Department of Conservation
Te Papa Atawhai

Regulatory Impact Statement: Enabling more flexibility for land exchanges and disposals

Decision sought	Cabinet agreement to remove impediments to enable the optimal management of public conservation land disposal or exchange
Agency responsible	Department of Conservation
Proposing Ministers	Hon Tama Potaka, Minister of Conservation
Date finalised	17 June 2025

Description

This proposal seeks to amend the legislative requirements relating to the exchange and disposal of public conservation land, to provide more flexibility for the Minister of Conservation to dispose of or exchange land in limited circumstances.

The proposal introduces new tests and considerations to determine whether land should be exchanged or disposed of, while also introducing new safeguards to ensure conservation areas of high value continue to be protected from disposal/exchange.

The proposals also include a number of adjustments and refinements to processes including in consultation requirements, use of covenants, the use and retention of proceeds arising from with disposal and exchange.

Summary: Problem definition and options

What is the policy problem?

The current restrictions around the exchange or disposal of public conservation land (PCL) under the Conservation Act 1987 and the Reserves Act 1977 mean that potential land transactions are limited, even in situations where the transaction would benefit conservation outcomes. The way the courts have interpreted the interaction between the Conservation Act and statutory planning documents (namely the Conservation General Policy) have contributed to this situation. There is also no legislative specification as to how section 4 of the Conservation Act (the requirement to give effect to Treaty principles) operates in respect of land exchanges and disposals.

What is the policy objective?

The Minister of Conservation is seeking to improve the effectiveness and efficiency of the management of PCL, to generate improved conservation and other outcomes. As part of a broader programme to streamline PCL management, greater flexibility to exchange and dispose of PCL is proposed, but only where such transactions are in the interest of conservation.

What policy options have been considered, including any alternatives to regulation?

Exchange or disposal of PCL under the Conservation Act is currently limited to land held and managed as stewardship areas (and some marginal strips) which is of no or very low conservation value. The conservation benefits of an exchange or disposal under the Conservation Act and Reserves Act also cannot be considered unless land is first assessed to be of no or very low conservation value.

These restrictions mean the government is generally unable to exchange or dispose of PCL, and therefore unable to take advantage of exchange or disposal opportunities that would be beneficial for conservation. This therefore restricts the effective operation and management of the conservation estate.

The Government has proposed changes to address the two current restrictions, namely:

- expanding the categories of land that can be exchanged or disposed of; and
- removing the requirement that land needs to be of no or very low conservation value to be exchanged or disposed of.

Government has proposed new options to improve the processes and factors that will inform the Minister of Conservation's decisions to exchange or dispose of land, including:

- 9(2)(f)(iv) [redacted]
- land can be disposed of when the Director-General of Conservation recommends it to the Minister of Conservation and several threshold tests are met (with funding being retained by Department of Conservation (DOC) to recover and support the costs associated with ongoing disposal and exchange and land management);
- establishing safeguards to ensure that high value conservation areas are protected and not eligible for the new, more flexible settings;
- retaining statutory public consultation requirements for disposals; and
- specific requirements for Treaty partner consultation to ensure the Minister has the information to meaningfully consider Māori rights and interests

Consultation included an option that disposals would be restricted to situations where land is 'surplus to conservation needs'. Submitters were concerned concern about how the phrase 'surplus to conservation needs' could be interpreted. Further policy work was undertaken to establish more clarity around what 'surplus to conservation needs' means and it has proven challenging to define in a way that provides flexibility without making the decision subject to significant discretion and litigation risk. Options B2 and B3 are more detailed formulations of what tests and considerations for land that are more useful and effective when considering what land that is surplus to conservation requirements could be.

Given the regulatory nature of land exchange and disposals, there are no non-regulatory alternatives available.

What consultation has been undertaken?

The proposals were consulted on as part of the wider government consultation to modernise the conservation system to enhance the care and protection of public conservation land. The proposals are outlined in Section 9 of the discussion document – *Modernising conservation land management*. Public consultation was from 15 November 2024 until 28 February 2025.

Is the preferred option in the Cabinet paper the same as preferred option in the RIS?

Preferred options for exchanges and disposals are the same as the Cabinet paper.

Summary: Minister's preferred option in the Cabinet paper

Costs (Core information)

The costs of land exchange and disposal can be relatively high (compared to the financial value of the land under consideration), and the added flexibility in managing the disposal and exchange public conservation land is expected to marginally increase the volume of land exchanged or disposed of.

The extent of the increase will depend on the amount of land considered appropriate for exchange or disposal – this is expected to be a number of small parcels around the country, but exact volumes are not known yet.

The scale of demand for land from interested parties will depend on the location, size and type of land available.

The proposals are designed so that the Minister can choose not to exchange or dispose of land at any time in the process including where costs may become too great.

There are no significant non-monetised costs.

Benefits (Core information)

Although these proposals are not about revenue generation, the main monetised benefit is revenue recovered from disposals. Where this exceeds the costs of disposal (i.e. surveying, valuations and other third-party costs), this can be applied to other land purchases or capital expenditure. The volume of future land transactions is not known, and benefits cannot be quantified. There may be some benefits of reduced maintenance where areas currently require management but do not have high conservation value (e.g. lawn mowing).

The new approach will enable DOC, and in some case, other administering bodies to reduce liabilities by disposing of land even where there may be some conservation value.

The increased flexibility and new processes may also provide increased opportunities for iwi and hapū to acquire conservation land through exchanges and disposals.

Main non-monetised benefits are to the Crown and potential interested parties in being able to pursue mutually beneficial exchanges and disposals where it makes sense for conservation.

Balance of benefits and costs (Core information)

While costs may increase for DOC with more land exchanges/disposals, the revenue/conservation value from disposing and exchanging PCL will also increase. Consequently, the net monetised costs are expected to be positive over the medium term, with ongoing variation in costs and benefits across different land parcels disposed/exchanged.

The proposals are to improve flexibility to manage land, not about growing the volume of land disposals/exchanges per se. The actual decisions on future land exchange or disposal will continue to be considered on a case-by-case basis, dependant on individual circumstances to the size, location and nature of the land considered for disposal/exchange.

Implementation

The new processes and approach to land disposal and exchange require legislative change to implement, but there are no significant implementation programmes required to enable DOC to take forward the new decision-making criteria and processes.

Limitations and Constraints on Analysis

The Minister of Conservation intends for Parliament to enact legislation on these proposals in the current term, with the proposals forming part of a comprehensive range of proposals to modernise the management of PCL. This is a tight timeframe for the overall package of reform and has limited the time and resources available for policy analysis, refinement and testing of options following public consultation.

It was not possible to clarify or estimate the additional land that will become available to exchange or dispose of under the new proposed criteria – limiting our ability to quantify the costs and benefits of the proposal. However, approximately 40% of PCL (i.e. those areas known to have the highest conservation values) will be excluded from the scope of the more flexible settings.

Demand for any PCL eligible for exchange or disposal is also unknown although there is strong interest from Treaty partners in some areas. More generally, demand is likely to be a function of the location of the land (e.g. more urban land is likely to be more valuable and have greater demand) and whether there are any encumbrances or liabilities associated with the land.

The Fast-track Approvals Act 2024 enables exchanges for significant economic development projects which will absorb some demand that already exists for these purposes.

The proposals do not amend section 4 of the Conservation Act (which requires giving effect to Treaty principles) but are intended to support effective implementation of section 4 by clarifying its application to land exchange and disposal processes through the addition of specific provisions/measures. Drafting will make it clear that complying with these specific measures will be sufficient to comply with section 4 (in relation to the relevant processes).

I have read the Regulatory Impact Statement and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the preferred option.

Responsible Manager(s) signature:

9(2)(a)

Eoin Moynihan
Policy Manager – Regulatory Systems Policy
17/06/25

Quality Assurance Statement

Reviewing Agency: Department of Conservation, Ministry for Primary Industries, Ministry of Business, Innovation and Employment	**QA rating:** Partially meets

Panel Comment:
The Regulatory Impact Assessment Panel of officials from multiple agencies has reviewed the Regulatory Impact Statement (RIS). The Panel considers that the RIS partially meets the

Quality Assurance criteria. The requirements were not fully met because of the limited engagement undertaken on certain options.

Section 1: Diagnosing the policy problem

What is the context behind the policy problem and how is the status quo expected to develop?

1. Land that is managed as PCL (including reserves administered by third parties) has become protected through a wide range of pathways, including from transfer to DOC at its establishment; transfer to DOC upon a public works purpose ceasing; acquisition for the values it holds; and gifting from another party for management as a protected area.

2. DOC's management of PCL provides economy of scale for effective management and protection, the ability to set standards of service for wildlife and visitor delivery, and the ability to acquire and apply knowledge to improve management.

3. There is currently a high bar for exchanges and disposals of PCL; only PCL of no or very low value can be exchanged or disposed. This means the conservation estate cannot be optimally maintained, with DOC retaining land that is no longer needed for conservation, and having limited ability to exchange such land for new sites that have higher biodiversity that warrants DOC protection and management.

4. DOC is the single largest manager of heritage sites in New Zealand. As well as archaeological sites from pre-European times, DOC manages a range of buildings and sites that preserve and tell the story of stages of the development of our country.

5. There is an increasing focus of biodiversity management on species and ecosystems where it is needed to conserve the most threatened or vulnerable species and places. The majority of PCL is not actively managed for biodiversity outcomes, as there is insufficient funding to enable that, and because in some cases DOC does not possess the tools to manage the pressures from predators at scale. However, there is value in passive management of protected areas. Protection as PCL restricts development and other impactful activities on the land, to conserve its values.

6. The public recreation experience network on PCL is largely a legacy network. Most of it was established by predecessor agencies. DOC manages the network to deliver safe visitor experiences and a standard of experience that meets the experience level of a range of visitors. Maintaining this network in its current extent at current standards is unaffordable.

