

Adverse Weather-affected Timber Recovery on Conservation Lands Bill

Member's Bill

Explanatory note

General policy statement

This Bill seeks to allow the Director-General of Conservation to grant access for removal of specified trees irreversibly damaged by an adverse weather event from within the conservation estate, outside of national parks.

Clause by clause analysis

Clause 1 is the Title clause.

Clause 2 is the commencement clause, which provides that the Act comes into force on the day after the date on which it receives the Royal assent.

Part 1

Preliminary provisions

Clause 3 provides that the purpose of the Bill is to allow the Director-General of Conservation to authorise the removal of timber that has been irreversibly damaged by an adverse weather event from certain conservation areas.

Clause 4 defines terms used in the Bill.

Clause 5 states that the Bill binds the Crown.

Part 2

Removal of irreversibly damaged trees

Authorisation of removal of irreversibly damaged trees

Clause 6 provides that the Bill applies to the removal of irreversibly damaged trees from the designated area (defined in the Bill as conservation areas and reserves administered by the Department of Conservation other than nature or scientific reserves, ecological areas, or national parks).

Clause 7 provides that irreversibly damaged trees may be removed in accordance with an authorisation granted by the Director-General under *clause 9*.

Clause 8 provides that a person may apply for an authorisation to remove irreversibly damaged trees only if the person has been invited to apply by the Director-General and that an application must be accompanied by the application fee (if a fee is prescribed). *Clause 8(3) to (5)* specifies the methods by which the Director-General may invite and consider applications.

Clause 9 provides that the Director-General may grant an authorisation to a person to remove irreversibly damaged trees and to carry out other activities that are reasonably necessary to allow for the safe and efficient removal of the timber. *Clause 9(3)* provides that the Director-General must be satisfied of certain matters before granting an authorisation. *Clause 9(4) and (5)* provides that the Director-General may, in considering whether to grant an application, take into account any matters that the Director-General considers relevant and may impose any conditions that he or she thinks fit (but must impose conditions that address the matters specified in *clause 9(3)*).

Clause 10 restricts the purposes for which timber removed in accordance with an authorisation may be used.

Clause 11 requires a person to whom an authorisation is granted to pay any royalties, fees, and charges required by the Director-General.

Authorisations

Clause 12 sets out the matters that must be specified in an authorisation granted under *clause 9*.

Clause 13 states that the Director-General may amend an authorisation by agreement with the authorised person or where an amendment is necessary to address adverse effects of the permitted activities that were not foreseen when the authorisation was granted.

Clause 14 provides that the Director-General may revoke an authorisation in the Director-General's absolute discretion.

Clause 15 provides that an authorisation expires on the expiry date specified in the authorisation.

Application of other legislation

Clause 16 states that an activity permitted under an authorisation is not an offence under the Conservation Act 1987, Reserves Act 1977, or Wildlife Act 1953 (or any regulations, bylaws, or notices made under those Acts) and does not require any authorisation under those Acts.

Clause 17 clarifies that an authorisation to remove irreversibly damaged trees is not a disposal of a conservation area, or an interest in a conservation area, under the Conservation Act 1987.

Clause 18 provides that sections 9, 13, 14, and 15 of the Resource Management Act 1991 do not apply to activities permitted by an authorisation.

Miscellaneous

Clause 19 allows the Director-General to prescribe fees and charges to recover costs associated with the authorisation, and ongoing monitoring, of timber-removal and other permitted activities.

Clause 20 amends the Conservation Act 1987 to add the Bill to the list of Acts administered by the Department of Conservation.

Maureen Pugh

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Adverse Weather-affected Timber Recovery on Conservation Lands Act **2020**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Preliminary provisions

- 3 Purpose** 10
The purpose of this Act is to allow the Director-General to authorise the removal from certain conservation areas and reserves of trees irreversibly damaged by an adverse weather event for timber recovery.
- 4 Interpretation** 15
In this Act, unless the context otherwise requires,—
authorisation means an authorisation granted under **section 9**
authorised person means a person to whom an authorisation is granted under **section 9**
conservation has the meaning given in section 2(1) of the Conservation Act 1987 20
conservation area has the meaning given in section 2(1) of the Conservation Act 1987
Department means the Department of Conservation
designated area—
(a) means every conservation area and reserve that is owned by the Crown 25
and administered by the Department other than—
(i) a nature reserve; or

