

# **West Coast Wind-blown Timber (Conservation Lands) Bill**

Government Bill

## **Explanatory note**

### **General policy statement**

This Bill allows the removal of timber from trees that were irreversibly damaged by Cyclone Ita from some public conservation lands on the West Coast of the South Island. However, only timber that will be processed into finished or manufactured indigenous timber products, sawn or cut wood (excluding firewood and wood chips), or other products specified by the Director General in the authorisation, may be removed.

The Bill does not allow timber removal from areas with particular classifications. These areas are ecological areas, national parks, the Waitangiroto Nature Reserve, and land covered by Te Wāhipounamu (the South West New Zealand World Heritage Area). For other public conservation lands on the West Coast, the Bill provides that the Director-General of Conservation may authorise the removal of timber from trees irreversibly damaged by Cyclone Ita, with the removal to be completed within a 5-year period, or earlier as may be specified in an authorisation.

### **Background**

On 17 April 2014, Cyclone Ita caused significant windfall damage to forests on the West Coast of the South Island. Areas of public con-

conservation land have had trees blown down or irreversibly damaged by this event. An event of this scale provides the potential for the recovery of a proportion of trees that have been blown down or irreversibly damaged because the forests have already been very significantly impacted by the storm, and because there is a lot of dead or dying tree material that will remain on site to contribute to the ecological cycling that forest ecosystems in New Zealand rely on. There is a degree of urgency surrounding recovery of timber because of sap-staining in beech wood, and because pinhole borer can be expected to affect beech trees, especially once spring begins.

The current legislation prohibits the removal of timber from land administered under the Conservation Act 1987 where there is gain or reward from the timber (section 30 of the Conservation Act 1987). Under current legislation, the disposal of timber may be authorised in some circumstances, and the taking of timber for traditional Māori purposes may also be authorised.

The restrictive nature of the current legislation would prevent the timely removal of timber from wind-blown trees for commercial purposes. This Bill seeks to allow for a limited removal to be authorised within the short time frames available before beech wood is adversely affected by sap-staining and borer, while providing that impacts of the activities must be minimised. The Bill provides for royalties to be charged for the timber. These payments would go into a Crown Bank Account, but it is expected that they would be appropriated to Vote Conservation to allow them to be used for conservation purposes.

In determining the policy behind this Bill, the Minister of Conservation has consulted Te Runanga o Ngāi Tahu, and particular regard was had to their views.

### **Departmental disclosure statement**

The Department of Conservation is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2014&no=223&>.

## Regulatory impact statement

The Department of Conservation produced a regulatory impact statement on 27 May 2014 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact statement can be found at—

- <http://www.doc.govt.nz/about-doc/role/legislation/guides-and-bylaws/regulatory-impact-statements/>
- <http://www.treasury.govt.nz/publications/informationreleases/ris>

## 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 was irreversibly damaged by Cyclone Ita from certain conservation areas and reserves in the West Coast region.

*Clause 4* provides that the Act expires and is repealed on 1 July 2019.

*Clause 5* defines terms used in the Bill.

*Clause 6* states that the Act binds the Crown.

## Part 2

### Removal of wind-blown timber

#### *Authorisation of removal of wind-blown timber*

*Clause 7* provides that the Bill applies to the removal of wind-blown timber from the designated area (defined in the Bill as conservation areas and reserves within the West Coast region).

*Clause 8* provides that wind-blown timber may be removed in accordance with an authorisation granted by the Director-General under *clause 10*.

*Clause 9* provides that a person may apply for an authorisation to remove wind-blown timber 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 9(3) to (5)* specifies the methods by which the Director-General may invite and consider applications.

*Clause 10* provides that the Director-General may grant an authorisation to a person to remove wind-blown timber and to carry out other activities that are reasonably necessary to allow for the safe and efficient removal of the timber. *Clause 10(3)* provides that the Director-General must be satisfied of certain matters before granting an authorisation. *Clause 10(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 10(3)*).

*Clause 11* restricts the purposes for which timber removed in accordance with an authorisation may be used.