7. DOC is both a land manager and a regulator. Part of being a responsible land manager is ensuring land that needs to be managed is retained, taking opportunities to acquire land where it is precious, but also sometimes identifying when DOC would benefit from disposing or exchanging land where it would be beneficial for conservation.

8. PCL is held under a range of legislation and classifications. Significant changes to the status of PCL, such as the exchange or disposal of such land is provided for in limited circumstances and has stringent conditions.

9. Many Treaty settlements provide iwi rights of first refusal (RFR) when the Crown disposes of land. Some settlements provide an RFR over any Crown owned land in the rohe of the iwi, while others list specific parcels of land. While each Treaty settlement is different, an RFR is a long-term option for iwi to purchase or lease Crown-owned land and will generally remain in place for 50 to 170 years. Rights of first refusal are activated when DOC wishes

to enter into a long-term lease (usually of 50 years or more) or when the Crown no longer requires the land and is disposing of it.

10. **A land exchange** is the exchange of land between the Crown and another party. DOC administers provisions in the Conservation Act and Reserves Act that provide for land exchanges, each involving different criteria and/or processes.[1] Only PCL that is of 'no or very low' conservation value can be exchanged.[2] Exchanges under the Conservation Act must enhance the conservation values of land managed by the Department. There is a 'like for like' requirement for land exchanges under the Reserves Act (e.g. a recreation reserve can only be exchanged for a piece of land with similar types of recreation value).

    A land disposal is the transfer of land ownership from the Crown to another party. While it is possible for land administered by DOC to be sold, the process of land disposal by the Crown is more complex than the transfer of freehold title. The Reserves Act provides for the disposal of reserves and the Conservation Act provides for the disposal of stewardship areas.[3] The Conservation General Policy (under the Conservation Act) restricts disposals to land with no, or very low, conservation values.

11. National park land cannot be exchanged or disposed of except by Act of Parliament[4].

Reserve Act disposal and exchange

12. The Reserves Act requires the administration of reserves to preserve and protect each reserve's values. It provides for the exchange of reserves and the revocation of reserve status which can then result in disposal under the Land Act 1948.

13. If a reserve is exchanged, there must be an equality of exchange to protect the public interest in the existing reserve (that is, if exchanging a scenic reserve, the land to be received should have the same values and be given the same classification).

14. Where a reserve is sold, or money is paid during an exchange to approximate a similar value, proceeds must be spent for reserve purposes. This can include the acquisition of new reserve land and spending on the management of existing reserves.

---

1 Conservation Act 1987, s.16A (exchange of stewardship areas) and s.24E (exchange of marginal strips); and Reserve Act 1977 s.15 (exchange of reserves for other land) and 15AA (Administering body may authorise exchange of recreation reserve land for other land).

2 Conservation General Policy, the national statutory planning document under the Conservation Act 1987 restricts disposals to land with no, or very low conservation values (chapter 6 (c)). Under case law, exchanges are 'deemed' to be made up of a disposal and an acquisition (refer Hawke's Bay Regional Investment Company Limited v Royal Forest and Bird Protection Society of New Zealand Incorporated [2017] NZSC 106. http://www.courtsofnz.govt.nz/cases/hawkes-bay-regional-investment-company-limited-v-royal-forest-and-bird-protection-society-of-new-zealand-incorporated-1

3 Reserves Act 1977 s.24 (Change of classification or purpose or revocation of reserves) and Conservation Act 1987 s.26 (Disposal of stewardship areas)

4 National Parks Act 1980, s.11(1)

Conservation Act land disposal and exchange

15. All land held under the Conservation Act is a conservation area and held for the protection and preservation of natural and historic values, and where it is not detrimental to those values, to enable public use and enjoyment.

16. Some conservation areas can have additional special protection classifications, e.g. conservation park or sanctuary, and are managed according to the criteria for that classification. Conservation areas that do not have a special protection classification are managed as stewardship areas (also referred to as stewardship land).

17. The Conservation Act only provides for the exchange of stewardship areas (also referred to as stewardship land) and marginal strips (not other types of conservation land) and the disposal of stewardship land. Stewardship land amounts to 2.5 million hectares and comprises about a third of all New Zealand's PCL. There are around 3,000 distinct parcels of land.

18. Some areas of land are held and protected as stewardship land but have not yet been officially declared as being held for conservation purposes, or assessed to see if they require additional protection. These areas were "allocated" when DOC was formed in 1987, held as 'stewardship' as a transition status, with the intention that the conservation values of the land would be assessed in a thorough way, with an appropriate conservation classification assigned and implemented over time.

19. Once an assessment has been done, the land is declared to be held for a conservation purpose or classified as held for another specific purpose such as national park, ecological area, or scenic reserve. Alternatively, it may be disposed of for having 'low or no conservation value.' Land also becomes stewardship area if the classification of land is no longer applicable and is revoked (for example, if a natural disaster destroys the values which the classification is based on).

20. The scale and complexity of the task to assess the conservation values, and the time and resources needed to reclassify land, has meant that most land in stewardship remains unclassified yet it may hold significant conservation value[5].

Statutory planning settings – Conservation General Policy

21. The exchange or disposal of protected areas must be consistent with the Conservation General Policy (CGP), the national statutory planning document under the Conservation Act, which restricts disposals to land with no, or very low conservation values (chapter 6 (c)).

22. The CGP significantly restricts the disposal of land by requiring that DOC can only dispose of land if it is of *low or very low conservation value*. It also restricts disposal being undertaken for other more prescriptive reasons including where the land is important for the survival of any threatened indigenous species or represents a habitat or ecosystem that is under-represented in PCL (or could be restored into one).

Key legal cases restrict disposal to land with 'no or very low conservation value'

23. Two court cases, *Buller Electricity*[6] and *Ruataniwha*,[7] have added significant jurisprudence around disposal and exchange provisions in statute. These decisions have confirmed that the scope for exchange or disposal is limited to a narrow set of circumstances.

24. In the 1995 ***Buller Electricity* case,** a stewardship area in the Buller area was being sought for a proposed hydro scheme on the Ngākawau river. The High Court held that there was no basis on which the Minister of Conservation could sell or otherwise dispose of the stewardship area unless he was satisfied that it was no longer required for conservation purposes. This was based on the mandatory nature of section 26 of the Conservation Act to manage the land to protect its values and the various definitions in the Act that reinforce this.

25. In July 2017, the Supreme Court issued its decision in *Hawke's Bay Regional Investment Company Limited v Royal Forest and Bird Conservation Society of New Zealand Limited* (also known as ***Ruataniwha***). The proposal was that the conservation park status of the land was to be revoked so that the land could be exchanged as a stewardship area.

26. The Supreme Court held that the status of the land could not be revoked unless the conservation values of the resources on the land no longer justify that protection.

27. Prior to *Ruataniwha*, DOC had processed exchanges on the basis of what DOC was getting through the exchange, as well as considering what was being given up. A general principle of 'achieve a net conservation benefit' had been applied to exchanges in the past, although that particular phrase may not always have been used. If those requirements had been met, a decision was still needed on whether the exchange was desirable.

28. Since *Ruataniwha*, an exchange must be considered to involve both an acquisition and a disposal – and the test for disposal of PCL has always been much more restrictive than land exchange. As a consequence, land can only be exchanged in instances where the

5 A Stewardship Land Reclassification Project is underway for the western South Island and the Minister of Conservation is expected to make decisions on this in mid-2025.

6 Buller Electricity Ltd v Attorney-General [1995] 3 NZLR 344 (HC).

7 Hawke's Bay Regional Investment Co Ltd v Forest & Bird & Minister of Conservation [2018] NZSC 122.

land has no or very low value for conservation[8]. Another effect of *Ruataniwha* is the conservation benefit of the exchange cannot be given consideration, significantly limiting what can be considered in an exchange proposal.

Costs and processes for disposal and exchange

29. While it is possible for PCL to be sold, the process of land disposal by the Crown is somewhat more complex than the normal transfer of freehold title. The costs (e.g. surveying, conveyancing) associated with the process can be a major factor in determining whether a disposal proceeds, especially in the case of small areas of land with low value, which are not adequately defined and have no title.

30. The costs of preparing land for sale are met from DOC baseline, but not all those costs are recoverable from the sale. It can be difficult to model the revenue given the unknown location of potential land suitable for disposal. So, while it is feasible that an individual sale will exceed disposal preparation costs in some instances, disposal costs can make the proposal to dispose of some areas uneconomic to progress.

31. An indicative assessment of costs for reclassification of land for disposal was $53,000 in 2022[9], covering the assessment of the conservation values, notification, surveying, marketing and sale process.

32. While third party costs of disposal or exchange can often be recovered from the proceeds of sale, internal staff costs are generally not recoverable. Although the Minister of Conservation holds authority to dispose of PCL[10], giving effect to this decision remains subject to Land Information New Zealand (LINZ) processes for disposing of Crown land at present.

33. After Departmental land status checks and relevant disposal tests, public notification, approval by DOC, survey and valuation, DOC either contracts a LINZ accredited supplier to complete the disposal process or for some stewardship land disposals, a Statutory Land Management Advisor will complete the process. A LINZ-accredited agent then confirms whether the land is subject to requirements under the Public Works Act (e.g. any offer backs to previous owners). Where there is a 'right of first refusal' in place through Treaty settlement, the land will be offered to relevant iwi or hapū unless an exception applies (e.g. if land is being sold to a former owner under the Public Works Act 1981).

34. The Māori Protection Mechanism also applies where a government department decides it no longer needs land and there is the possibility that it could be used as either cultural or commercial redress in a Treaty settlement. The Crown may decide to hold the land for a future settlement. The Crown has a regulatory role in ensuring that these obligations are met.

35. If the land becomes available for sale (passes all the statutory requirements) it is generally put up for sale on the open market, through contracting a suitable real estate agent. If a LINZ accredited supplier has been contracted, co-ordinating this process will be part of that contract.