- (ii) a scientific reserve; or
- (iii) an ecological area; and
- (b) excludes any national park

Director-General means the Director-General of Conservation

ecological area has the meaning given in section 2(2) of the Conservation Act 1987 5

irreversibly damaged, in relation to timber, means—

- (a) dead due to an adverse weather event; or
- (b) damaged to the extent that it is not possible to recover naturally

irreversibly damaged trees means trees irreversibly damaged by an adverse weather event 10

national park means a national park constituted under the National Parks Act 1980

reserve has the meaning given in section 2(1) of the Reserves Act 1977

specified site means a site to which an authorisation granted under **section 9** applies 15

timber—

- (a) means trees and parts of trees; and
- (b) includes a specified portion of bole or stem wood of merchantable quality to be removed from a fallen tree. 20

5 Act binds the Crown

This Act binds the Crown.

Part 2

Removal of irreversibly damaged trees

Authorisation of removal of irreversibly damaged trees 25

6 Application

This Act applies to the removal of irreversibly damaged trees from the designated area.

7 Irreversibly damaged trees may be removed if authorised by Director-General 30

A person may remove irreversibly damaged trees from the designated area in accordance with an authorisation granted by the Director-General under **section 9**.

8 Who may apply for authorisation

- (1) A person may apply for an authorisation under **section 9** only if the person has been invited to do so by the Director-General.
- (2) An application must be accompanied by the application fee (if any) specified by the Director-General under **section 19(a)**. 5
- (3) The Director-General may invite a person or persons to apply for an authorisation by any means, including, without limitation, by—
 - (a) public notice (which may invite tenders or other proposals):
 - (b) notice to specific persons who the Director-General considers are qualified to undertake the removal of irreversibly damaged trees. 10
- (4) If the Director-General invites applications under **subsection (3)**, the Director-General may, in the Director-General's discretion,—
 - (a) accept or decline any application; or
 - (b) enter into private negotiations with any applicant with a view to reaching an agreement; or 15
 - (c) reject all applications.
- (5) Before exercising the Director-General's discretion under **subsection (4)**, the Director-General may have regard to—
 - (a) the interests (including the financial interests) of the Crown in the relevant conservation area or reserve; and 20
 - (b) any other matters the Director-General considers relevant.

9 Director-General may authorise removal of irreversibly damaged trees from designated area

- (1) The Director-General may, on the application of a person under **section 8**, grant an authorisation to the person to— 25
 - (a) remove a specified portion of irreversibly damaged trees from 1 or more specified sites within the designated area; and
 - (b) carry out within the specified site or sites any other activities that are reasonably necessary to allow for the safe and efficient removal of the irreversibly damaged trees. 30
- (2) Before considering whether to grant an authorisation, the Director-General may require the applicant to submit a work plan.
- (3) The Director-General must not grant an authorisation unless the Director-General is satisfied that—
 - (a) the activities permitted by the authorisation (including tree removal) will be managed so that,— 35

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- (i) so far as is reasonably practicable, the safety of people working at the specified site or sites, and of members of the public, is protected; and
 - (ii) adverse effects on the environment are kept to a minimum; and
 - (iii) the activities do not unreasonably affect conservation in the conservation area or reserve within which the specified site or sites are located; and 5
 - (iv) the activities do not cause significant soil disturbance; and
 - (v) the effects of activities within the specified site or sites on the environment outside of the specified site or sites are not contrary to the purpose of the Resource Management Act 1991; and 10
 - (vi) the activities permitted within the specified site or sites do not breach any regulations made under section 43 of the Resource Management Act 1991; and
 - (b) any trees removed in accordance with the authorisation will be used for a product referred to in **section 10(1)**. 15
- (4) In considering whether to grant an authorisation, the Director-General may, in addition to the matters specified in **subsection (3)**, take into account any matters that the Director-General considers relevant.
- (5) The Director-General must impose conditions on every authorisation to address each of the matters specified in **subsection (3)** and may impose any other conditions that the Director-General thinks fit, including, without limitation, that the authorised person must— 20
- (a) pay a bond to the Department (which may be forfeited if the person fails to meet the conditions of the authorisation); and 25
 - (b) obtain appropriate insurance for the activities permitted by the authorisation.
- 10 Restriction on use of irreversibly damaged trees**
- (1) Trees removed in accordance with an authorisation may only be used (whether in the course of removal or later) for 1 or more of the following: 30
- (a) sawn or cut wood (other than firewood or woodchips):
 - (b) finished or manufactured indigenous timber products (as defined in section 2(1) of the Forests Act 1949):
 - (c) a product or products specified by the Director-General in the authorisation. 35
- (2) **Subsection (1)** does not limit the use of any incidental or secondary product resulting from the manufacture of a product referred to in that subsection.

