

Forests (West Coast Accord) Bill

Government Bill

Explanatory note

General policy statement

The purpose of this Bill is—

- to bring the West Coast Accord to an end and cancel all remaining obligations under the Accord; and
- to enable the status of West Coast indigenous production forest land (which was previously subject to the West Coast Accord) to be changed to conservation areas, reserves, additions to national parks, or unallocated Crown land at some point in the future.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause. The Bill comes into force on the day after the date on which it receives the Royal assent, except for *Part 1*. *Part 1* is deemed to come into force on **10 May 2000**.

Clause 3 defines certain terms used in the Bill. The West Coast Accord is defined to include express and implied terms in the agreement and any amendment to the agreement.

Clause 4 provides that the Act binds the Crown.

Part 1

Cancellation of West Coast Accord

Clause 5 cancels the West Coast Accord at the close of **10 May 2000**.

Clause 6 provides that the effect of cancelling the Accord is that, to the extent it is unperformed, no party is obliged or entitled to

perform it further and, to the extent it has been performed, no party is (merely because of the cancellation) divested of property transferred or money paid under it.

Clause 7 provides that no compensation is payable by the Crown to any person for any loss or damage arising from the enactment or operation of *Part 1*.

Part 2

Enabling change of status of West Coast indigenous production forest land

Clause 8 empowers the responsible Ministers to jointly, by notice in the *Gazette*, declare any land (or part of land) that is identified in *Schedule 1* to be—

- held under the Conservation Act 1987 for conservation purposes and any other purposes specified in the notice; or
- set apart as a reserve and classified under the Reserves Act 1977 for purposes specified in the notice; or
- added to a national park under the National Parks Act 1980; or
- Crown land subject to the Land Act 1948.

The declaration applies only to the land described in the notice. The responsible Ministers must consult with the Minister of Conservation, the Minister of Forestry, and the Minister for Land Information before making a declaration.

Clause 9 provides that a declaration has effect under the relevant Act on the day after the date on which the notice is published in the *Gazette* or on any later date specified in the notice. On the declaration taking effect, the land ceases to be Crown forest land within the meaning of the Crown Forest Assets Act 1989.

Clause 10 requires the Registrar-General of Land or Chief Surveyor, on receipt of a copy of the notice of a declaration changing the status of land from either of the responsible Ministers, to register the notice against the relevant title or record and do anything else needed to record the change of status.

Clause 11 enables the Director-General of Conservation to initiate a review of, or amendment to, a draft West Coast conservation management strategy. The review or amendment must be carried out

under the Conservation Act 1987 as if the conservation management strategy had been approved.

Clause 12 provides that the North Westland regional management plan does not apply to any land that has its status changed. If a conservation management strategy is approved in relation to the land, the North Westland regional management plan must be treated as withdrawn and ceases to have any effect.

Clause 13 provides that an existing encumbrance continues in force on its terms after a declaration changing the status of the land to which it relates, until the existing encumbrance expires or is terminated or cancelled.

Clause 14 provides for the application of the saving provision in *clause 13*.

Clause 15 provides that if an existing encumbrance confers powers on the responsible Ministers, or on any person appointed by the Crown to manage the land, those powers may be exercised by the new Minister after a declaration changing the status of the land. The new Minister may also bring proceedings relating to the existing encumbrance.

Clause 16 provides an exemption from certain provisions of the Conservation Act 1987 for applications for concessions under the Conservation Act 1987, Reserves Act 1977, or National Parks Act 1980 in exchange for existing encumbrances. On the grant of the concession, the existing encumbrance is cancelled.

Clause 17 imposes certain limits on the exemptions in *clause 16*.

Clause 18 requires the Registrar-General of Land or Chief Surveyor to record the cancellation of existing encumbrances, on written application by the new Minister.

Clause 19 enables the Governor-General to amend *Schedule 1* to add, omit, or change the description of, land by Order in Council on the recommendation of the responsible Ministers. In addition to the land presently identified in *Schedule 1*, it is intended to add the following land in the Nelson Land District, once the following draft plans have been approved by the Chief Surveyor:

- Charleston forest: sections 1 and 2 SO 15151 and section 1 SO 15152:
- Te Wharau and Ohikanui forests: section 1 SO 15026:

- Victoria forest: section 1 SO 14989, sections 1 and 2 SO 15011, sections 1, 2, and 3 SO 15012, sections 1 and 2 SO 15018, and sections 1 and 2 SO 15019.

Clause 20 and Schedule 2 make minor or consequential amendments to other Acts.