---

8 Conservation General Policy, the national statutory planning document under the Conservation Act 1987 restricts disposals to land with no, or very low conservation values (chapter 6 (c)). Under case law, exchanges are 'deemed' to be made up of a disposal and an acquisition.

9 Indicative costs in Regulatory Impact Statement: Streamlining the reclassification of stewardship land | Ministry for Regulation, see Appendix B: Cost Recovery Impact Statement, p 39-40, 14 June 2022

10 For example, under s.26 of the Conservation Act 1987 and s.25 of the Reserves Act 1977

What is the policy problem or opportunity?

36. The Government has limited flexibility to manage PCL, specifically in its ability to exchange and dispose of PCL to ensure benefits for conservation outcomes (whether that be through diverting resources to higher value conservation efforts or obtaining higher value conservation land in return).

37. The current restrictions on exchanges and disposal of PCL are intended to avoid breaking up or reducing the areas of land protected for conservation and future generations. However, the effect of these settings means the Crown is generally unable to exchange or dispose of PCL even in circumstances where there would be a clear benefit to conservation.

38. Decisions on exchanges and disposals need to be based on the conservation values of the PCL being disposed of. The land's existing status may not be revoked or changed by the Minister of Conservation, in whole or part, unless the conservation values on the land no longer warrant that level of protection (i.e. hold low or no value) and therefore that status is no longer appropriate.

39. The current regulatory settings for land disposals and exchanges do not allow consideration of the benefits from exchange or disposal of PCL (such as, the opportunity cost of being unable to exchange or dispose of certain land). The current provisions do not allow for consideration of overall conservation benefit, where there would be some trade-offs in conservation values. This limits the ability of the Minister and DOC to deliver more strategic conservation outcomes via land exchange and disposal.

40. If settings remain unchanged, DOC would continue to be unable to exchange or dispose of PCL in circumstances where there would be a clear benefit for conservation.

Land exchanges

41. Land exchange settings could be adjusted to enable exchanges with another party where this would support conservation outcomes and safeguard vulnerable biodiversity.

42. Exchanges can enable better representation of high value areas in the protected area network. Enabling exchanges could present opportunities to acquire land with values that are highly threated or underrepresented within Aotearoa's network of protected areas. They can also expand on or connect existing conservation areas. For example, ensuring the protection of a network of wetlands may be higher priority in an area with extensive areas of protected forest.

Land disposal

43. Disposing of land may present opportunities for conservation. For example, there may be marginal parts of PCL with liabilities (e.g. from degraded fixed assets and structures) and maintenance and/or compliance costs (e.g. fire risk) and conservation values that are well-represented in other areas of the region. If such land was disposed of, greater conservation outcomes could be achieved overall given the removal of costs and liabilities, allowing resources to be redirected towards purposes that better serve conservation outcomes.

44. Liberalisation of disposal provisions could allow DOC to better and more strategically manage PCL. Some land has no or low value for conservation, and some valuable land could be managed by others. For example, the land may be adequately protected by district or regional plan provisions, or the values may be at risk from impacts that would not be managed by inclusion in the protected area network (e.g. drainage of land adjacent to a wetland).

45. There are parcels of PCL that, due to departmental prioritisation, have gone without funding and therefore active management. There are ways to transfer administration and management of reserves to other parties (through an appointment to control and manage or a vesting of the reserve). The conservation values on the land could be protected through a covenant put in place in a decision to dispose or exchange the land (although this can reduce the sale price).

46. While economic development and revenue making is not a policy driver, it was agreed at Cabinet [ECO-24-MIN-0154] that additional conservation revenue from the transfer or sale of PCL will be reinvested into the conservation estate to improve biodiversity, recreation and heritage.

47. It should be noted that simply holding land as a protected area without active investment or management can have good conservation outcomes. The protective status itself can provide for natural maintenance of the conservation value the land has and allow for natural rewilding/regeneration of flora and fauna, even in the absence of active management by DOC.

Giving effect to Treaty principles

48. DOC's obligation to give effect to Treaty principles is articulated in section 4 of the Conservation Act. In addition, there are Treaty settlement commitments, and other agreements with iwi and hapū. While the Treaty settlement legislation and agreements will include specific obligations, the section 4 directive is a 'general clause' that requires the DOC give effect to Treaty principles when interpreting or administering conservation legislation.

49. There is no legislative specification as to how section 4 of the Conservation Act will definitively operate in land exchange and disposal processes. Relevant questions include how much engagement is necessary and whether Treaty partners should get preference when conservation land is being given up by the Crown (outside of rights of first refusal that are already included in Treaty settlements).

What objectives are sought in relation to the policy problem?

50. The Minister of Conservation is seeking to improve the effectiveness and efficiency of the management of public conservation lands, to generate improved conservation and other outcomes. As part of a broader programme to streamline PCL management, greater flexibility to exchange and dispose of PCL is proposed, but only where such transactions are in the interest of conservation.

51. That leads to the following objectives for this work:

    a. **Effectiveness**: in delivering on the purpose of the conservation system, namely, supporting good conservation outcomes, while also supporting other outcomes such as, allowing for recreation, tourism, economic opportunities

    b. **Good regulatory practice**: ensuring clarity and certainty for the regulator (DOC) and regulated parties, as well as ensuring DOC has the necessary tools, functions, powers and levels of discretion/flexibility to satisfactorily perform its statutory duties.

    c. **Upholding Treaty obligations**: DOC interprets and administers the Conservation Act in a way that gives effect to the principles of the Treaty of Waitangi, as well as ensuring any changes or new arrangements in planning management uphold Treaty settlement commitments and other Treaty obligations (e.g. those in relationship agreements between DOC and iwi/hapū).

What consultation has been undertaken?

52. In October 2024, Cabinet agreed to consult on changes to modernise conservation land management [ECO-24-MIN-0235]. The proposals aimed to:

    a. create a more streamlined, purposeful and flexible planning system

    b. set clear process requirements and timeframes for concessions

    c. establish how and when concessions should be competitively allocated

    d. establish standard terms and conditions for concessions

    e. enable more flexible land exchange and disposal settings

    f. provide clarity around Treaty of Waitangi obligations in these processes, including engagement requirements and decision-making considerations.

53. Consultation on these changes took place from November 2024 to February 2025, alongside proposals on charging for access to some conservation land.

54. DOC held 25 regional hui with Iwi, as well as 15 stakeholder engagements and four public information sessions during the consultation period. DOC also engaged on the proposals with the Director-General of Conservation's commercial External Advisory Panel.

Submissions overview

55. In total, more than 5,500 submissions were received on the proposals.

56. Most of the submissions were from individuals – with a large number using the Forest and Bird's form submissions (87% of total submissions) or using the DOC website submission (80% of 451 website submissions were from individuals), as well as 49% of freeform submissions also coming from individuals.

57. Of the remaining 51% 'freeform submissions', 11.5% came from Treaty partners and Māori organisations, 11.5% from various recreation and commercial stakeholders, 11% from concessionaires, 9% from statutory bodies, 5% from environmental NGOs and conservation groups and 3% from councils.

58. In addition, 20% of website submissions were from conservation groups, tourism businesses and Treaty partners.

Type of submissions	Number of submissions	Proportion of total submissions
Forest and Bird form submission	4,837	87 %
Website submission	451	8 %
'Freeform' submission	276	5 %
Total submissions	**5,564**	

59. Approximately 2% of submissions (98 individual submitters) did not engage directly with the proposals in the discussion document, instead expressing support for other submissions, or support for protecting conservation values, or that the Crown should not treat Treaty partners differently to others.

60. Feedback from website submissions responded to high-level questions from the discussion document, and generally does not engage with specific parts of the proposals.

61. Approximately 1,300 people who used the Forest and Bird form submission also provided personalised comments, expressing concerns about climate change, a lack of safeguards to protect nature, the sale of land, and that the discussion document was too focused on managing commercial interests.

Views on land exchanges

62. The majority of submitters opposed enabling more flexibility for land exchanges. 45 freeform submissions opposed the proposal, while 29 expressed support. Submissions received through the DOC website shows similar feedback, with 123 submitters responding "no" when asked if enabled flexibility for exchanges was supported where it

makes sense for conservation, 58 responded “yes” while the remaining 42 where “unsure“ or “no comment.”

63. The general concern among submitters was that the proposal is too broad and provides an opportunity to more easily exchange PCL to enable development or mining operations that would significantly impact important conservation values. Some also raised that land exchanges could be undertaken to respond to budget, lobbying and commercial interests.

Views on land disposals

64. Similarly to enabling more flexibility for land exchanges the majority of submitters opposed enabling more flexibility for land disposal. 59 freeform submissions opposed the proposal, while 24 expressed support. Submissions received through the DOC website shows similar feedback, with 116 submitters responding “no” when asked if enabled flexibility for disposals was supported where it makes sense for conservation, 41 responded “yes” while the remaining 49 where unsure or had no comment.

65. There was general concern about selling off PCL and losing important conservation values in perceived response to budget, lobbying and commercial interests.

66. Those who supported the proposal said that land should only be available for disposal if it has no conservation, recreation or cultural value. These submitters also said that appropriate safeguards need to be in place to avoid corruption.

67. A couple of submitters also mentioned that land should not be available for disposal until stewardship land has been reclassified.

Section 2: Assessing options to address the policy problem

What criteria will be used to compare options to the status quo?

68. Options for change will be compared to the status quo using the following criteria:

Effectiveness	Contribution to better conservation outcomes through effective public conservation land management (via the exchange and disposal of land).
Regulatory stewardship	Provide clarity on the matters that will be taken into account by DOC and the Minister when exchanges and disposals of PCL are considered, which will in turn: • better support DOC's management and decision-making processes in relation to PCL • support effective management of PCL to deliver improved conservation outcomes.
Treaty of Waitangi	Certainty about performing statutory functions in a manner that gives effect to Treaty principles. Ensuring consistency with Treaty settlement commitments and other obligations.

