

# Deep dive on land exchanges and disposals

**Conservation Amendment Bill**

9 April 2025



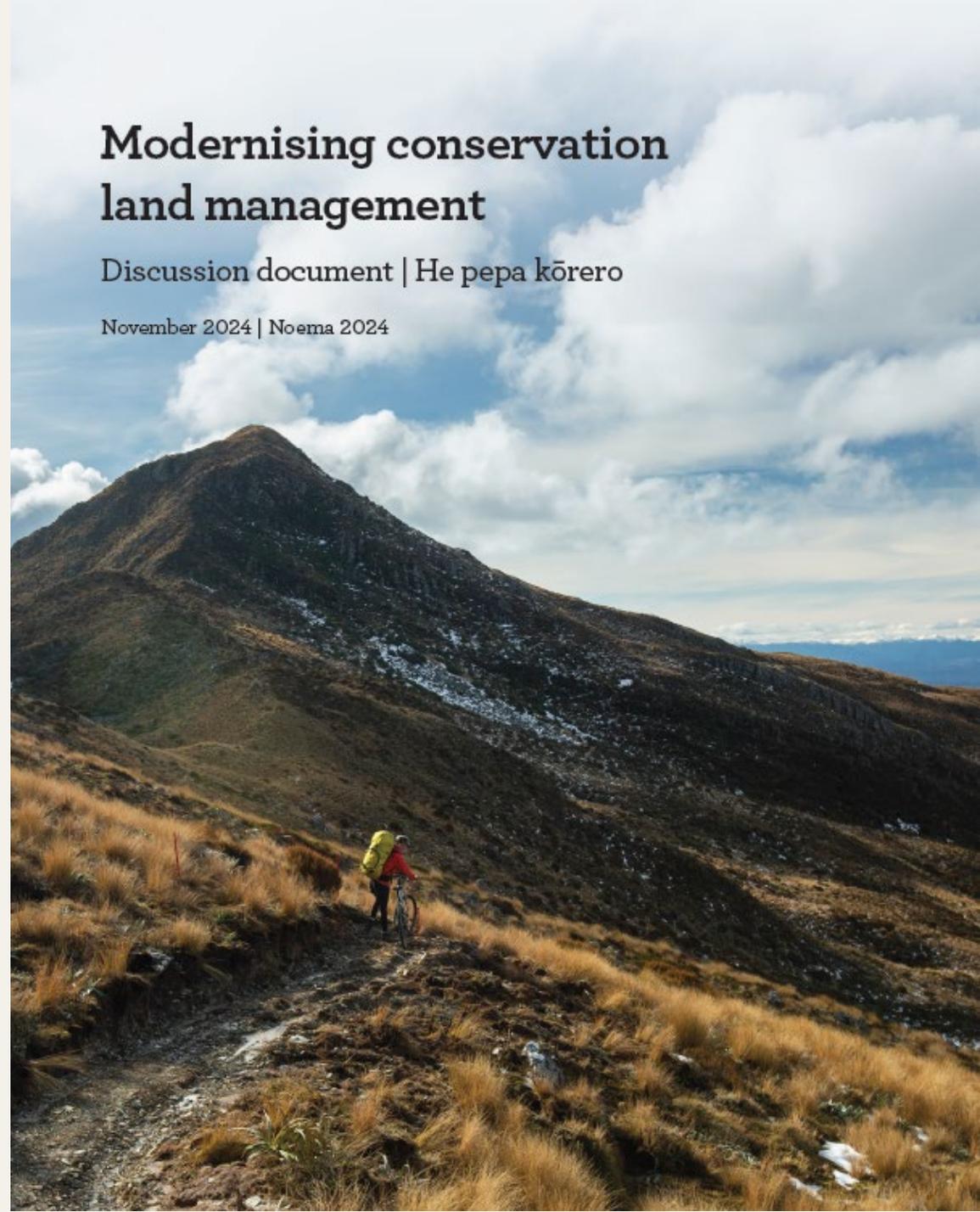
Department of  
Conservation  
*Te Papa Atawhai*

**Te Kāwanatanga  
o Aotearoa**  
New Zealand Government

## Modernising conservation land management

Discussion document | He pepa kōrero

November 2024 | Noema 2024



# Agenda

- Recap of proposals + initial views from submissions
- Land exchanges – net conservation benefit, ineligible land, processes
- Disposal options