- (3) Despite section 67C(1) of the Forests Act 1949, indigenous timber removed in accordance with an authorisation may be exported from New Zealand if the timber is—
- (a) sawn beech; or
 - (b) sawn rimu; or 5
 - (c) sawn matai; or
 - (d) sawn totara; or
 - (e) a stump; or
 - (f) a root; or
 - (g) a tree fern trunk, or part of a tree fern trunk, or fibres from a tree fern trunk. 10
- (4) Section 67C(3) of the Forests Act 1949 applies to the export of timber under **subsection (3)**.
- (5) In this section,—
- indigenous** has the meaning given in section 2(1) of the Forests Act 1949 15
- sawn beech** and **sawn rimu** have the meanings given in section 67C(4) of the Forests Act 1949.

11 Royalties, fees, and charges

- (1) An authorised person must pay to the Director-General the royalties and any fees or charges required by the Director-General. 20
- (2) The Director-General must ensure that any royalties received are paid into a Crown Bank Account.
- (3) The Director-General may, in the Director-General's absolute discretion, refund or waive payment of all or any part of any royalty, fee, or charge paid or required to be paid under this Act. 25

Authorisations

12 Form of authorisation

An authorisation must be in writing and must specify, without limitation,—

- (a) the specified site or sites; and
- (b) the activities permitted by the authorisation; and 30
- (c) the products for which the timber removed from the specified site or sites may be used; and
- (d) the conditions of the authorisation; and
- (e) the dates on which the authorisation commences and expires; and
- (f) matters relating to the amount and payment of royalties, fees, and charges. 35

13 Amendment to authorisation

The Director-General may amend an authorisation—

- (a) by agreement with the authorised person; or
- (b) in any case where the amendment is necessary to address adverse effects of the activities permitted by the authorisation that were not reasonably foreseeable at the time that the authorisation was granted. 5

14 Revocation of authorisation

The Director-General may, in the Director-General's absolute discretion, revoke an authorisation granted under this Act.

15 Expiry of authorisation

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An authority expires on the expiry date specified in the authorisation.

Application of other legislation

16 Permitted activity not an offence

A person who carries out an activity in accordance with an authorisation—

- (a) does not commit an offence against the Conservation Act 1987, Reserves Act 1977, or Wildlife Act 1953 (or any regulations, bylaws, or notices made under those Acts) in respect of the activity; and 15
- (b) does not require any authorisation under the Conservation Act 1987, Reserves Act 1977, or Wildlife Act 1953 (or any regulations, bylaws, or notices made under those Acts) in respect of the activity. 20

17 Authorisation not a disposal of conservation area

To avoid doubt, an authorisation is not a disposal of a conservation area or an interest in a conservation area, for the purposes of section 16 or 26 of the Conservation Act 1987.

18 Certain sections of Resource Management Act 1991 do not apply

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- (1) Sections 9, 13, 14, and 15 of the Resource Management Act 1991 do not apply to activities permitted by an authorisation.
- (2) To avoid doubt, the Resource Management Act 1991 applies to any activity that is not permitted by an authorisation.

Miscellaneous

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19 Fees and charges

The Director-General may prescribe fees and charges—

- (a) for processing an application; and
- (b) where an authorisation has been granted to an applicant,—

- (i) for monitoring compliance with the conditions of the authorisation; and
 - (ii) for monitoring the environmental effects and the effects on conservation of the activities permitted by the authorisation; and
 - (iii) to recover the costs to the Department of paying any fees or charges associated with the use of the land (including, but not limited to, rates imposed under the Local Government (Rating) Act 2002); and 5
- (c) for any other purpose that is reasonably necessary to recover the cost to the Department of administering this Act. 10

20 Amendment to Conservation Act 1987

- (1) This section amends the Conservation Act 1987.
- (2) In Schedule 1, insert in its appropriate alphabetical order:
Adverse Weather-affected Timber Recovery on Conservation Lands Act **2020**