69. There are likely to be trade-offs between the criteria in the table above, and they will need to be carefully balanced when analysing each set of options. For example, it would theoretically be possible to give the regulator (DOC) the broadest powers, tools and discretion to exchange PCL. However, that would be in tension with achieving conservation outcomes, which would not be served by large-scale exchange (regardless of whether this is just enabled or also carried out) of PCL.

What scope will options be considered within?

70. The Minister has decided that the scope is to amend legislation to enable greater flexibility to exchange PCL where it would make sense for conservation. The scope does not include:

    a. Providing for greater flexibility to pursue exchanges and disposals beyond situations that are in the interests of conservation (e.g. enabling land disposals specifically for economic development or to generate revenue for the conservation system).

    b. Non-regulatory options such as amending operational processes. The interactions between current legislation and case law have demonstrated the need for legislative change. Nevertheless, any changes to regulation may be accompanied by changes to operational practice and guidance to best support implementation.

Approach to Treaty obligations

71. The Minister's approach to resolving ambiguity relating to section 4 is to:

    a. Retain section 4 as a general, operative clause in the Conservation Act;

    b. Add specific measures to clarify what is (or is not) required to give effect to Treaty principles in particular processes or decisions; and

    c. Make it clear that complying with these specific measures will be sufficient to comply with section 4 in relation to the relevant processes or decisions.

72. This approach may evolve during drafting based on legal advice about how best to achieve the Government's desired outcome. The Legislation Design and Advisory Committee's guidelines advise caution about the interaction between new legislation, existing legislation and the common law.[11] Not properly understanding and addressing these interactions can make the law more confusing, undermining the policy objective.[12]

What options are being considered?

73. Although land disposal and exchange share the same root cause and overarching system level problems, land exchange (exchanging of conservation land for new land) and land disposal (selling conservation land) will be treated as separate policy issues as each generate different risks and opportunities.

74. The two key areas, each with different options are covered in this RIS:

Section A	Exchanges of public conservation land
Section B	Disposal of public conservation land

11 Legislation Guidelines (2021 edition), Guidelines 3.1 – 3.5.

12 As seen in Court of Appeal and Supreme Court cases about the apparent inconsistency between the plain words of section 58 of the Marine and Coastal Area (Takutai Moana) Act 2011 and that Act's purpose (section 4) and Treaty provisions (section 7). *Re Edwards Whakatōhea* [2023] NZCA 504 at [416] and *Whakatōhea Kotahitanga Waka (Edwards) and Ors v Te Kāhui and Ors* [2024] NZSC 164.

Section A Exchanges of public conservation land (PCL)

75. There are three options for enabling more flexibility and clarity on the how land can be exchanged to improve how public conservation land can be the managed to achieve better conservation outcomes:

    a. Option A1: Status quo

    b. Option A2: Enable exchanges with exclusions, net conservation benefit test and process changes [preferred option]

    c. Option A3: Enable exchanges with different considerations – weighing more factors or constraining to a single factor of 'like-for-like'

What options are being considered?

Option A1 – Status Quo

76. Under the status quo, exchanges under the Conservation Act must enhance the conservation values of land managed by DOC; there is a 'like for like' requirement for land exchanges under the Reserves Act. There are other requirements as discussed above, and summarised as follows:

Requirements	Description
Conservation legislation	**Conservation Act 1987:** Exchanges are possible for stewardship areas and marginal strips. The Minister of Conservation must be satisfied the exchange will enhance the conservation values of land managed by DOC and promote the purposes of the Act. **Reserves Act 1977:** If a reserve is exchanged, there must be an equality of exchange to protect the public interest in the existing reserve (i.e. if exchanging a scenic reserve, the land to be received should have the same values and be given the same classification).
Statutory planning documents	**Conservation General Policy**: Subject to Chapter 6(a). 6(b), 6(c) and 6(d), exchanges can only be considered if the land has no or very low conservation values.
Case law	The *Ruataniwha* case in the Supreme Court July 2017 confirmed the above requirements and: • the process of exchange requires a disposal • for land administered under the Conservation Act there is no lawful basis to revoke the status of specially protected land to stewardship land (which can be disposed of) if the intrinsic values present warrant the specially protected status in the first place • the benefits of an exchange (net benefit gained) cannot be taken into account as part of a revocation decision.

77. The status quo of exchange settings has limitations and restrictions which would not result in the overarching objective to enable more flexibility for land exchanges.

78. The current exchange process under the Conservation Act does not require public notification. The Conservation Act also does not state specific consultation requirements with Treaty partners.

79. In relation to Crown-owned reserves with administering bodies, an administering body's agreement is required for land exchanges and disposals.

80. Many submitters who engaged with the proposals in the discussion document in-depth, disagreed with how issues related to land exchange and disposal were presented and argued the status quo for land exchange and disposal is appropriate, that there is value of a precautionary approach, and the process ought to remain robust.

Option A2 – Enable exchanges with net conservation benefit test, exclusions, and process changes [Preferred option]

81. This option proposes a mix of changes to introduce greater flexibility for land exchanges, but also introduces some elements to the exchange process that ensures that such flexibility does not result in undermining conservation values and outcomes. The changes proposed are:

    a. applying a 'net conservation benefit' test instead of the 'low to no conservation value' test

    b. excluding land that is regarded as being of high conservation value (except for minor boundary adjustments for technical reasons)

    c. specification regarding engagement with Treaty partners and consideration of Māori rights and interests.

82. The first two elements were included in the consultation on land exchanges and disposals (*Modernising conservation land management – Discussion document*, November 2024 and its associated RIS (*Interim Regulatory Impact Statement: Land exchanges and disposals,* 16 October 2024)[13]. Following analysis of submissions and subsequent policy analysis, the options were refined and also include some process changes.

Applying a new test – net conservation benefit

83. This option proposes replacing the current test for land to be of 'no or low conservation value', with a requirement for land exchanges to result in an overall 'net conservation benefit'. This will enable land with greater value than 'no or very low' conservation value can be exchanged, so long as there is a net conservation benefit.

84. This new approach seeks to resolve the issue raised through the *Ruataniwha* Supreme Court case – which found that for land administered under the Conservation Act, there is no lawful basis to revoke the status of specially protected land to stewardship land (which can be exchanged) if the intrinsic values present warrant the specially protected status in the first place.

85. The current tests for exchanges are primarily concerned with protecting the 'intrinsic values' of PCL. This means that land with any meaningful conservation values cannot be exchanged for land that has higher conservation values. Any land can be argued to have

[13] Discussion Document: Modernising conservation land (2024)
Interim RIS (from page 113): Modernising Conservation Land Management: Approval to Consult - Cabinet paper, Cabinet committee minute and associated advice

some level of conservation value, thus restricting any land exchange from even being considered.

86. Applying a net conservation benefit test will remove the need under the Reserves Act for reserves to be exchanged with reserves of the same type (i.e. a scenic reserve with a scenic reserve). In some situations, an exchange with other land, with different conservation values, will result in a superior conservation outcome. However, as some submitters noted, demonstrating 'net conservation benefit' requires judgements on what has more (or less) value, and comparing different values can be difficult and vulnerable to differences of expert opinion.

87. This approach prioritises the conservation value (via net conversation benefit) over the market value of the land. This can present financial risk in cases where the financial value of the proposed incoming land (privately owned) is not at least equal to the financial value of the PCL parcel. The assessment for an exchange would mitigate this to an extent by allowing money to be considered as part of the exchange. The Minister would also have discretion to not approve an exchange even if the net conservation benefit test were met.

88. The extent of net benefit is likely to be context-specific, for example, a small conservation gain may be important in one region to protect a particular species or environment, but may be of much lesser importance in another region where that environment or species is far more abundant. Given the context specific nature of applying the 'net conservation benefit' test, it is not proposed to identify a threshold or minimum value of any benefit – the decision-maker will determine whether the net benefit merits approving the land exchange based on expert advice.

89. Some concessionaires who supported the proposal say that it should be limited to situations where it makes sense for conservation and tourism. However, significant tourism projects can already access land exchanges through the Fast-track Approvals Act 2024.

Key considerations in net conservation benefit test

90. Given the subjectivity, any assessment of conservation value is inherently difficult, it will be necessary to create a process with criteria and guidance to ensure decisions on 'net conservation benefit' are procedurally and substantively robust. Submitters who supported the proposal for more flexible exchange settings generally expressed that they do not support the exchange of PCL for another piece of land that has less conservation values. Individuals who supported the proposal expect strong safeguards to protect conservation values, public interests and avoid corruption.

91. A net conservation benefit will therefore incorporate the following elements:

    a. Assessment of the conservation values likely to exist in the foreseeable future of the land to be exchanged and land to be acquired. This minimises the risk that land with minimal conservation value is exchanged, when that land has the potential for significant value following future restoration work.

    b. An exchange can include money which must be used on necessary improvements to the land acquired by the Crown to satisfy the Minister the exchange results in net conservation benefit. However, the land being offered must already have a reasonable level of conservation value.

    c. Ratio of money to land – a major financial component as part of a low-value land exchange will involve significant expenditure transforming and improving the

land (to generate net conservation benefit), and consequently increased risks that all improvement benefits will not ultimately be achieved.

d. Risk assessment, including consideration of the likelihood that conservation value improvements will be achieved and within 'reasonable' timeframes (noting this will vary depending on ecosystem, level of remediation etc). Generally, the longer it takes to get exchanged land to meet net conservation benefit standards, the greater the risk that it may never meet the standards (even with allocation of additional DOC project management resources to manage risks of weather impacts, delivery delays and cost overruns).

92. The net conservation benefit test would include consideration of Treaty rights and interests. For instance, in the scenario where someone is seeking to acquire PCL, and it met a net benefit test, DOC would provide advice based on consultation with Treaty partners to the Minister to consider impacts on Māori rights and interests when deciding whether to exchange PCL.

