

# **RESERVES AND OTHER LANDS DISPOSAL BILL**

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AS REPORTED FROM THE TRANSPORT AND ENVIRONMENT  
COMMITTEE

## **COMMENTARY**

### **Recommendation**

The Transport and Environment Committee has examined the Reserves and Other Lands Disposal Bill and recommends that it be passed with the amendments shown in the bill.

### **Conduct of the examination**

The Reserves and Other Lands Disposal Bill was referred to the Transport and Environment Committee on 30 July 1998. The closing date for submissions was 3 September 1998. We received and considered 1 submission which was from Te Rūnanga o Ngāi Tahu. This submission was presented orally. The hearing of evidence took 12 minutes and consideration took one hour and five minutes.

We received advice from Land Information New Zealand and the Department of Conservation.

This commentary sets out the details of our consideration of the bill and the main issues we addressed.

### **Background**

#### **Reserves and Other Lands Disposal Bills**

The Reserves and Other Lands Disposal Bill ("the bill") provides for land issues which require special legislative authority, but which cannot be easily dealt with in other legislation. Such bills typically deal only with authorisations, transfers, and validations of matters relating to Crown land, reserves, and other land held for public or private purposes and in general, provide the minimum necessary to effect the required approval or transfer. They also create provisions where the existing legislation requires a matter to be carried out by an Act of Parliament such as the exclusion of land from national parks, and make changes to earlier legislation, including earlier Reserves and Other Lands Disposal Acts.

### **Introduction to this bill**

This bill provides for the exclusion of land from the Arthur's Pass, Abel Tasman, Mount Cook, Westland, and Fiordland National Parks. Specific areas of land currently held by the Marlborough and Clutha District Councils, and the General Trust Board of the Anglican Diocese of Auckland are also released from restrictions relating to sale or other disposal.

### **Provisions in the bill**

#### **Exclusions from National Parks**

Seven of the 10 operative clauses deal with exclusions from national parks. Clauses 2, 5 and 6, and part of clause 8, exclude defined areas of land from Arthur's Pass, Mount Cook, Westland, and Fiordland National Parks, to enable state highway realignments to be legalised.

The exclusion of land from Arthur's Pass National Park, under clause 3, is required in order to provide access to a former Crown subdivision at Rough Creek in Arthur's Pass village.

Clause 4 excludes a defined area of land, currently in rough pasture, from the Abel Tasman National Park. The land is to be transferred in exchange for an area of beech forest adjoining the park.

Clause 5 provides for land to be excluded from the Mount Cook National Park to enable the legalisation of the road realignment for the Kitchener Bridge on State Highway 80, as well as enabling the land to be exchanged. However this clause contains a drafting error as there is not going to be any exchange of land, and we recommend that the clause be amended accordingly.

Two residential sections of land at the Fox Glacier township in the Westland National Park were acquired in the 1960s for the housing of national park staff. These properties are no longer required for that purpose, and clause 7 provides for them to be excluded and made available for disposal.

Clause 8 also provides for the exclusion of land from Fiordland National Park to enable 2 sections in the town of Cromarty to be exchanged for private land adjoining the Park, which will be held by the Crown under the National Parks Act 1980. To enable this part of clause 8 to more accurately reflect the wording in the Ngāi Tahu Claims Settlement Act 1998, in relation to the exchange of land, we recommend that the words "be exchanged for privately-owned land", be substituted with the words "be disposed of in consideration for other land to be held by the Crown".

#### **Disposal of land vested in district councils**

Clause 9 makes land vested in the Marlborough District Council available for disposal, and validates the transfer of the land and the certificate of title under the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1910. These areas of land were vested in the Wairau Harbour Board as part of an endowment for harbour purposes without power of sale.

The land at the mouth of the Clutha River is currently held by the Clutha District Council as an endowment without power of sale. Clause 10 will enable this land to be made available for disposal. This provision will enable the council to transfer the land to the Crown for addition to the Puerua Estuary Wildlife Management Reserve.

### **Sale of church property enabled**

The land of the General Trust Board of the Anglican Diocese of Auckland is vested in the Board without power of sale. Clause 11 will enable the General Trust Board to sell part or all of its church property in Albany to fund the building of new church facilities.