*Clause 12* requires a person to whom an authorisation is granted to pay any royalties, fees, and charges required by the Director-General.

#### *Authorisations*

*Clause 13* sets out the matters that must be specified in an authorisation granted under *clause 10*.

*Clause 14* 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 15* provides that the Director-General may revoke an authorisation in the Director-General's absolute discretion.

*Clause 16* provides that an authorisation expires on the expiry date specified in the authorisation or on 1 July 2019, whichever is the earlier.

#### *Application of other legislation*

*Clause 17* 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 18* clarifies that an authorisation to remove wind-blown timber is not a disposal of a conservation area, or an interest in a conservation area, under the Conservation Act 1987.

*Clause 19* 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 20* 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 21* amends the Conservation Act 1987 to add the Bill to the list of Acts administered by the Department of Conservation.

---



*Hon Dr Nick Smith*

## **West Coast Wind-blown Timber (Conservation Lands) Bill**

Government Bill

### **Contents**

		Page
1	Title	2
2	Commencement	2
<b>Part 1</b>		
<b>Preliminary provisions</b>		
3	Purpose	2
4	Repeal of this Act	2
5	Interpretation	2
6	Act binds the Crown	4
<b>Part 2</b>		
<b>Removal of wind-blown timber</b>		
<i>Authorisation of removal of wind-blown timber</i>		
7	Application	4
8	Wind-blown timber may be removed if authorised by Director-General	4
9	Who may apply for authorisation	4
10	Director-General may authorise removal of wind-blown timber from designated area	5
11	Restriction on use of timber	6
12	Royalties, fees, and charges	7
<i>Authorisations</i>		
13	Form of authorisation	7
14	Amendment to authorisation	8

<b>West Coast Wind-blown Timber (Conservation Lands) Bill</b>		
cl 1		
15	Revocation of authorisation	8
16	Expiry of authorisation	8
	<i>Application of other legislation</i>	
17	Permitted activity not an offence	8
18	Authorisation not a disposal of conservation area	8
19	Certain sections of Resource Management Act 1991 do not apply	9
	<i>Miscellaneous</i>	
20	Fees and charges	9
21	Amendment to Conservation Act 1987	9

**The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the West Coast Wind-blown Timber (Conservation Lands) Act **2014**.
- 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 in the West Coast region of timber irreversibly damaged by Cyclone Ita (**wind-blown timber**).
- 4 Repeal of this Act** 15  
This Act expires and is repealed on 1 July 2019.
- 5 Interpretation**  
In this Act, unless the context otherwise requires,—  
**authorisation** means an authorisation granted under **section 10** 20



**authorised person** means a person to whom an authorisation is granted under **section 10**

**Cyclone Ita** means the weather event that occurred in the West Coast region on 17 April 2014

**conservation** has the meaning given in section 2(1) of the Conservation Act 1987 5

**conservation area** has the meaning given in section 2(1) of the Conservation Act 1987

**Department** means the Department of Conservation

**designated area**— 10

(a) means every conservation area and reserve within the West Coast region that is owned by the Crown and administered by the Department other than—

(i) any ecological area; or

(ii) Te Wāhipounamu (the South West New Zealand World Heritage Area); or 15

(iii) Waitangiroto Nature Reserve; and

(b) excludes any national park

**Director-General** means the Director-General of Conservation 20

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

**irreversibly damaged**, in relation to timber, means—

(a) dead; or

(b) damaged to the extent that it is likely to die within the near future 25

**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 30

**specified site** means a site to which an authorisation granted under **section 10** applies

**timber**—

(a) means trees and parts of trees; and

(b) includes branches, roots, and stumps of trees 35

**West Coast region** means the region that is administered by the West Coast Regional Council

**wind-blown timber** means timber irreversibly damaged by Cyclone Ita.

- 6 Act binds the Crown**  
This Act binds the Crown.