Ministerial discretion not to approve land exchange

93. The Minister of Conservation would have the discretion to not exchange land even if it is assessed to have net conservation benefit (but cannot approve an exchange where it does not meet the net conservation benefit test).

94. While a decision to allow or decline an exchange should be evidence-based with expert advice, it will necessarily have some subjectivity associated with it. There are also a range of other factors the Minister should be able to consider when deciding whether to exchange (assuming the net conservation benefit test is met) such as:

    a. the financial implications for the Crown;

    b. whether the consequences of the land exchange would be practical to manage on an ongoing basis, including consideration of whether the land exchange would result in an enclave of private land within a conservation area or a Crown-owned reserve; and

    c. the legal and financial liabilities, and health and safety risks, for the Crown associated with the land exchange

Exclude some types of land from exchanges

95. A further protection to manage the risk that land of high conservation values is subject to land exchange is to explicitly exclude specific areas specific areas from being eligible for consideration. This approach was taken under the Fast-track Approvals Actalthough it is expanded under this option.

96. The exclusion of particular categories of land from exchange will safeguard key areas of known high conservation value and provide certainty to the public. The majority of submitters expressed the importance of excluding high value conservation areas from being available for exchange or disposal.

97. The proposed exclusions build upon the categories identified for exclusion under the Fast-track Approvals Act, as the purpose of that legislation was to facilitate the delivery of infrastructure and development projects with significant regional or national benefits. The categories proposed for exclusion are to support the achievement of conservation purposes and include the following which are excluded under the Fast-track Approvals Act:

a. National parks
b. Nature reserves
c. Scientific reserves
d. Wilderness areas under the Reserves Act
e. Wilderness areas or sanctuary areas under the Conservation Act
f. Wildlife sanctuaries
g. Ramsar wetlands
h. Several named individual sites in Schedule 4 of the Crown Minerals Act
i. National reserves under the Reserves Act
j. Reserves that are not Crown-owned

98. This proposal also excludes:

a. Any public conservation land that has been assessed as having cultural, national or international significance[14] (for example, a site like Tāne Mahuta in the Waipoua Forest, which is a conservation park under the Conservation Act);
b. Ecological areas (under the Conservation Act); and
c. Any PCL within a designated World Heritage Area.

99. The categories that are not eligible for exchange under the Fast-track Approvals Act represents approximately 40% of PCL.[15] We expect a slightly higher proportion of PCL to be excluded given the proposed additional exclusions listed above (noting that the majority of World Heritage Area is also national park so while they are large, they do not add significantly to the area excluded).

100. Conversely, on the other side of the exchange equation, areas of private land or areas of land that are not PCL but have existing sound protection mechanisms in place, such as a conservation covenant, have not been explicitly excluded. However, they may not be assessed as meeting the net conservation benefit test (given that shifting ownership does not increase the protection for such areas) and would therefore not likely meet the test for land exchange.

101. Currently there are situations where minor boundary adjustments are required for high value categories of land, and these would be enabled for nearly all excluded areas (listed above[16]) where they have low or no conservation value. For example, where surveys show corrections are required or where topography limits the ability to fence the boundary. These situations require exchanges and sometimes require disposals.

102. After removing these types of land from eligibility, the amount of land that may be sought for exchange is currently unknown – presenting the risk of undertaking legislative change to enable a potentially low number of exchanges. These changes however are aimed at ensuring that DOC as a land manager has appropriate settings to exchange land in

14 'National or international significance' is an existing criterion under the Conservation General Policy to inform when land disposals should not be undertaken.

15 7-March-24 data set. This excludes estimated areas of duplication (e.g. overlays) and areas that could not be fully defined (e.g. RAMSAR). Percentages based on a total of PCL captured by FTA Act being approximately 5,255,057 hectares (being 60% of total PCL i.e. 8.7m ha), taking into account the classifications excluded, overlays and reserves administered by admin bodies or privately owned etc.

16 National parks are an exception to this, as they require an act of Parliament to change boundaries, and it is not proposed to change this prohibition.

circumstances where it improves conservation outcomes (rather than proactively seeking to exchange large amounts of land).

Enable continued protection through covenants

103. Conservation values on the land being exchanged could potentially be protected through a covenant or subject to an easement (e.g. to ensure access for neighbours). However, a covenant may not be able to entirely ensure a particular outcome for conservation values on the land in question.

104. Any additional protections such as covenants could decrease the interest of parties wanting to exchange land with the Crown depending on their purposes for it.

105. Conservation covenants would require monitoring to ensure new owners are compliant which would need to be done through existing covenant monitoring processes within DOC.

Exclusions arising from Treaty settlements and gift-back obligations

106. Treaty settlements often apply to PCL and may include provisions relevant to land exchanges. The intent of Treaty settlements will be upheld for land exchange and disposal settings. Where land is subject to an existing Treaty settlement negotiation it would be excluded from land exchange. The Minister of Conservation would be required to consult the Minister for Treaty of Waitangi Negotiations and the Minister for Māori Development before deciding whether to exchange PCL.

107. There are also cases where land has been donated to DOC by members of the public on the condition that it be returned if no longer needed for conservation.

108. Where an exchange or disposal would trigger an offer-back or rights of first refusal obligation, there will be a requirement that the holder of that right or obligation has agreed to the transaction.

109. Careful consideration will be given where the land proposed for exchange is subject to existing concessions (and the impact on existing community or business) or where the land may potentially be subject to a future Treaty settlement process.

Treaty considerations and the role of iwi in the process

110. Treaty partners were concerned that land exchanges could further alienate them from their ancestral land. It was generally a bottom line for Treaty partners that they should have the first opportunity to obtain land if it is proposed to be exchanged.

111. Currently DOC notifies and, in some cases, consults with iwi and hapū once an exchange proposal is received, and generally seeks to ensure applicants consult with all relevant parties prior to making a proposal.

112. This option would include a requirement to seek feedback on an exchange proposal from relevant Treaty partners, prior to public consultation. Findings and analysis on Māori rights and interests would be captured in a report and then considered by the Minister when making an exchange decision.

113. Seeking feedback directly from iwi recognises the inherent relationship Treaty partners have as tangata whenua and may help uncover issues or information that DOC (or an exchange applicant) was not aware of such as taonga and wāhi tapu, pre-settlement interest, broader Treaty partner aspirations of land ownership, to help make informed decisions.

114. The specific steps required to engage with iwi would be drafted into the legislation and drafting would make it clear that these steps were what is required to give effect to section 4 of the Conservation Act for the purpose of land exchanges and disposals. Otherwise, the ambiguity around what section 4 requires will remain. While this will provide procedural certainty relating to engagement with iwi and hapū, this option will be seen as a narrow application of section 4. It may be seen as a weakening of Treaty and conservation protections and could cause damage to Māori-Crown relations.

Crown-owned reserves with administering bodies

115. The majority of Crown-owned reserves that have administering bodies are managed by local authorities. These types of reserves often provide for specific local values – including recreation, stormwater management, biodiversity protection etc. Other management bodies are commonly community associations (e.g. Scouts or Plunket) and voluntary groups or incorporated societies. For some types of management there are reserve boards or Trust associations and in addition to this some joint entities or PSGE's have been appointed through Treaty Settlement legislation.

116. The requirement for agreement of the administering body where that body is in place because of a Treaty settlement would continue. For other types of administering bodies, this option would involve consulting them on the proposal to exchange of land. This would allow the Minister to assess the impact of the exchange on the administering body but prevent them from having a veto over what is still Crown owned land.

117. Management arrangements for the new land would be assessed on a case-by-case basis rather than automatically applying the same administering body. Land received in an exchange might be located in a completely different area and be of a different land type than that of the outgoing land. This requires consideration of appropriate management arrangements.

Option A3 – Enable exchanges only where land is like-for-like

118. A number of submitters supported restricting exchanges to 'like-for-like' as a way to avoid trade-offs where weighing and comparing respective conservation values could be problematic.

119. Enabling exchanges only on a 'like-for-like' basis would limit the flexibility and avoid trade-offs particularly where comparison of respective values could be problematic. This approach of 'like-for-like' is currently used under the Reserves Act for land exchange, requiring an equality of exchange to protect the public interest in the existing reserve (that is, if exchanging a scenic reserve, the land received should have the same values and be given the same classification)[17]. This option would impose similar legislative restrictions for exchanges of other types of PCL.

120. Restricting exchanges to 'like for like' values would limit the ability of the government to achieve optimal conservation outcomes. In some situations, an exchange of land with other land with different but equal or higher conservation values could result in a superior conservation outcome. However, making relative assessments of conservation value is inherently difficult and the assessment would be vulnerable to differences in expert opinion.

[17] Part 3 of the Reserves Act sets out the classification and management of reserves, and the different types of reserves include recreation (s.17), historic (s.18), scenic (s.19), nature (s.20), scientific (s.21), government and local purposes reserves (s.22 and s.23).

121. Assessing the relative merits of different land in the context of 'conservation values' for like-to-like exchange has to be approached with caution, and can become a debate between experts on relative merits of different conservation outcomes.

How do the options compare to the status quo/counterfactual?

	Option A1 – *Status Quo*	Option A2 – Enable exchanges with net conservation benefit test, exclusions and process changes (Preferred)	Option A3 – Enable exchanges only where land is 'like-for-like'
Effectiveness Contribution to conservation outcomes	0	++ This option would allow exchanges in situations where there is net conservation benefit. Under the status quo, there are situations where exchanges may offer net conservation benefit but cannot be pursued. PCL of known high conservation value would be excluded and ineligible for exchange.	+ Expanding the 'like-for-like' approach minimises trade-off considerations against conservation outcomes, but ultimately limits the ability of the government to achieving net positive conservation outcomes.
Regulatory Stewardship Improved flexibility and clarity	0	++ Provides greater flexibility by · expanding the categories of land that can be exchange or disposed of, As a land manager, this option provides DOC with increased ability to utilise land exchanges when it provides positive conservation outcomes. By clarifying the circumstances in which exchanges are possible and the statutory tests for exchanges, Treaty partners, the public and interested private landowners would have greater knowledge about the range of situations in which exchanges of PCL may be possible.	+ This option would give DOC greater flexibility by increasing the options to be considered in a land exchange. Expanding 'like-for-like' to all land exchanges provides greater clarity for decision-making but reduces DOC's flexibility in managing PCL for optimal conservation outcomes.