### **Administrative provision**

Clause 12 authorises District Land Registrars to carry out any necessary title recording actions to put these provisions into effect.

## **Ngāi Tahu settlement and right of first refusal**

### **Te Rūnanga o Ngāi Tahu submission**

The submission from Te Rūnanga o Ngāi Tahu focused primarily on the right of first refusal granted to Te Rūnanga in respect of disposals of relevant Crown land within the Ngāi Tahu claim area. This right of first refusal is set out in the Ngāi Tahu Claims Settlement Act 1998. Some of the areas of land in the bill fall within the Ngāi Tahu claim area. Te Rūnanga o Ngāi Tahu submitted that the wording of the bill should be changed to expressly provide that it is subject to the Ngāi Tahu right of first refusal.

There are a number of exceptions to the right of first refusal contained in the Ngāi Tahu Claims Settlement Act 1998. The clauses that exclude areas of national park for the purposes of state highway will be covered by the exception in section 50 (a) of the Ngāi Tahu Claims Settlement Act 1998.

Ngāi Tahu raised particular concerns regarding the exclusion of land held for staff housing from Westland National Park (clause 7(1)(c)). Clause 7 is the only clause in the bill which enables the disposal of land in a way that the right of first refusal may apply. The Crown considers that the disposal of staff housing land under clause 7 will be subject to the Ngāi Tahu Claims Settlement Act 1998 and the right of first refusal process.

Ngāi Tahu also raised the issue of exclusion of land from Fiordland National Park to enable an exchange to take place with land adjoining the Park (clause 8(1)(a)). The land that will be received by the Crown under the exchange will be held by the Crown under the National Parks Act 1980. Such exchanges are covered by the exception to the right of first refusal provisions in section 50 (g)(iv) of the Ngāi Tahu Claims Settlement Act 1998.

The Ngāi Tahu concern with clause 10 was that the Crown may retain a reversionary interest in the land currently vested in the Clutha District Council. However, we were advised that the Crown does not have a reversionary interest in this land, therefore the land is not subject to the right of first refusal. In addition, it is understood that the Clutha District Council intend to dispose of the land to the Crown to enable it to be included in the Puerua Estuary Wildlife Management Reserve.

The Ngāi Tahu submission requested that the bill specifically state that relevant clauses of the bill and the land they relate to, are subject to the right of first refusal in the Ngāi Tahu Claims Settlement Act 1998. However, we have been assured by officials that nothing in this bill will override the Ngāi Tahu Claims Settlement Act 1998, and that it is not necessary to state this explicitly in the bill.

KEY TO SYMBOLS USED IN REPRINTED BILL  
AS REPORTED FROM A SELECT COMMITTEE

*(Subject to this Act,)*

Words struck out unanimously

Subject to this Act,

Words inserted unanimously

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*Hon John Luxton*

## RESERVES AND OTHER LANDS DISPOSAL

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### ANALYSIS

Title	8. Fiordland National Park
1. Short Title and commencement	9. Harbour Board endowment lands in Marlborough
2. Arthur's Pass National Park: exclusion of land for road at Bealey Klondyke corner	10. Clutha District Council endowment lands
3. Arthur's Pass National Park: exclusion of land for road at Arthur's Pass village	11. Lands of General Trust Board of Anglican Diocese of Auckland
4. Abel Tasman National Park	<i>Entries in Registers</i>
5. Mount Cook National Park	12. Entries in registers
6. Westland National Park: exclusion of land for road	
7. Westland National Park: exclusion of former staff housing land	

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### A BILL INTITULED

#### **An Act to provide for various matters relating to Crown land, and other land held for public or special purposes**

5 BE IT ENACTED by the Parliament of New Zealand as follows:

**1. Short Title and commencement**—(1) This Act may be cited as the Reserves and Other Lands Disposal Act 1998.

(2) This Act comes into force on the day on which it receives the Royal assent.

