

Forests (West Coast Accord) Bill

Government Bill

As reported from the committee of the whole House

Key to symbols used in reprinted bill**As reported from a select committee****Struck out (majority)**

▭
Subject to this Act,
▭

Text struck out by a majority

New (majority)

▭
Subject to this Act,
▭

Text inserted by a majority

<Subject to this Act,>

Words struck out by a majority

<Subject to this Act,>

Words inserted by a majority

As reported from the committee of the whole House**New**

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Subject to this Act,
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Text inserted

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Words inserted

Hon Pete Hodgson

Forests (West Coast Accord) Bill

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Schedule 1

West Coast indigenous production forest land

Schedule 2

Consequential amendments to other Acts

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.
 - (2) **Part 1** is deemed to have come into force on **<10 May 2000>** **<15 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

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)**

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
- (b) any express or implied term in the agreement; and
- (c) any amendment to the agreement.

4 Act to bind the Crown

This Act binds the Crown.

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

The West Coast Accord is cancelled *<at the close of 10 May 2000>* <on 15 May 2000>.

6 Effect of cancellation

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

- (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

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, or added to an existing 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

New (majority)

- (3) The following provisions apply in relation to a proposal to add land to a national park under **subsection (1)(c)**:
- (a) the responsible Ministers must not make a declaration under that provision unless the Minister of Conservation recommends that they do so: 30
 - (b) the Minister of Conservation must not make a recommendation under **paragraph (a)** except on the recommendation of the New Zealand Conservation Authority

New (majority)

made after consultation with the appropriate Conservation Board:

- (c) an investigation of the proposal may occur under section 8 of the National Parks Act 1980 as if it were a proposal to add land to a national park under section 7(1)(b) of that Act: 5
- (d) during an investigation (if any) under section 8 of the National Parks Act 1980, a declaration may be made under **subsection (1)(a) or (b)** of this section, and the proposal may continue to be dealt with under sections 7(1)(b), 7(2), and 8 of the National Parks Act 1980. 10

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 15
 - (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 20
 - (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 25
 - (d) a declaration under **section 8(1)(d)** has effect to make the land Crown land subject to the Land Act 1948.

Struck out (majority)

- (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. 30

New (majority)

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|---|---|
| <p>(2) On a declaration taking effect,—</p> <p>(a) 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; and</p> <p>(b) section 8(1) ceases to apply to that land.</p> | 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

- (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 <most recent> draft conservation management strategy. 15 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

- (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)**. 30
- (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.

New (majority)

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| 12A | New Minister may grant easements required to comply with Ngāi Tahu deed of settlement | 5 |
| (1) | The new Minister may grant any easement relating to access over land identified in Schedule 1 that the new Minister is required to grant to enable the Crown to comply with clauses 4.5 to 4.8 of attachment 7.6 of the deed of settlement (as defined in section 8 of the Ngāi Tahu Claims Settlement Act 1998). | 10 |
| (2) | An easement granted under subsection (1) is enforceable in accordance with its terms despite Part IIIB of the Conservation Act 1987, section 59A of the Reserves Act 1977, and section 49 of the National Parks Act 1980. | 15 |

Struck out (majority)

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| 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. | 20 |
| (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. | |
| (3) | This section is subject to sections 14 to 18 . | 25 |
| 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. | |
| (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. | 30 |

New (majority)

13 Saving of existing encumbrances in force or being negotiated at 15 May 2000

- (1) Land that has its status changed by a declaration under **section 8(1)** continues to be subject to an existing encumbrance that relates to that land until the existing encumbrance expires, or is terminated or cancelled, if— 5
- (a) the existing encumbrance was in force on **15 May 2000** or negotiations for the existing encumbrance were entered into on or before that date; and
 - (b) the existing encumbrance is still in force immediately before the declaration takes effect. 10
- (2) The terms of an existing encumbrance saved by **subsection (1)** are enforceable despite Part IIIB of the Conservation Act 1987, section 59A of the Reserves Act 1977, and section 49 of the National Parks Act 1980. 15
- (3) This section is subject to **sections 14 to 18**.

14 When saving provision applies

- (1) **Section 13** applies only to the terms of the existing encumbrance as at **15 May 2000** or the date on which the existing encumbrance first came into force (whichever is later), and to any variation of those terms— 20
- (a) that is of a minor and technical nature; or
 - (b) that does not materially increase the adverse effects of the activity authorised by the existing encumbrance on that date or materially increase the duration of that activity or materially change the location of that activity; or 25
 - (c) that will result in a reduction of the adverse effects or the duration of that activity; or
 - (d) negotiations for which were entered into on or before **15 May 2000**. 30
- (2) **Section 13** continues to apply to—
- (a) an existing encumbrance that is renewed for a further term under a right of renewal conferred by the existing encumbrance: 35
 - (b) an existing encumbrance that is transferred to another person.