	Option A1 – *Status Quo*	Option A2 – Enable exchanges with net conservation benefit test, exclusions and process changes (Preferred)	Option A3 – Enable exchanges only where land is 'like-for-like'
Treaty of Waitangi	**0**	**0** More flexible exchange provisions could have positive impacts for iwi or hapū if they are in a position to exchange land. More certainty about what is required to give effect to section 4 in a land exchange or disposal process. However, this certainty is provided by narrowing the application of section 4, 9(2)(f)(iv) [redacted] The requirement for the Minister to consider Māori rights and interests will ensure consideration of Treaty partners views and settlement matters in land disposal decision-making.	**-** The restriction of land exchanges to 'like-to like' would reduce flexibility for iwi and hapū in land exchanges that supports optimal conservation and other outcomes. The same issues with section 4 as Option 2A. The requirement for the Minister to consider Māori rights and interests will ensure consideration of Treaty partners views and settlement matters in land disposal decision-making.
Overall assessment	**0**	4	1

Key: *Compared to the status quo* ++ *much better* + *better* **0** *about the same* – *worse* – – *much worse*

Section B Disposal of Public Conservation Land (PCL)

What options are being considered?

122. There are three options for enabling more flexibility and clarity on land disposals:
    a. Option B1 - Status quo
    b. Option B2 – Enable disposals that meet mandatory thresholds [Department's preferred option]
    c. Option B3 - Enable disposals with Ministerial discretion and mandatory considerations
    d. There is also a sub-option that can be applied to options B2 and B3 around whether to give iwi first option on all land being disposed.

123. The discussion document proposed being able to dispose of land that is 'surplus to conservation needs' and noted that land that is 'surplus to conservation needs' was yet to be defined.

124. The majority of submitters were opposed to the disposal of conservation land that is 'surplus to conservation needs'. There was general concern about selling off PCL and losing important conservation values in perceived response to budget, lobbying and commercial interest. There was also concern about how the phrase 'surplus to conservation needs' could be interpreted and many were uneasy about allowing the Minister of the day to determine what they think is surplus to conservation needs.

125. During consultation, further policy work was undertaken to establish more clarity around what 'surplus to conservation needs' means and it has proven challenging to define in a way that provides flexibility without making the decision subject to significant discretion and litigation risk. Options B2 and B3 are more detailed formulations of what tests and considerations for land that are more useful and effective when considering what land that is surplus to conservation requirements could be.

Option B1 – Status Quo

126. Under the status quo, disposals are possible in specific circumstances – the legislative, statutory planning and case law requirements are discussed above and summarised as follows:

Requirements	Description
Conservation legislation	**Conservation Act 1987:** Disposal is only possible for stewardship areas or marginal strips (to which s.24A of the Conservation Act would apply). **Reserves Act 1977:** Subject to the purpose of the Act, the Act allows for reserves to be disposed.
Statutory planning documents	**Conservation General Policy**: Subject to Chapter 6(c) and 6(d), disposals (as with exchanges) can only be considered if the land has no or very low conservation values.
Case law	*Ruataniwha* case in the Supreme Court July 2017 confirmed the there is no lawful basis to revoke the status of specially protected land to stewardship land (which can be disposed of if the intrinsic values present warrant the specially protected status in the first place.

127. Disposals currently require public notification. There are also some requirements to consult with Treaty partners in the current process in operational policy and internal guidance. The disposal of reserves is a Land Information New Zealand process. For Crown-owned reserves with administering bodies, agreement from the body is required before disposing.

128. The Parliamentary Commissioner for the Environment opposed greater land disposal flexibility, arguing disposal of PCL should only be considered where it has no or very low conservation value (status quo). The Environmental Defence society also recommended retaining current policy (6(d) of the Conservation General Policy) as the criteria.

Option B2 – Enable disposals that meet mandatory thresholds [Preferred option]

129. This option replaces the test in the Conservation General Policy (Chapter 6(c) and(d)) that restricts disposal to land of 'no or low conservation value' with a new gateway test where the Minister of Conservation can only dispose of land where:

    a. The values on the land concerned are not considered essential for indigenous biodiversity conservation;

    b. The conservation values present on the land concerned are represented in other protected areas in the region;

    c. There are no rare or distinctive species or ecosystems on the land concerned. and

    d. The Director-General of Conservation has recommended disposal of the land concerned.

130. DOC considers that the tests above are critical for protecting threatened biodiversity and species. The presence of rare or distinctive indigenous biodiversity is a minimum threshold for disposal and can be a binary assessment. Conserving rare or distinctive species and ecosystems is core to the role of protected areas in the conservation system.

131. This will allow for disposals in a greater range of situations than at present while recognising when long-term hold as part of the conservation estate is essential. It will also provide some confidence that the ability to dispose of land is not entirely discretionary and has some firm limits.

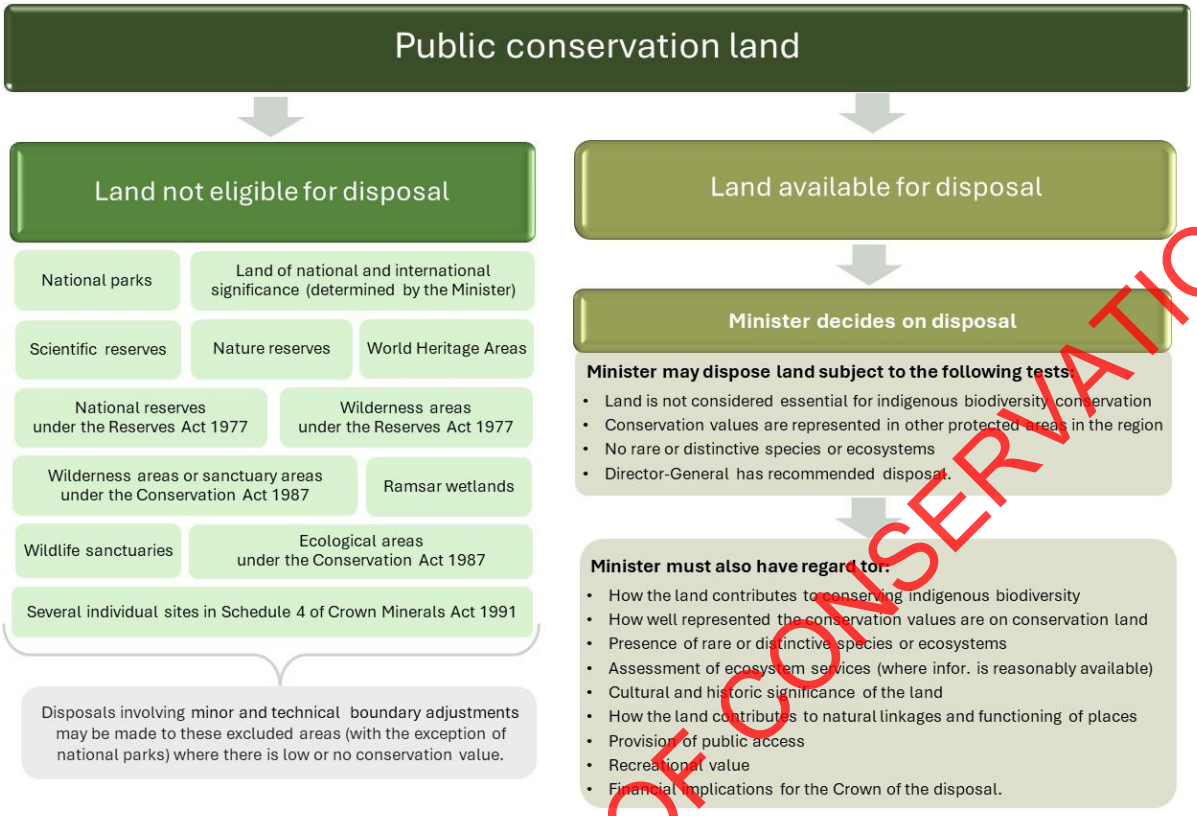
132. Assuming the tests above were met, the Minister would also be required to have regard to the following things before agreeing to dispose of land:

    a. How the land contributes to conserving indigenous biodiversity;
    b. An assessment of ecosystem services, where information is reasonably available;
    c. The cultural and historic significance of the land;
    d. How the land contributes to natural linkages and functioning of places;
    e. Provision of public access;
    f. Recreational value; and
    g. Financial implications for the Crown of the disposal.

133. On these matters the Minister has discretion and may choose not to dispose of land for any reason.

134. The same conservation land would be excluded from disposal as for land exchanges in Option A2 and the Minister of Minister of Conservation must consult the Minister for Treaty of Waitangi Negotiations and Minister for Māori Development before deciding whether to dispose or exchange conservation land.

135. Like Option A2, minor and technical boundary adjustments (that require disposal) may be made to the excluded areas (with the exception of national parks) where the specific areas being disposed of have low or no conservation value. For example, where surveys show corrections are required or where topography limits the ability to fence the boundary.



136. Some of those who opposed the proposal expressed concern that the categories of land proposed to be ineligible for disposal are too narrow and will enable high value conservation areas to be disposed of. The Parliamentary Commissioner for the Environment recommended that a wider range of conservation land be explicitly excluded from land disposal. It is true that land outside of these categories can hold significant and/or conservation value and this is why this option includes the threshold tests above and the range of considerations for the Minister as well as the ability to decide not to dispose of land for any reason. Expanding the list of ineligible land would reduce the land available for disposal to such low levels that it would question the value of embarking on a legislative work programme to move away from the status quo.