10 **2. Arthur's Pass National Park: exclusion of land for road at Bealey Klondyke corner**—Whereas the land to which this section relates is included in the Arthur's Pass National Park: And whereas the land was developed as a road to facilitate the realignment of State Highway 73 at the Bealey  
15 Klondyke corner: And whereas it is desired to exclude the land from the national park to allow it to be declared road: And whereas section 11 (1) of the National Parks Act 1980 prohibits

the exclusion of land from a national park, except by Act of Parliament: Be it therefore enacted as follows:

- (1) The land to which this section relates—
  - (a) Is excluded from the Arthur's Pass National Park; and
  - (b) Is declared to be Crown land for the purposes of the Land Act 1948; and
  - (c) Is available to be declared road under section 114 of the Public Works Act 1981.
- (2) This section applies to those pieces of land in the Canterbury Land District—
  - (a) Comprising 5600 square metres, more or less, being part Rural Section 40738, shown marked "A" on S.O. Plan 18546, situated in Block XIV Bealey Survey District and being part of the Arthur's Pass National Park in accordance with the National Parks Act 1980:
  - (b) Comprising 2.9000 hectares, more or less, being part Rural Section 40738, shown marked "B" on S.O. Plan 18546, situated in Block XIV Bealey Survey District and being part of the land described in the Order in Council published in the *Gazette* 1954, page 340:
  - (c) Comprising 3585 square metres, more or less, being part Rural Section 40738, shown marked "C" on S.O. Plan 18546, situated in Block XIV Bealey Survey District and being part of the land described in the Order in Council published in the *Gazette* 1955, page 1143 (Document GN 424134):
  - (d) Comprising 2.0177 hectares, more or less, being part Rural Section 40738, shown marked "H" on S.O. Plan 18546, situated in Block XIV Bealey Survey District and being part of the Arthur's Pass National Park in accordance with the National Parks Act 1980.

**3. Arthur's Pass National Park: exclusion of land for road at Arthur's Pass village**—Whereas the land to which this section relates is included in the Arthur's Pass National Park: And whereas the land provides access to the Sunshine Terrace subdivision: And whereas the land is in rough vegetation and has no significant conservation values: And whereas it is desired to exclude the land from the national park to allow it to be declared road: And whereas section 11 (1) of the National Parks Act 1980 prohibits the exclusion of land from a national park except by Act of Parliament: Be it therefore enacted as follows:

- (1) The land to which this section relates—
  - (a) Is excluded from the Arthur's Pass National Park; and

(b) Is declared to be Crown land for the purposes of the Land Act 1948; and

(c) Is available to be declared road under section 114 of the Public Works Act 1981.

5 (2) This section applies to that piece of land comprising 660 square metres, more or less, being part Rural Section 40738, shown marked "A" on S.O. Plan 19714, situated in Block VI Bealey Survey District and being part of the Arthur's Pass National Park in accordance with the National Parks Act 1980.

10 **4. Abel Tasman National Park**—Whereas the land to which this section relates is included in the Abel Tasman National Park: And whereas the land is rough pasture and it is proposed to exchange this land for an area of beech forest: And whereas it is desired to exclude the land from the national  
15 park to allow the land to be exchanged: And whereas section 11 (1) of the National Parks Act 1980 prohibits the exclusion of land from a national park except by Act of Parliament: Be it therefore enacted as follows:

20 (1) The land to which this section relates is excluded from the Abel Tasman National Park and is to be transferred to the owner of the adjoining land in Certificate of Title Volume 4D, folio 1155 (Nelson Registry) in accordance with the amalgamation condition shown on Land Transfer Plan 18607.

25 (2) This section applies to that piece of land situated in the Nelson Land District comprising 17.0340 hectares, more or less, being Lot 2 on Land Transfer Plan 18607 situated in Block XI Waitapu Survey District and being part of the land described in the Order in Council published in the *Gazette* 1942, page 2865.

30 **5. Mount Cook National Park**—Whereas the land to which this section relates is included in the Mount Cook National Park: And whereas the land was developed as a road in 1977 and 1978 to allow the realignment of the Kitchener Bridge on State Highway 80: And whereas it is desired to  
35 exclude the land from the national park to allow the land to be (*exchanged*) declared road: And whereas section 11 (1) of the National Parks Act 1980 prohibits the exclusion of land from a national park, except by Act of Parliament: Be it therefore enacted as follows:

40 (1) The land to which this section relates—

(a) Is excluded from the Mount Cook National Park; and

(b) Is declared to be Crown land for the purposes of the Land Act 1948; and

(c) Is available to be declared road under section 114 of the Public Works Act 1981.