Hon Pete Hodgson

Forests (West Coast Accord) Bill

Government Bill

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Forests (West Coast Accord) Act **2000**.

2 Commencement

(1) Except as provided in **subsection (2)**, this Act comes into force on the day after the date on which it receives the Royal assent. **5**

(2) **Part 1** is deemed to have come into force on **10 May 2000**.

3 Interpretation

In this Act, unless the context otherwise requires,—

concession, Conservation Board, and conservation management strategy have the same meanings as in section 2(1) of the Conservation Act 1987 5

existing encumbrance means an easement, licence, lease, permit, or other right or authority for the time being in force

new Minister means the Minister responsible for the administration of the Act to which the land is subject as a result of a declaration under **section 8(1)** 10

responsible Ministers has the same meaning as in section 2(1) of the Crown Forest Assets Act 1989

West Coast Accord means—

- (a) the agreement dated 6 November 1986 and executed by the Minister for the Environment on behalf of the Crown and by the West Coast United Council, Native Forests Action Council, Royal Forest and Bird Protection Society of New Zealand, Federated Mountain Clubs of New Zealand, West Coast Timber Association, and Westland Timber Workers' Union; and 15
- (b) any express or implied term in the agreement; and
- (c) any amendment to the agreement. 20

4 Act to bind the Crown

This Act binds the Crown.

Part 1 25**Cancellation of West Coast Accord****5 Cancellation of West Coast Accord**

The West Coast Accord is cancelled at the close of **10 May 2000**.

6 Effect of cancellation

The effect of cancelling the West Coast Accord is that, on and from the cancellation,— 30

- (a) to the extent that the West Coast Accord remains unperformed at the time of the cancellation, no party is obliged or entitled to perform it further; and
- (b) to the extent that the West Coast Accord has already been performed at the time of the cancellation, no party 35

is, merely because of the cancellation, to be divested of any property transferred or money paid under it.

7 No compensation

No compensation is payable by the Crown to any person for any loss or damage arising from the enactment or operation of this Part. 5

Part 2

Enabling change of status of West Coast indigenous production forest land

8 Land status may be changed by declaration 10

- (1) The responsible Ministers may jointly, by notice in the *Gazette* describing the relevant land, declare any land (or part of land) identified in **Schedule 1** to be—
- (a) held under the Conservation Act 1987 for conservation purposes and any other purposes specified in the notice; 15
or
 - (b) set apart as a reserve and classified under the Reserves Act 1977 for any purposes specified in the notice; or
 - (c) added to a national park under the National Parks Act 1980; or 20
 - (d) Crown land subject to the Land Act 1948.
- (2) Before making a declaration under **subsection (1)**, the responsible Ministers must consult with the Minister of Conservation, the Minister of Forestry, and the Minister for Land Information. 25

9 Effect of declaration under section 8(1)

- (1) On the day after the date on which it is published in the *Gazette* or on any later date specified in the notice,—
- (a) a declaration under **section 8(1)(a)** has effect as if it were made by notice in the *Gazette* under section 7 of the Conservation Act 1987 and, if other purposes are specified in the notice, section 18 of that Act; and 30
 - (b) a declaration under **section 8(1)(b)** has effect as a reservation and classification under the Reserves Act 1977 for the purposes specified in the notice as if it were made by notice in the *Gazette* under section 16 of that Act; and 35
 - (c) a declaration under **section 8(1)(c)** has effect to add the land to a national park under the National Parks Act

- 1980 as if it were added by an Order in Council made by the Governor-General under section 7 of that Act; and
- (d) a declaration under **section 8(1)(d)** has effect to make the land Crown land subject to the Land Act 1948.
- (2) On a declaration taking effect, the land described in the notice ceases to be Crown forest land within the meaning of section 2(1) of the Crown Forest Assets Act 1989. 5
- 10 Change of status of land to be noted**
- The Registrar-General of Land or the Chief Surveyor, as the case requires, must register a copy of a notice of a declaration under **section 8(1)** changing the status of land against the relevant title or record and do anything else needed to record the change of status, on receipt of a copy of the notice from either of the responsible Ministers. 10
- 11 Effect of change of status of land on draft West Coast conservation management strategy** 15
- (1) If the West Coast conservation management strategy is in draft when a declaration is made under **section 8(1)(a), (b), or (c)** changing the status of land, the Director-General of Conservation may, after consulting with the West Coast Conservation Board, initiate a review of, or an amendment to, all or part of the draft conservation management strategy. 20
- (2) The review or amendment of the draft conservation management strategy must be carried out as if the conservation management strategy had been approved under section 17F(p) of the Conservation Act 1987. Section 17H or section 17I of that Act, as the case requires, applies with all necessary modifications to the review or amendment. 25
- 12 Effect of change of status of land on North Westland regional management plan** 30
- (1) The North Westland regional management plan (which has effect under section 65(12) of the Conservation Act 1987) does not apply to land that has its status changed by a declaration under **section 8(1)**.
- (2) If a draft conservation management strategy is approved under section 17F(p) of the Conservation Act 1987 in relation to land that has had its status changed by a declaration under 35

