

Land exchanges and sales

The Government is proposing more flexible settings for exchanging or disposing of (selling) some conservation land, while keeping strong protections in place for New Zealand's most important and high value conservation land.

The Department of Conservation (DOC) manages nearly a third of the country's land and land exchange and sale can play a role in improving conservation outcomes, if done with appropriate safeguards.

Why changes are needed

Current highly restrictive settings

- Under the Conservation Act 1987, exchanges are limited to stewardship areas and marginal strips, and sales are limited to stewardship areas only.
- The Reserves Act 1977 allows for exchange of reserves as well as revocation (which then allows for sale under the Land Act). Any exchange must ensure incoming land is used for the same purpose and is of similar value (i.e. like-for-like).
- The Conservation General Policy further constrains exchanges and disposals to land with 'no or very low' conservation value.

Missed opportunities for conservation

- Current settings can prevent DOC from acquiring land with higher or under-represented conservation values.
- These changes will loosen current constraints and broaden the range of land eligible for exchange and sale.
- Increased flexibility will support more effective land management by allowing greater optimisation of the portfolio of land managed by DOC.

What the Bill changes

↔ Land exchanges

The Minister of Conservation will be able to approve a land exchange if it delivers a net conservation benefit. This means an exchange could go ahead if the land added to public ownership is more valuable for conservation than the land being given up, including benefits to biodiversity, and cultural and historical heritage.

These changes will also apply to reserves vested in the Crown. This will allow exchanges that deliver better conservation outcomes, instead of requiring the land to be protected for the same types of values. Existing exchange settings in the Reserves Act will still apply to reserves vested in non-Crown entities.

🍃 Land sales

The Minister of Conservation will be able to approve a conservation land sale where:

- The land is not important for the conservation of threatened species or ecosystem; and
- The habitat provided is not one of the best examples of its type; and
- The Director-General of Conservation has recommended it.

Before any decision is made, the Minister will also be required to consider key factors, including the cultural and historic significance of the land, its recreational value and public access. All land sales will continue to be publicly notified. People will have at least 30 working days to provide feedback. Any proceeds from land sales will go directly to DOC, to cover sale costs, then to fund new conservation land or capital projects (including related operating costs).

Safeguards to ensure the integrity of the conservation system is maintained

- **Strong protections for high-value conservation land:**
 - The most precious and high value conservation land - around 40% of conservation land - will not be eligible for the new settings for land exchange and sale.
 - This includes wilderness areas, ecological areas, sanctuary areas, national parks, national reserves, nature reserves, scientific reserves, marine reserves, Ramsar sites.
 - However, not all eligible areas will meet the tests to enable exchange or sale.
- **Clear tests and decision-making safeguards:**
 - Land exchanges must meet a net conservation benefit test (this includes the consideration of recreation values and public access).
 - Any land sale must be recommended by the Director-General of Conservation and meet new tests.
 - The Director-General of Conservation must invite comments on proposed land exchanges or sales from Māori groups with relevant interests, people with an interest in the outgoing land, and any responsible managing bodies. This feedback will inform the Director-General's mandatory advice to support the Minister of Conservation's decision.
 - Where appropriate, the Minister of Conservation can apply legal protections, such as covenants (e.g. to protect conservation values) or an easement (e.g. to protect public access) to any land that leaves public ownership.
 - The Minister of Conservation may at any stage decline an exchange or sale proposal.
- **Limited technical exceptions:**
 - Small exchanges and sales may be made to action minor and technical boundary adjustments to conservation land where it has low or no conservation value. For example, where topography limits the ability to fence boundaries.

Protection of Treaty of Waitangi principles

Treaty of Waitangi principles remain significant to all decisions about conservation land exchanges or sales.

Treaty partners will be consulted on any proposed land exchange or sale. Feedback will be included in a report, along with an assessment of Māori rights and interests, and must be considered by the Minister of Conservation in their decision.

Where an administering body exists because of a Treaty settlement, that body must agree before any exchange or sale can proceed on relevant land. Rights of first refusal provided for in Treaty settlements will also continue to apply and land subject to an ongoing Treaty settlement negotiation cannot be exchanged or sold.

Before making a decision, the Minister of Conservation must also consult the Minister for Treaty of Waitangi Negotiations and the Minister for Māori Development.

The Māori Protection Mechanism continues to apply, allowing land identified for sale to be held (or 'banked') if it may be needed for future Treaty settlement redress.