

Submission on modernising conservation land to the Department of Conservation

27 February 2025

Tēnā koutou

Introduction

1. Herenga ā Nuku Aotearoa, the Outdoor Access Commission, is the Crown agent responsible for providing leadership on outdoor access issues. Our role is to advise on and advocate for free, certain, enduring, and practical access to the outdoors.
2. The commission's governing legislation is the Walking Access Act 2008. Our legislative functions (s10) include providing national leadership on outdoor access and providing advice on outdoor access to the Minister or any other person.
3. The Department of Conservation's consultation document focuses on three areas where the department wishes to modernise conservation land. All three of these issues can affect public access to conservation land:
 - The conservation management system
 - The process of granting concessions, and
 - The exchange or disposal of conservation land.

The Conservation Management System – public access and outdoor recreation objectives.

4. Herenga ā Nuku is the Crown agency tasked with providing advice on public outdoor access. It has the knowledge and capacity to independently consider public access issues.
5. Herenga ā Nuku has close stakeholder relationships with community groups and organisations involved in making and maintaining public access trails. It has close relationships with outdoor recreation peak bodies such as Federated Mountain

Clubs, Fish and Game councils, the Game Animal Council and the NZ Deerstalkers Association. It has strong working relationships with landholder representative groups such as Federated Farmers and the New Zealand Forest Owners Association.

6. Herenga ā Nuku also has a strong working relationship with other central government agencies, such as the Overseas Investment Office, Treasury, LINZ, and local government authorities. We advise these agencies on public access issues before they make decisions on public access matters. We do this without slowing down the process or adding additional layers of bureaucracy.
7. Herenga ā Nuku's ability to work across all land types, its close connection to the outdoor access communities, and its mapping expertise and technical understanding of land issues means we are ideally placed to give independent advice on public access issues and implications in advance of departmental decisions on land use. This can be done in a timely, efficient manner that would not slow down or inhibit the Department of Conservation from making decisions and taking action.
8. The 'net benefit' test proposed for exchanges and disposals should be applied to the development of the new conservation management system, and any proposed changes to conservation management strategies should demonstrate that they will not diminish the public's outdoor access and recreation opportunities.

Recommendation 1: There should be a statutory role for Herenga ā Nuku to advise the Department of Conservation on public access issues relating to the conservation management system, to ensure public access and recreation are considered in decision-making.

Recommendation 2: The Department of Conservation should include public access and recreation in a 'net benefit' test for any changes made in the conservation management system. This would require a demonstration that there will be a net benefit to public access and outdoor recreation opportunities due to any proposed changes.

The Process of Granting Concessions – public access benefit test to apply.

9. The 'net benefit' test proposed for exchanges and disposals should be applied to the granting of concessions. Consideration as to whether to grant a concession should demonstrate that it will not diminish the public's outdoor access and recreation opportunities.

10. Herenga ā Nuku’s ability to work across all land types, its close connection to the outdoor access communities, and its mapping expertise and technical understanding of land issues means we are ideally placed to give independent advice on public access issues and implications in advance of departmental decisions on land use. This can be done in a timely, efficient manner that would not slow down or inhibit the Department of Conservation from making decisions and taking action.

Recommendation 3: The Department of Conservation should include public access and recreation in a ‘net benefit’ test for decision-making on granting concessions. This would require a demonstration that the concession will not diminish the public’s outdoor access and recreation opportunities.

Recommendation 4: There should be a statutory role for Herenga ā Nuku to advise the Department of Conservation on public access issues relating to the process of granting concessions, which could significantly impact public access values, to ensure public access and recreation are considered in decision-making.

The Exchange or Disposal of Conservation Land - a statutory role for Herenga ā Nuku protecting public access in disposal and exchange processes, with a particular focus on land beside bodies of water.

11. The discussion document proposes a test for exchanging or disposing of land. The test requires a net conservation benefit to the country. If one section of land is ‘swapped’ for another, the country’s overall conservation status should improve.
12. Land included in an exchange or disposal process is also likely to provide important public access and recreational values—especially stewardship land and marginal strips.
13. Herenga ā Nuku recommends that the test to protect conservation values also be applied to protect public access and outdoor recreation. Whether to proceed with an exchange or disposal of land should be based on the overall value of public access, and whether public outdoor recreation improves because of the exchange or disposal.
14. Section 2 of the Conservation Act supports the value placed on public access and public recreation with the definition of ‘conservation’ including outdoor recreation and access:

*“Conservation means the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, **providing for their appreciation and recreational enjoyment by the public**, and safeguarding the options of future generations.”*

15. It is important that this test considers existing access both **to** and **on** public land. The 2024 Access Charter for Recreational Hunting and Fishing on Public Conservation Land and Waters reinforces this approach. Some of the most important access issues that hunters and anglers face are getting to conservation land rather than getting across it. Exchanges or disposals should not break connectivity to public land.
16. The consultation document makes little mention of land bordering rivers, lakes, and the coast. This land holds exceptionally high public access and recreation value. Many New Zealanders consider they should have access to all land bordering water as part of the Queens’ Chain.
17. Land bordering water needs specific protections and exclusions in any changes to the status of public conservation land. Although the Queen’s Chain is not a legal reality or a comprehensive network of access, the Crown, through the Department of Conservation, should work to protect and advance this important national value. Exchanges or disposals should not reduce access to land bordering water.
18. Any land exchanges or disposals being considered should be required to provide legal public access mechanisms, such as easements, where land is being freeholded and an existing trail used by the public exists, an important potential trail could exist, or the land provides connectivity to other publicly used land. This would allow for the disposal of conservation land while protecting public access values. Herenga ā Nuku should be consulted about the potential of future trails and connectivity to publicly used land as part of any exchange or disposal process.
19. The discussion document promotes management by others as a reason for disposals. Existing mechanisms in conservation legislation already provide this option, such as the appointment of an administering body under the Reserve Act 1977 or the use of management agreements under the Conservation Act 1987. Management by others should not be the sole justification for disposals.
20. Herenga ā Nuku’s ability to work across all land types, its close connection to the outdoor access communities, and its mapping expertise and technical understanding of land issues means we are ideally placed to give independent advice on public access issues and implications in advance of departmental decisions on land use. This can be done in a timely, efficient manner that would not

slow down or inhibit the Department of Conservation from making decisions and taking action.

Recommendation 5: The Department of Conservation should include public access and recreation in any 'net benefit' test for any land exchanges or disposals and require a demonstration of a net benefit to public access and outdoor recreation opportunities.

Recommendation 6: Land bordering water should be considered separately in any process to exchange or dispose of land. Special consideration should be given to protecting its unique public access and outdoor recreation value.

Recommendation 7: There should be a statutory role for Herenga ā Nuku to advise the Department of Conservation on public access issues relating to disposals or exchanges.

Conclusion

21. We welcome an opportunity to speak to this submission if you require more details or would like to explore how to implement any of our recommendations. My contact details are ric.cullinane@herengaanuku.govt.nz and [+64 274775042](tel:+64274775042).



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