section 8(1), the North Westland regional management plan must be treated as having been withdrawn and ceases to have any effect.

- 13 Saving of existing encumbrances**
- (1) If an existing encumbrance relating to land is in force immediately before a declaration under **section 8(1)** takes effect, the existing encumbrance continues in force on its terms after the declaration changes the status of the land, until the existing encumbrance expires or is terminated or cancelled. 5
- (2) Part IIIB of the Conservation Act 1987, section 59A of the Reserves Act 1977, and section 49 of the National Parks Act 1980 do not affect the existing encumbrance. 10
- (3) This section is subject to **sections 14 to 18**.
- 14 When saving provision applies**
- (1) **Section 13** continues to apply to an existing encumbrance if it is renewed for a further term under a right of renewal conferred by the existing encumbrance. 15
- (2) **Section 13** does not apply to a variation of an existing encumbrance if the variation is made after the declaration under **section 8(1)** takes effect. 20
- 15 Powers under existing encumbrances to be exercised by new Minister**
- If, before a declaration under **section 8(1)** takes effect, an existing encumbrance conferred a power on a responsible Minister or on any person appointed by the Crown to manage the land,— 25
- (a) the power may be exercised by the new Minister after the declaration takes effect; and
- (b) the new Minister may take all necessary proceedings to enforce the existing encumbrance, or relating to breaches of, or any act or omission contrary to, the existing encumbrance. 30

- 16 Exemptions if existing encumbrances exchanged for concessions**
- (1) The purpose of this section is to provide exemptions from the concession regime under the Conservation Act 1987 for conservation areas, reserves, or national parks, so as to enable a person to exchange an existing encumbrance for a concession during the life of the existing encumbrance. 5
- (2) If a person applies to the Minister of Conservation for a concession under the Conservation Act 1987, the Reserves Act 1977, or the National Parks Act 1980 in exchange for an existing encumbrance, then— 10
- (a) section 17T(4) and (5) of the Conservation Act 1987 (public notice) does not apply; and
- (b) section 17U of the Conservation Act 1987 (matters to be considered by Minister) does not apply; and 15
- (c) section 17W of the Conservation Act 1987 (relationship between concessions and conservation management strategies and plans) does not apply; and
- (d) the requirements under section 17S of the Conservation Act 1987 (contents of the application) and section 17T of that Act (process for complete application) are modified accordingly; and 20
- (e) to avoid doubt, those sections of the Conservation Act 1987 are modified also for the purposes of the Reserves Act 1977 and the National Parks Act 1980. 25
- (3) If the concession is granted by the Minister of Conservation in exchange for the existing encumbrance, the existing encumbrance is cancelled.
- (4) This section is subject to **section 17**.
- 17 Limits on exemptions** 30
- (1) The exemptions in **section 16** apply only—
- (a) if the application for the concession is made before the existing encumbrance expires or is terminated or cancelled; and
- (b) to the extent that the activity to be authorised by the concession is an activity already authorised by the existing encumbrance. 35
- (2) **Section 16** does not apply to—
- (a) an application to renew an existing encumbrance (except if the existing encumbrance is being renewed 40

for a further term under a right of renewal conferred by the existing encumbrance); or

(b) an application to vary an existing encumbrance.