## **Part 2**

### **Removal of wind-blown timber**

5

#### *Authorisation of removal of wind-blown timber*

- 7 Application**  
This Act applies to the removal of wind-blown timber from the designated area. 10
- 8 Wind-blown timber may be removed if authorised by Director-General**  
A person may remove wind-blown timber from the designated area in accordance with an authorisation granted by the Director-General under **section 10**. 15
- 9 Who may apply for authorisation**
- (1) A person may apply for an authorisation under **section 10** 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 20(a)**. 20
  - (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): 25
    - (b) notice to specific persons who the Director-General considers are qualified to undertake the removal of wind-blown timber.
  - (4) If the Director-General invites applications under **subsection (3)**, the Director-General may, in the Director-General's discretion,— 30
    - (a) accept or decline any application; or

- (b) enter into private negotiations with any applicant with a view to reaching an agreement; or
  - (c) reject all applications.
- (5) Before exercising the Director-General's discretion under **subsection (4)**, the Director-General may have regard to— 5
  - (a) the interests (including the financial interests) of the Crown in the relevant conservation area or reserve; and
  - (b) any other matters the Director-General considers relevant.
- 10 Director-General may authorise removal of wind-blown timber from designated area** 10
- (1) The Director-General may, on the application of a person under **section 9**, grant an authorisation to the person to—
  - (a) remove wind-blown timber from 1 or more specified sites within the designated area; and 15
  - (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 timber.
- (2) Before considering whether to grant an authorisation, the Director-General may require the applicant to submit a work plan. 20
- (3) The Director-General must not grant an authorisation unless the Director-General is satisfied that—
  - (a) the activities permitted by the authorisation (including timber removal) will be managed so that,—
    - (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 25
    - (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 30
    - (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 35

- (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 timber removed in accordance with the authorisation will be used for a product referred to in **section 11(1)**. 5
- (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. 10
- (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— 15
- (a) pay a bond to the Department (which may be forfeited if the person fails to meet the conditions of the authorisation); and
- (b) obtain appropriate insurance for the activities permitted by the authorisation. 20
- 11 Restriction on use of timber**
- (1) Timber 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: 25
- (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. 30
- (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— 35
- (a) sawn beech; or
- (b) sawn rimu; or

- (c) a stump; or
  - (d) a root; or
  - (e) a tree fern trunk, or part of a tree fern trunk, or fibres from a tree fern trunk.
- (4) Section 67C(3) of the Forests Act 1949 applies to the export of timber under **subsection (3)**. 5
- (5) In this section,—
- indigenous** has the meaning given in section 2(1) of the Forests Act 1949
- sawn beech** and **sawn rimu** have the meanings given in section 67C(4) of the Forests Act 1949. 10

## 12 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. 15
- (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. 20

### *Authorisations*

## 13 Form of authorisation

- An authorisation must be in writing and must specify, without limitation,— 25
- (a) the specified site or sites; and
  - (b) the activities permitted by the authorisation; and
  - (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 30
  - (e) the dates on which the authorisation commences and expires; and
  - (f) matters relating to the amount and payment of royalties, fees, and charges.

- 14 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
- 15 Revocation of authorisation**  
The Director-General may, in the Director-General’s absolute discretion, revoke an authorisation granted under this Act. 10
- 16 Expiry of authorisation**  
An authorisation expires on the earlier of—
- (a) the expiry date specified in the authorisation; and
  - (b) 1 July 2019.
- Application of other legislation* 15
- 17 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 20
  - (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. 25
- 18 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. 30

**19 Certain sections of Resource Management Act 1991 do not apply**

- (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 5 to any activity that is not permitted by an authorisation.

*Miscellaneous*

**20 Fees and charges**

The Director-General may prescribe fees and charges—

- (a) for processing an application; and 10
- (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 15 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 20 under the Local Government (Rating) Act 2002); and
- (c) for any other purpose that is reasonably necessary to recover the cost to the Department of administering this 25 Act.

**21 Amendment to Conservation Act 1987**

- (1) This section amends the Conservation Act 1987.
- (2) In Schedule 1, insert in its appropriate alphabetical order: 30  
“West Coast Wind-blown Timber (Conservation Lands) Act **2014**”.