# Recap of proposals

## Enabling more flexibility for exchanges and disposals where it makes sense for conservation

- allow eligible areas to be exchanged or disposed of directly without having to revoke their status and reclassify them as stewardship land first, where a net conservation benefit exists
- restrict disposals to situations where land is surplus to conservation needs
- remove the threshold that only land of no or low conservation value can be exchanged, noting the most precious land is off limits
- enable the potential for continued protection for land that is given up, where appropriate, through instruments such as covenants
- enable exchanges in a wider range of circumstances by changing the Conservation Act 1987 requirement to protect specific conservation values in an exchange in favour of a requirement that a transaction would result in an overall net conservation benefit.

# Initial views from submissions

## Treaty partners – range of views including:

- Some support as long as it respects cultural values, Treaty obligations, and achieves conservation benefit.
- Concerns about the loss of lands with significance to iwi and hapū - some felt increased flexibility should only be to return lands to iwi and hapū or that iwi and hapū should have veto power.
- Concern about risk of undermining Treaty settlements and co-governance arrangements that are meant to protect iwi/hapū connections with land.
- Robust consultation with iwi and hapū required.

## Stakeholders including concessionaires:

- Opposition from members of the public and conservation groups
- Concern about selling off PCL and losing important conservation values in response to budget, lobbying and commercial pressures
- Some support for the proposal enabling DOC to focus resources on most high-value work
- Some only support if net conservation benefit applied and/or other values are considered (e.g. tourism use, cultural value, recreational importance)
- Concern about lack of clarity around net conservation benefit, surplus to conservation needs, and safeguards for conservation and other values
- Need for robust public consultation – PCL is held for the public
- NZCA has changed it's previous view that land exchanges should be available for net conservation benefit – does not support proposals

# Land exchanges

# When could conservation land be exchanged?

- Many submitters were opposed to enabling land exchanges beyond the status quo. Concerns about losing important conservation values.
- We think the case for enabling greater flexibility remains, albeit with appropriate safeguards for conservation.
- Land exchanges should only be possible where there is a net conservation benefit - ensures conservation gain (not just avoiding loss) and, over time, the conservation value of the land held by DOC increases.
- Frees up land for others to have while also achieving conservation gain.
- Depending on the types of exchanges, this could result in a reduction of total land managed by DOC e.g. if a large area of a common ecosystem managed by DOC is exchanged for a smaller area of a much rarer ecosystem. However, reducing the size of land managed by DOC is not the core objective.

# Ineligible lands

- We recommend excluding the following categories of land to:
  - safeguard key areas of known high conservation value and
  - provide certainty to the public and those with an interest in the land
  - create efficiencies – these categories do not need assessment

## Recommended excluded categories

Category	Description	Rationale for exclusion
All categories excluded from fast-track	Categories with the strictest protections and/or are of the most public and international importance	Important enough for conservation to be excluded from Crown Minerals Act and Fast-track Approvals Act therefore of highest conservation value.
Ecological areas (44 covering ~130,000 ha)	An area of land protected primarily for its scientific, particularly ecological, value. May allow some recreational use.	Are of similar value to scientific reserves which are excluded above. Were not excluded from fast-track due to mining potential which is not relevant for these policy settings.
World Heritage Areas (3 - South west NZ, Tongariro NP & Subantarctic islands)	Internationally recognised sites with “outstanding universal value” and natural and cultural importance.	The World Heritage Committee makes the decision on boundary adjustments - there are different processes for minor vs significant adjustments. Significant adjustments are a full WH nomination process including being the tentative list for a year before submission and a multi year decision cycle.

# Ineligible lands

- We also recommend adding further exclusions:
  - s9(2)(f)(iv) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]
  - Land subject to a future Treaty settlement
  - Land subject to a concessions – existing encumbrances would need to be removed before exchange or disposal is possible (unless the concessionaire is seeking the exchange)
  - Where permission of reserve administering body has not been given
- Relevant provisions in Treaty settlements (e.g. RFRs) and gift-back obligations would be honoured and exchange only possible if those holding that right agree to it (like fast-track).