- 18 Cancellation of existing encumbrances to be noted** 5
The Registrar-General of Land or the Chief Surveyor, as the case requires, must record the cancellation of an existing encumbrance under **section 16** on written application by the new Minister.
- 19 Power to amend Schedule 1** 10
The Governor-General may, by Order in Council, on the recommendation of the responsible Ministers, amend **Schedule 1** to add land to, omit land from, or change the descriptions of land in, that schedule.
- 20 Consequential amendments to other Acts** 15
The Acts specified in **Schedule 2** are amended in the manner indicated in that schedule.
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ss 8(1), 19

Schedule 1

West Coast indigenous production forest land

Land District	Forest	Description
Nelson	Mokihinui	sections 1, 2, 3, and 4 SO 15021, sections 1, 2, 3, 4, 5, and 6 SO 15149, and sections 1 and 2 SO 15150
	North Karamea	section 1 SO 15020
	Orikaka	section 1 SO 15014
	Te Wharau and Ohikanui	sections 1, 2, 3, 4, and 5 SO 15024, section 1 SO 15025, and sections 1 and 2 SO 15181
	Victoria	section 1 SO 14981, sections 1, 2, and 3 SO 14992, sections 1 and 2 SO 15008, section 1 SO 15015, sections 1 and 2 SO 15016, sections 1 and 2 SO 15022, section 1 SO 15023, sections 1, 2, 3, 4, and 5 SO 15048, section 1 SO 15051, sections 1, 2, 3, and 4 SO 15133, and sections 1, 2, and 3 SO 15148
	Westland	Granville
	Hochstetter	sections 1, 2, 3, 4, and 5 SO 12149
	Hohonu	sections 1, 2, and 3 SO 12048 and sections 1, 2, and 3 SO 12049
	Ianthe	section 1 SO 12160, section 1 SO 12161, section 1 SO 12162, and section 1 SO 12245
	Kakapotahi	sections 1 and 2 SO 12090
	Kaniere	section 1 SO 12042, section 1 SO 12043, and sections 1, 2, 3, 4, and 5 SO 12055
	Kawhaka	sections 1 and 2 SO 12023, section 1 SO 12024, sections 1 and 2 SO 12025, and section 1 SO 12151
	Kumara	R1980 on SO 4351
	Mawhera	section 1 SO 12112 and sections 1, 2, 3, 4, 5, and 6 SO 12170
	Mikonui	section 1 SO 12027, section 1 SO 12032, section 1 SO 12094, section 1 SO 12102, section 1 SO 12117, and sections 1, 2, 3, and 4 SO 12167
	Nemona	sections 1, 2, 3, 4, 5, 6, and 7 SO 12140 and sections 1, 2, 3, and 4 SO 12141
	Okarito	section 1 SO 12103 and sections 1 and 2 SO 12168
	Omoto	sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 SO 12145
	Otira-Kopara	sections 1 and 2 SO 12109 and section 1 SO 12143

Forests (West Coast Accord)

Schedule 1

Land District	Forest	Description
	Paparoa	section 1 SO 12150, section 1 SO 12158, section 1 SO 12242, and RS 6256
	Poerua	sections 1, 2, and 3 SO 12135, section 1 SO 12148, sections 1, 2, 3, 4, 5, 6, and 7 SO 12169, and section 1 SO 12243
	Saltwater	section 1 SO 12113
	Toaroha	sections 1 and 2 SO 12030 and section 1 SO 12146
	Totara	sections 1 and 2 SO 12041, section 1 SO 12133, sections 1, 2, 3, and 4 SO 12165, and sections 1 and 2 SO 12241
	Tutaekuri	sections 1, 2, 3, and 4 SO 12159
	Waimea	sections 1 and 2 SO 12035 and sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 SO 12171
	Wanganui	sections 1, 2, and 3 SO 12166

Schedule 2**Consequential amendments to other Acts****Conservation Act 1987** (1987 No 65)

Add to section 170:

- “(7) This Part is subject to **Part 2** of the **Forests (West Coast Accord) Act 2000**, in relation to land that is a conservation area as a result of a declaration under **section 8(1)** of that Act.” 5

Repeal the heading to the Fourth Schedule and substitute:

“Fourth Schedule

- “Land that is protected and is subject to section 61(7) of Crown Minerals Act 1991”.** 10

Crown Minerals Act 1991 (1991 No 70)

Omit from section 61(7) the words “the West Coast Accord as set out in”.

National Parks Act 1980 (1980 No 66) 15

Add to section 49:

- “(7) This section is subject to **Part 2** of the **Forests (West Coast Accord) Act 2000**, in relation to land that is added to a national park as a result of a declaration under **section 8(1)** of that Act.”

Reserves Act 1977 (1977 No 66) 20

Add to section 59A:

- “(9) This section is subject to **Part 2** of the **Forests (West Coast Accord) Act 2000**, in relation to land that is a reserve as a result of a declaration under **section 8(1)** of that Act.”

Repeal the heading to the Fourth Schedule and substitute: 25

“Fourth Schedule

- “Land that is protected and is subject to section 61(7) of Crown Minerals Act 1991”.**