary step which doesn't serve any real purpose.
37. However currently not all stewardship land is used for conservation purposes and there is a risk in declaring all stewardship land be held for conservation purposes in that if a delay in the process occurs, stewardship land not already sold or disposed of would stay with DOC but with this new status of 'conservation purpose'. It would then make using it for non-conservation purposes, such as for mineral activities, even more difficult.
38. Rather than declaring all stewardship land to be held for conservation purposes (Option 4.1), there is a third option of repealing Section 62 of the Conservation Act so that land doesn't need to be held for conservation purposes before it is reclassified or disposed of.
39. Of the two options proposed Option 4.1 provides a more efficient process for reclassifying land so, notwithstanding the risks referred to above, we prefer Option 4.1 over Option 4.2.

**Reform options - 5. Enabling the Minister of Conservation to direct proceeds from the sale of stewardship land to DOC**

40. **Option 5.1** proposes amending the Conservation Act to allow the Minister of Conservation to direct the proceeds of sale of stewardship land to DOC for further reclassification or management activities.
41. We agree it is appropriate that if there is a sale of stewardship land, the proceeds should be directed to DOC. We would argue that these should be allocated to conservation purposes generally, if funds allow, ie more broadly than simply reclassification or management activities.
42. It should be noted, selling land in this way can do more for conservation than simply holding the land. There are many ways proceeds from the sale can be spent – for example on managing, controlling and eradicating pests and weeds which are the main threats to indigenous biodiversity.
43. We note here that mineral operations on conservation land also provide DOC with funds which are able to be directed towards conservation efforts.
44. We also accept and support that land disposed of is not necessarily sold. It could be used for Treaty settlement purposes etc, which we would support.

## **Reform options - 6. Clarifying the status of concessions on reclassified stewardship land**

45. The mining industry mostly accesses conservation land by way of access agreements under the Crown Minerals Act 1991. Concessions are also used for ancillary activities outside of the area of Crown minerals permits, for example for road access to mine sites, and so our interest is in both concessions and access agreements on public conservation lands.
46. Because of the stringency of the regulations, land which has been deemed suitable for a particular concession (or access agreement) should still be suitable even after reclassification of the wider parcel. Furthermore, the environmental impacts associated with establishing the use have very likely already occurred and the continuation of the use will have no more than further minor impacts. For example, a haul road across stewardship land which has been constructed and used for a number of years.
47. In addition to that, it is important that contractual agreements are adhered to and do not expire even if land is reclassified or disposed of.
48. Holders of concessions (and access agreements) have invested on the basis of a Crown agreement and for the Crown to renege on that would set a dangerous precedent and send a negative signal to investors.
49. We are pleased that the discussion, and both options offered in this section, seem to acknowledge this. In terms of the two options, we agree with the document that certainty and clarity are important and so we favour Option 6.2, amending the legislation to clarify that existing concessions on stewardship land can continue under agreed terms regardless of reclassification.
50. We note the footnote on page 31 that access arrangements will continue to be managed in line with current legislative requirements. We assume that existing access arrangements will be retained until they expire even if land is reclassified or disposed of.

## **Reform Option - 7. Non-regulatory options to improve stewardship land reclassification - Ensuring operational arrangements between DOC and the Ministry of Business, Innovation and Employment (MBIE) are fit for purpose.**

51. Regardless of what arrangement is in place between MBIE and DOC, it is very important that MBIE has a role to assess land for important mineral values which may affect the desirability of the reclassification and any other relevant information. We agree it makes sense for this information to be provided directly to the national panels given the process adopted for the stewardship land review, and to be made available to both Ministers of Energy and Resources and Conservation.
52. We acknowledge that the national panels' brief is conservation value and not mineral prospectivity, but it is still important to wider government policy, and we also note that Conservation Minister Kiritapu Allan has said that "economics" will be considered before final decisions are made. For these reasons it is important that access to MBIE's knowledge of mineral prospectivity is taken account of by the Minister of Conservation. We hope that informal, if not formal, links are maintained between DOC and MBIE for this purpose.
53. As stated earlier in this submission, economic mineral deposits are hard to find particularly minerals for low-emission technologies and GNS Science has assessed that much of that potential, or prospectivity, lies in the conservation estate. This needs to be taken account of in the stewardship land review.

## Summary of Reform Options

54. This section summarises our support or opposition to some of the reform options but please refer to the text for further elaboration.
- **We oppose Option 1.1** to shorten the period that the panels must allow for public submissions to 20 working days.
  - **We oppose Option 1.2** to give the panel the ability to decline a hearing where holding it would cause substantial delay to the process or cause substantial burden on the resources of the panel. We accept the national panels should be allowed to decline a hearing in certain circumstances, but we also recommend that there be an opportunity for submitters to challenge a panel's decision to not have a hearing.
  - **Support Option 2.1** to amend the Conservation Act to enable the national panels to carry out the public notification and submission process
  - **We neither support nor oppose Option 3.1** Please refer text
  - We agree the statutory step to declare all stewardship land be held for conservation purposes should be removed. **We prefer Option 4.1** over Option 4.2 but propose a third option of repealing Section 62 of the Conservation Act so that land doesn't need to be held for conservation purposes before it is reclassified or disposed of.
  - **We support Option 5.1** to amend the Conservation Act to allow the Minister of Conservation to direct the proceeds of sale of stewardship land to DOC for further reclassification or management activities. **We support Option 6.2** to amend the legislation to clarify that existing concessions on stewardship land can continue under agreed terms regardless of reclassification.