137. Many of the Forest and Bird form submitters were significantly concerned about the inappropriate sale of land that would result in the removal of biodiversity to allow for commercial use or development. The thresholds and considerations in this option are designed to ensure disposals are only done where it makes sense for conservation.

138. Several iwi groups raised that areas of cultural significance should be excluded from land exchanges or disposals. As tangata whenua, Treaty partners have an inherent connection to the land and a particular interest in PCL. It is important to consider the Treaty of Waitangi partnership/relationship, the application of section 4 of the Conservation Act, settlement touchpoints and to be aware of iwi land ownership and conservation management aspirations in any exchange and disposal process and decision.

139. Instead of adding another category to the above list of 'land not eligible for consideration of disposal', additional process steps are proposed to ensure that the Minister considers the rights and interests of Māori when making a decision on land exchange or disposal.

Improving processes – public notification, engagement with Treaty partners and impact report to Minister on Māori rights and interests

140. Under the status quo disposals require public notification. This would be retained and will be particularly important given the greater ability to do disposals.

141. The Director-General would set a timeframe for public notification, with at least 30 working days being provided to allow sufficient time for feedback on a permanent change to PCL.

142. This option also clarifies consultation requirements with Treaty partners – requiring feedback on a proposal from relevant Treaty partners for disposals (prior to public notification). A minimum of 30 working days would be given as a timeframe. Treaty partners, some statutory bodies and some environmental NGO's have highlighted the importance of consultation with mana whenua when exchanging and disposing of land. They say that this is an important step to ensure that Treaty rights and interests are recognised and considered before land is either exchanged or disposed. Timeframes for this would be set on a case-by-case basis, and a 30 working days minimum would mean the DG retains discretion to extend this period where they consider it to be reasonable in the circumstances.

143. Seeking feedback prior to public notification reflects the inherent relationship Treaty partners have as tangata whenua and may help uncover issues or information that DOC (or the applicant) was not aware of e.g. pre-settlement interest, broader Treaty partner aspirations of land ownership, to help make informed decisions. Treaty partners could also submit through the formal notification process.

144. Feedback received would then be captured in a report with analysis on Māori rights and interests, which would have to be considered by the Minister when making a disposal decision.

145. Like with options A2 and A3, the specific steps required to engage with iwi would be drafted into the legislation and drafting would make it clear that these steps were what is required to give effect to section 4 of the Conservation Act for the purpose of area plan processes. The same risks for this approach apply here as for those options.

Safeguarding conservation outcomes by continued protection through covenants

146. As noted in land exchanges (and Option B2), covenants provide an option for enabling ongoing protection. The conservation values on the land being disposed could potentially be protected through a covenant, however a covenant may not be able to entirely ensure a particular outcome for conservation values on the land in question. For example, covenants could allow the construction of a hotel but not allow extractive industry.

147. Land identified to potentially be disposed of will need to be appropriately assessed for the full conservation value, so that DOC can fully consider any trade-offs to conservation. In the case of stewardship land, it cannot be assumed that land does not have conservation value. All land would need to be assessed ahead of being considered for disposal rather than using any blanket approaches, for example, land held as a certain land classification to be considered for disposal.

Proceeds from disposal

148. Another process improvement to facilitate land disposal is to enable the proceeds from land disposal under the Conservation Act 1987 to go to DOC, instead of the Crown. Ringfencing proceeds from disposal would enable DOC to cover costs of disposal, land acquisition and capital expenditure on conservation land (to improve PCL management and support conservation outcomes).

149. Currently the proceeds of disposal of reserves under the Reserves Act go to the Crown account, but if the Minister directs, the money goes to DOC where it is required to be spent on reserve purchase and/or management. However, the proceeds from disposal of Conservation Act land go to the Crown Bank Account (as it is Crown Land) with no diversion mechanism in the Act.

150. This option enables DOC to recover costs associated with preparing the land for sale from the proceeds of sale. Any proceeds from the disposal of conservation land above the costs of preparing the land for sale can only be applied to land purchases or capital expenditure on public conservation land. While there may be concerns that this creates an inappropriate incentive to dispose of land, the high costs of disposal mean that any retention of funds from land disposal is unlikely to significantly boost DOC's revenue.

Crown-owned reserves with administering bodies

151. The majority of Crown-owned reserves that have administering bodies are managed by local authorities. These types of reserves often provide for specific local values – including recreation, stormwater management, biodiversity protection etc.

152. Other management bodies are commonly community associations (e.g. Scouts or Plunket) and voluntary groups or incorporated societies. For some types of management there are reserve boards or Trust associations and in addition to this some joint entities or Post-Settlement Governance Entities (PSGEs)s have been appointed through Treaty Settlement legislation.

153. This option would retain the requirement for agreement of the administering body where that body is in place because of a Treaty settlement.

154. For other types of administering bodies, this option would involve consulting them on the proposal to dispose of land. This would allow the Minister to assess the impact of the disposal on that administering body.

Option B3 – Enable disposals with Ministerial discretion and mandatory considerations

155. This option is the same as Option B2 except that the following threshold tests become mandatory considerations instead:

    a. The extent to which the values on the land concerned are considered essential for indigenous biodiversity conservation;

    b. The extent to which conservation values present on the land concerned are well-represented in other protected areas in the region; and

    c. The presence of rare or distinctive species or ecosystems on the land concerned.

156. This option would allow the Minister of Conservation to have reasonably broad discretion to dispose of conservation land if recommended by the Director-General.

157. This varies from the option that was publicly consulted on – that disposals would be restricted to situations where land is 'surplus to conservation needs'. A number of submitters were very concerned with how 'surplus to conservation needs' would be defined. The Parliamentary Commissioner for the Environment proposed retaining the status quo, namely, disposal of PCL should only be considered where land has no or very low conservation value.

158. While any option to make disposals more flexible will be contentious, this option is likely to be more contentious given the breadth of Ministerial discretion and lack of thresholds in legislation.

159. The same areas would be excluded from being eligible for disposal under these new settings, and there would still be an ability to make minor and technical boundary adjustments.

Sub-option for Options B2 and B3: Iwi/hapū first option on disposals

160. In all options above Māori will retain the first right of refusal for land disposal where this is provided for in Treaty settlement. However, there are examples where iwi/hapū do not have first right of refusal (RFR) negotiated as redress through their Treaty settlement, including where iwi are yet to settle their historic claims.

161. Submissions from several iwi groups raised concern about the potential for wāhi tapu or sites of cultural significance being exchanged or disposed of (and potentially sold to non-iwi), and what this could also mean for iwi and Māori land-owner aspirations. If PCL is disposed of to a private landowner iwi/hapū would lose access and use that is provided for in the Crown conservation land system. Pou Taiao National Iwi Chairs Forum and some iwi submitted that land should only be exchanged and disposed to hapū and iwi because of the profound implications it would have on tangata whenua if is open to others.

162. The Crown is increasingly receiving requests for the transfer of ownership of PCL from both settled and non-settled iwi and hapū. More flexibility in disposal settings presents an opportunity to meet Treaty partner aspirations for the return of suitable PCL which could support enhanced mana, rangatiratanga and exercise of kaitiakitanga over their land.

163. Some submitters suggested applying an RFR across all PCL to allow iwi/hapū the first option on all disposals (including outside of Treaty settlement).

164. There would, however, be significant implications for the settlement process. It could disincentivise claimant groups to settle historical claims if an opportunity is provided through general law and reduce the potential benefit of settlements (i.e. this would create a new standard and would no longer be available as cultural or economic redress).

165. There is also complexity with what an RFR for all of PCL would mean in practice in terms of determining who the RFR would apply to (whānau, hapū, iwi) and in many cases, dealing with complexity from overlapping iwi interests on PCL. This is a challenge in Treaty negotiations that can sometimes be left unresolved due to difficulties achieving a

RFR provision that appropriately addresses overlapping interests. Significant policy work would be required to further develop an appropriate mechanism to work through these challenges. For the above reasons, this is not recommended.

166. Where land is not subject to a Treaty settlement, the Māori Protection Mechanism policy requires that the protection of Māori interests is considered before the disposal can occur. No changes are proposed to this so the Crown may decide to hold the land for a future settlement, and this helps to protect the interests of unsettled iwi.

167. This option applies to disposals and not exchanges because exchanges primarily involve an applicant proactively offering DOC an alternative piece of land rather than a piece of land being offered on the market. If it is deemed inappropriate to exchange land due to interests a Treaty partner has in the land, it would not preclude the subsequent consideration of an exchange (or disposal) request from Treaty partners as a separate process.

168. If the Government wanted to explore a proactive approach and look to explore broader exchanges or disposals beyond proposed settings, a review of these settings would be appropriate.

How do the options compare to the status quo/counterfactual?

	Option One – Status Quo	Option B2 – Enable disposals that meet mandatory thresholds [Preferred option]	Option B3 - Enable disposals with Ministerial discretion and mandatory considerations	Sub option for B2 and B3 – Iwi/hapū first option
Effectiveness Contribution to conservation outcomes	0	++ Proceeds spent on conservation and safeguards including thresholds: Disposals must meet thresholds related to conservation value before they can be approved and must be recommended by Director-General. Disposals relating to the most precious PCL (e.g. nature reserves, ecological areas) are explicitly excluded. Covenants can also be applied.	+ Proceeds spent on conservation and some safeguards: Director-General must recommend disposal and there a range of mandatory considerations. Highest value categories excluded. Covenants able to be applied.	0 Unlikely to have a significant impact on conservation outcomes. Iwi/hapū may be more inclined to protect the land beyond a private buyer but only a covenant will guarantee that outcome.
Regulatory Stewardship Improved flexibility and clarity	0	++ Allows greater flexibility for disposals without compromising core purpose of conservation. Increased ability to utilise land disposal when it is costly to continue to hold land of lesser conservation value. Greater clarity on requirements to engage with Treaty partners.	++ Allows greater flexibility for disposals without compromising core purpose of conservation. Increased ability to utilise land disposal when it is costly to continue to hold land of lesser conservation value. Greater clarity on requirements to engage with Treaty partners.	– – Difficulty determining who the first option would apply to where there are overlapping interests – may preclude implementation. Implications for incentives and benefits of existing Treaty settlement process.