# Considerations and constraints on land exchanges

- Exchange could include money to be used on improvements to get the land offered to net conservation benefit BUT that the ratio of cash to land must be considered.
- Net conservation benefit would assess:
  - Conservation values of land
  - Whether benefits (including those expected from the improvements the applicant provides money for) are achievable within a reasonable period of time after the transaction.
- s9(2)(f)(iv)  
[REDACTED]
- Minister retains full discretion not to exchange land regardless of whether there is net conservation benefit.
- No consideration of economic factors – this was not consulted on and is inconsistent with the purpose of the Act – but there may be economic co-benefits.

# Process for land exchange

- Increase transparency, accountability and informed decision-making by requiring public notification (scaled to the significance of the proposal but minimum 20 working days).
- Feedback on proposal sought from relevant Māori groups prior to public notification (no timeframes)
- Feedback from Māori groups would be captured in a Māori rights and interests report that must be considered by the Minister when making an exchange decision.

# Iwi/hapū veto/preference

- Many Treaty partners submitted that iwi and hapū should get veto or preference for land being exchanged but this has significant challenges and implications for Treaty settlement processes:
  - Effectively constitutes settlement outside of settlement processes as would require making a judgement about the connection of an iwi group to the whenua (including over and above other iwi groups), justifying a land purchase from the Crown.
  - Undermines existing RFR redress and potentially future settlements (i.e. this would create a new standard and would no longer be available as cultural or economic redress).
- However, if you wish to explore whether there are feasible options we can look into it further and discuss with other relevant agencies (e.g. Te Tari Whakatau).

# Disposals

# When could eligible conservation land be disposed of?

- You consulted on enabling disposals where land is surplus to conservation needs. Submitters were very concerned with how 'surplus to conservation needs' would be defined
- s9(2)(g)(i) [REDACTED]  
[REDACTED] Possible drivers we wish to test with you:
  - Other parties want the land - iwi/hapū or another party. Could be for conservation use or productive uses.
  - Disposing of land where the costs and/or liabilities outweigh the value in holding it long-term

# Potential drivers for disposal

	Description	Assessment
<b>Other parties want the land</b>	Disposals driven by desire of others to have the land whether that be iwi/hapū, philanthropists, or developers.	Raises significant questions about the purpose of PCL and in what circumstances conservation land is held for the public. Was not consulted on. <b>Not recommended.</b> s9(2)(f)(iv)
<b>Cost/liability reasons</b>	Where costs and liabilities far outweigh conservation benefit, and resources better spent on other conservation activities.	Often involves heritage buildings on PCL or contaminated sites. Costs and liabilities would transfer with title so unlikely to be significant demand to purchase the land. <b>Recommended.</b>

For all options level of demand is uncertain:

- Requests from iwi/hapū already exist so there is demand but ability to pay will vary.
- Fast-track already creates a pathway for significant development opportunities.

# Options for disposal

We recommend the following option:

Description	Assessment
<p>On the advice of the DG, Minister of Conservation has the discretion to dispose of conservation land where the costs/liabilities outweigh the conservation value of the land with the following constraints:</p> <ul style="list-style-type: none"><li>- Same excluded land categories as exchanges</li><li>- Must not dispose where there are rare or distinctive species or ecosystems</li><li>- Must consider a range of other factors in the decision</li><li>- Must engage with iwi</li><li>- Must publicly consult</li></ul>	<p>This option provides significant discretion to dispose of land and will not go far enough for many submitters to safeguard conservation land. However it does:</p> <ul style="list-style-type: none"><li>- create transparency and provide for input from the public and iwi</li><li>- exclude the categories of highest value conservation land</li><li>- prevent disposals where rare or distinctive species or ecosystems exist</li><li>- require the Minister to understand and put thought into whether to dispose given the value it provides for conservation (beyond rarity and distinctiveness)</li></ul>

## Potential considerations include:

- How it contributes to maintaining indigenous biodiversity
- Cultural significance
- How representative the ecosystem is in PCL
- How it contributes to natural linkages and functioning of places
- Provision of public access

# Appendix A: Land categories excluded from fast track

- National parks
- National reserves
- Nature reserves
- Scientific reserves
- Wilderness areas
- Sanctuary areas
- Wildlife sanctuaries
- Ramsar wetlands
- Otahu Ecological Area
- Parakawai Geological Area
- All conservation land as at 1 October 1991 on some of the islands in the Mercury Islands group
- Kaikōura Island Scenic Reserve in Auckland City
- Rakitu Island Scenic Reserve