New (majority)

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| 14A | Time limit on saving of existing encumbrances | |
| (1) | On the expiry of the period of 10 years after the status of land is changed by a declaration under section 8(1) ,— | |
| | (a) section 13 ceases to apply to an existing encumbrance that is in force for an unspecified period in relation to that land; and | 5 |
| | (b) that existing encumbrance is cancelled. | |
| (2) | To avoid doubt, if an existing encumbrance is granted in perpetuity, it is not in force for an unspecified period. | |
| (3) | This section does not apply to existing encumbrances granted by an enactment or by the exercise of a power contained in an enactment. | 10 |
| 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,— | 15 |
| | (a) the power may be exercised by the new Minister after the declaration takes effect; and | 20 |
| | (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. | |
| 16 | Exemptions if existing encumbrances exchanged for concessions | 25 |
| (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 <u><saved by section 13></u> for a concession during the life of the existing encumbrance. | 30 |

Struck out (majority)

- (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—
- (a) section 17T(4) and (5) of the Conservation Act 1987 (public notice) does not apply; and 5
 - (b) section 17U of the Conservation Act 1987 (matters to be considered by Minister) does not apply; and
 - (c) section 17W of the Conservation Act 1987 (relationship between concessions and conservation management strategies and plans) does not apply; and 10
 - (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 15
 - (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.

New (majority)

- (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 saved by **section 13**, the following provisions apply in relation to that application: 20
- (a) section 17T(4) and (5) of the Conservation Act 1987 (public notice) does not apply: 25
 - (b) section 17U(1)(f) of the Conservation Act 1987 (Minister to have regard to submissions) and section 17U(3) of that Act (Minister to not grant application contrary to Act or purposes for which land held) do not apply:
 - (c) section 17W of the Conservation Act 1987 (relationship between concessions and conservation management strategies and plans) does not apply: 30
 - (d) section 17T(2) of the Conservation Act 1987 (Minister to decline application within 20 working days) does not

New (majority)

- apply to the extent that it requires the Minister of Conservation to decline an application for non-compliance or inconsistency with provisions of that Act that are excluded by this subsection or with a conservation management strategy or conservation management plan: 5
- (e) Part IIIB of the Conservation Act 1987 is subject to the modifications in this subsection for the purposes of that Act and also section 59A of the Reserves Act 1977, section 49 of the National Parks Act 1980, and any other enactment. 10
- (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** 15
- (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 <saved by section 13>. 20
- (2) **Section 16** does not apply to—
- (a) an application to renew an existing encumbrance (except if the existing encumbrance is being renewed for a further term under a right of renewal conferred by the existing encumbrance); or 25
- (b) an application to vary an existing encumbrance.
- 18 Cancellation of existing encumbrances to be noted** 30
- The Registrar-General of Land or the Chief Surveyor, as the case requires, must record the cancellation of an existing encumbrance under **section** <14A or> **16** on written application by the new Minister.

Struck out (majority)**19 Power to amend Schedule 1**

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.

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New (majority)**19 Power to amend Schedule 1**

The Governor-General may, by Order in Council, on the recommendation of the responsible Ministers, amend **Schedule 1**—

- (a) to add descriptions of West Coast indigenous production forest land owned by the Crown and managed by Timberlands West Coast Limited at the commencement of this section: 10
- (b) to correct descriptions of land (or parts of land).

20 Consequential amendments to other Acts

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The Acts specified in **Schedule 2** are amended in the manner indicated in that schedule.

ss 8(1), 12A, 19

Schedule 1

West Coast indigenous production forest land

Land District	Forest	Description
New		
Nelson	Charleston	sections 1 and 2 SO 15151 and section 1 SO 15152
	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, <u>section 1 SO 15026</u> , and sections 1 and 2 SO 15181
	Victoria	section 1 SO 14981, <section 1 SO 14989,> sections 1, 2, and 3 SO 14992, sections 1 and 2 SO 15008, sections 1 and 2 SO 15011, <sections 1, 2, 3, and 4 SO 15012,> section 1 SO 15015, sections 1 and 2 SO 15016, <sections 1 and 2 SO 15018,> <u>sections 1 and 2 15019</u> , 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	section 1 SO 12034, sections 1 and 2 SO 12134, and sections 1, 2, 3, 4, 5, 6, 7, and 8 SO 12136
	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
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

s 20

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

Struck out (majority)

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

New (majority)

Repeal the heading to the Fourth Schedule and substitute:

- “Fourth Schedule
Land that may be protected area”.**

Crown Minerals Act 1991 (1991 No 70) 15

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

National Parks Act 1980 (1980 No 66)

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.” 20

Reserves Act 1977 (1977 No 66)

Struck out (majority)

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.” 25

Reserves Act 1977 (1977 No 66)—continued

New (majority)

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, or added to an existing reserve, as a result of a declaration under **section 8(1)** of that Act.” 5

Struck out (majority)

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

New (majority)

Repeal the heading to the Fourth Schedule and substitute:

**“Fourth Schedule
Land that may be held as reserve”.**

Legislative history

15 May 2000	Introduction (Bill 26-1)
18 May 2000	First reading and referral to Local Government and Environment Committee
21 August 2000	Reported from Local Government and Environment Committee (Bill 26-2)
3 October 2000	Second reading
12, 17 October 2000	Committee of the whole House (Bill 26-3)