	Option One – Status Quo	Option B2 – Enable disposals that meet mandatory thresholds [Preferred option]	Option B3 - Enable disposals with Ministerial discretion and mandatory considerations	Sub option for B2 and B3 – Iwi/hapū first option
Treaty of Waitangi	**0**	**0** Increased options of land available for disposal could positively impact for iwi or hapū if they are in a position to exchange land as well as contributing to future settlement processes. More certainty about what is required to give effect to section 4 in a process to develop national policy. However, this certainty is provided by narrowing the application of section 4, 9(2)(f)(iv) [redacted] The requirement for the Minister to consider Māori rights and interests will ensure consideration of Treaty partners views and settlement matters in land disposal decision-making.	**0** Increased options of land available for disposal could positively impact for iwi or hapū if they are in a position to exchange land as well as contributing to future settlement processes. More certainty about what is required to give effect to section 4 in a process to develop national policy. However, this certainty is provided by narrowing the application of section 4, 9(2)(f)(iv) [redacted] The requirement for the Minister to consider Māori rights and interests will ensure consideration of Treaty partners views and settlement matters in land disposal decision-making.	**+** Recognises cultural connection with the land beyond existing processes through the Māori Protection Mechanism and existing Treaty settlements. Will not go as far as some Treaty partners wish as it will not enable them to have a veto over the disposal.
Overall assessment	**0**	**4**	**3**	**-1**

Key: *Compared to the status quo* **++** *much better* **+** *better* **0** *about the same* **–** *worse* **– –** *much worse*

What option is likely to best address the problem, meet the policy objectives, and deliver the highest net benefits?

169. The preferred options identified above are:

    a. Option A2 – Enable exchanges with net conservation benefit test, exclusions and process changes

    b. Option B2 – Enable disposals with mandatory thresholds, exclusions and process requirements

170. Both these options for land exchanges (Option A2) and land disposals (Option B2), with the associated changes to land exchange and disposal processes, offer benefits over the status quo and alternative options.

171. The combination of these two options meets the fundamental objective of increasing flexibility for government to pursue disposals and exchanges of public conservation land to more effectively manage the conservation estate, while safeguarding high value conservation areas and protecting conservation values.

172. Exclusions of the highest value land categories protects where there are known significant conservation benefits to holding the land. And the application of the following tests and processes provides safeguards where there are significant conservation values on other land:

    a. The application of a net conservation benefit test supports consideration of the actual or potential net benefit to conservation in New Zealand, rather than to only the conservation estate. The net conservation benefit test does mean that there is an inherent risk of losing some conservation value on PCL to gain/achieve higher conservation value elsewhere.

    b. The requirement for the Director-General of Conservation to recommend disposal, alongside the threshold tests, provides clear safeguards and checks and balances on the land being disposed of.

173. The introduction of clear statutory requirements for engagement with Treaty partners together with Ministerial consideration of impacts identified on Māori rights and interests, will increase certainty, ensure strong mechanisms for iwi and hapū input, and require the Minister to consider Treaty interests in land exchanges and disposals.

174. The potential to apply a protective mechanism, such as a covenant, before exchanging or disposing of land, provides an added safeguard to protect any specific conservation aspect that is linked to a particular area subject to disposal/exchange.

Is the Minister's preferred option in the Cabinet paper the same as the agency's preferred option in the RIS?

175. Yes.

What are the marginal costs and benefits of the preferred option in the Cabinet paper?

Affected groups	Comment.	Impact	Evidence Certainty
Additional costs of the preferred option compared to taking no action			
DOC	Greater costs from increased volume of land exchanges and disposals (e.g. surveying, consultation, conveyancing)	*Low*	*Medium*
Iwi and hapū	Costs of engaging with DOC on impact on their rights and interests arising from potential land disposals and exchanges.	*Low*	*Medium*
Public, community and businesses	Depending on the types of land offered, there could be impacts on recreation or public access although these would be considered as part of the decision making.	*Low*	*Medium*
Total monetised costs	Additional costs arising from increased DOC activities on disposal/exchange cannot be estimated in advance but there are not expected to be high volumes.	*Low*	*Low*
Non-monetised costs	Additional time may be required by environmental NGOs, iwi/hapū and public to engage in proposals of land disposal/exchange but there are not expected to be high volumes.	*Low*	*Medium*
Additional benefits of the preferred option compared to taking no action			
DOC	Retention of funds from land exchanges and disposals to cover costs, land purchases and capital expenditure may have small benefits, but proceeds are not expected to be significant. May be reduced liabilities and costs depending on the type of land being disposed of and demand for it. Potential for acquisition of new high value conservation land. Safeguards mean that DOC is likely to benefit from any exchange or disposal.	*Medium*	*Medium*
Iwi and hapū	Opportunities to be able to acquire conservation land through exchanges and disposals (either direct purchases or via settlements).	*Low*	*Low*
Public, community and businesses	Potential opportunity to purchase or exchange unwanted conservation land.	*Low*	*Low*
Total monetised benefits	Primarily revenue recovered from disposals that can be used to fund land purchases and capital expenditure.	*Medium*	*Low*
Non-monetised benefits	Main non-monetised benefits are to the Crown and potential interested parties in being able to pursue mutually beneficial exchanges of land and disposals.	*Low*	*Low*

Section 3: Delivering an option

How will the proposal be implemented?

176. Proposals in this RIS will require legislative change, regulations and operational guidance to implement.

177. Processing exchanges and disposals of PCL are time-consuming and resource intensive. The proposals being considered by the Government are about enabling or adding more flexibility for exchanges and disposals, rather than deciding whether to use that added flexibility to exchange or dispose of certain PCL.

178. Actual decisions about exchanges and disposals will depend on the circumstances of each case, including whether the proposal meets any new statutory criteria, the availability of resource, and whether the proposal accords with DOC's land management priorities and objectives.

179. It was recently agreed by Cabinet [ECO-24-MIN-0154] that additional conservation revenue from the transfer or sale of public conservation land will be reinvested into the conservation estate to improve biodiversity, recreation and heritage.

Exchanges

180. The net conservation benefit test will be broadly outlined and described in legislation. Similar to the Fast-track process, DOC will prepare operational guidance on how to assess net conservation benefit.

Disposals

181. Similar to exchanges, legislation will outline types of factors that must be given regard to when considering a disposal. Operational guidance will also be developed for these assessments.

How will the proposal be monitored, evaluated, and reviewed?

182. DOC holds and manages comprehensive datasets with all the land management units defined by various legislation, which are regularly updated and are publicly accessible. The process for land disposal requires public notification and consultation and Ministerial approval (with briefings being proactively released on the DOC website).

183. DOC will be monitoring changes in its land holdings – any income generated from disposals or exchanges, costs of preparing land and cost recovery will be provided in the usual financial reporting mechanisms (e.g. DOC's annual report). Land exchanges and disposals can take time to process, and are not expected to be in high volumes, so data on changes in the volume and scale of land disposals or exchanges will take some years to flow through before any identifiable trends emerge that require consideration of any adjustment to policy settings.

Appendix 1: Comparison between land exchanges in Fast-track Approvals Act 2024 and proposed approach

The Fast-track Approvals Act (FTA) established new criteria for land exchanges, and was the starting point for the exchanges changes proposed in this RIS. The key differences between the FTA and RIS proposals are outlined below.

	Status quo: Conservation Act, Reserves Act, Conservation General Policy	Fast-Track Approvals Act (FTA)	Proposed: Conservation Act
Test for exchange	The benefits of an exchange cannot be taken into account.	Exchanges are only possible where they would enhance the conservation values of land managed by DOC, including any money received for improvements to enable enhancements of conservation values (i.e. resulting in net conservation benefit).	Exchanges are only possible where they would result in *net conservation benefit*.
Matters to be considered	The exchange must enhance the conservation values of PCL managed by DOC and promote the purposes of the Conservation Act.	The purpose of the FTA Act must be given the greatest weight of all factors, except for the net conservation benefit test above. Other factors that must be considered are: the conservation values of the land concerned; the financial implications for the Crown; whether the consequences of the exchange would be practical to manage on an ongoing basis (including whether enclaves of private land within conservation areas or Crown-owned reserves would be created); legal and financial liabilities, and health and safety risks; Conservation General Policy.	The net conservation benefit test would include: • Assessment of the conservation values of land to be exchanged and land to be acquired • Benefits (including those expected from the improvements the applicant provides money for) must be assessed to be achievable within a reasonable period of time after the transaction • Consideration of the ratio of cash to land • Consideration of the likelihood that conservation value improvements will be achieved. • Otherwise, the other factors are replicated
Scope of PCL available for exchange	Only PCL of *no or low conservation value* can be exchanged. For exchanges under the **Conservation Act**, land must be either a stewardship area or a marginal strip. There is no lawful basis to revoke the status of protected land to hold it as stewardship land. For exchanges under the **Reserves Act**, there must be an equality of exchange (i.e. land being received must have the same values as the land being exchanged).	All conservation areas (excluding most of the land listed in Schedule 4 of the Crown Minerals Act and national reserves) and Crown-owned reserves. No requirement to first revoke protected land status and hold it as stewardship land. .	All conservation areas, excluding the same areas as FTA Act and also: • Any PCL assessed as having national or international significance (e.g. site like *Tāne Mahuta*). • Ecological areas (under the Conservation Act) • Any conservation land within a designated World Heritage Area • Reserves that are not Crown-owned. • No requirement to first revoke protected land status and hold it as stewardship land.