(2) This section relates to that piece of land in the Canterbury Land District comprising 4506 square metres, more or less, being part Reserve 2652, shown marked "A" on S.O. Plan 16750, situated in Block X Mueller Survey District and being part of the land described in the Order in Council published in the *Gazette* 1953, page 1662. 5

**6. Westland National Park: exclusion of land for road**—Whereas the land to which this section relates is included in the Westland National Park: And whereas the land was developed as a road in 1983 to facilitate the replacement of the bridge over Docherty's Creek: And whereas it is desired to exclude the land from the national park to allow it to be declared road: And whereas section 11 (1) of the National Parks Act 1980 prohibits the exclusion of land from a national park, except by Act of Parliament: Be it therefore enacted as follows: 10

(1) The land to which this section relates—

(a) Is excluded from the Westland National Park; and

(b) Is declared to be Crown land for the purposes of the Land Act 1948; and 20

(c) Is available to be declared road under section 114 of the Public Works Act 1981.

(2) This section relates to those pieces of land in the Westland Land District— 25

(a) Comprising 2655 square metres, more or less, being part Reserve 1018, shown marked "A" on S.O. Plan 10974, situated in Block X Waiho Survey District and being part of the land described in the Order in Council published in the *Gazette* 1960, page 416: 30

(b) Comprising 255 square metres, more or less, being part Reserve 1018, shown marked "E" on S.O. Plan 10974, situated in Block X Waiho Survey District and being part of the land described in the Order in Council published in the *Gazette* 1960, page 416: 35

(c) Comprising 72 square metres, more or less, being part Reserve 1018, shown marked "H" on S.O. Plan 10974, situated in Block X Waiho Survey District and being part of the land described in the Order in Council published in the *Gazette* 1960, page 416: 40

(d) Comprising 308 square metres, more or less, being part Reserve 1018, shown marked "I" on S.O. Plan 10974, situated in Block X Waiho Survey District and being



part of the land described in the Order in Council published in the *Gazette* 1960, page 416:

- 5 (e) Comprising 1021 square metres, more or less, being part Reserve 1018, shown marked “J” on S.O. Plan 10974, situated in Block X Waiho Survey District and being part of the land described in the Order in Council published in the *Gazette* 1960, page 416.

10 **7. Westland National Park: exclusion of former staff housing land**—Whereas the land to which this section relates is included in the Westland National Park: And whereas the land was acquired in 1964 and 1966 for the purpose of staff housing and is no longer required for that purpose: And whereas it is desired to exclude the land from the national park in order to dispose of the land: And whereas section 11 (1) of the National Parks Act 1980 prohibits the exclusion of land from a national park, except by Act of Parliament: Be it therefore enacted as follows:

- 15 (1) The land to which this section relates—
- 20 (a) Is excluded from the Westland National Park; and
- (b) Is declared to be Crown land for the purposes of the Land Act 1948; and
- (c) Is available for alienation under the Land Act 1948.
- (2) The proceeds of alienation of the land to which this section relates must be paid into the Crown Bank Account in accordance with section 58 of the National Parks Act 1980, and the provisions of subsection (1) of that section then apply.
- 25 (3) This section relates to those pieces of land in the Westland Land District—
- 30 (a) Comprising 799 square metres, more or less, being Rural Section 4156, situated in Block XIII, Waiho Survey District (S.O. Plan 4765), and being part of the land described in the Order in Council adding land to Westland National Park published in the *Gazette* 1964, page 6:
- 35 (b) Comprising 809 square metres, more or less, being Lot 4, Deposited Plan 1260, situated in Block XIII, Waiho Survey District, and being all the land described in the Order in Council adding land to Westland National Park published in the *Gazette* 1966, page 222.
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**8. Fiordland National Park**—Whereas the land to which this section relates is included in the Fiordland National Park: And whereas it is desired that the land described in paragraph (a)

- of **subsection (2) (be exchanged for privately-owned land)** be disposed of in consideration for other land to be held by the Crown: And whereas the remainder of the land described in **subsection (2)** has been affected by the realignment of the Te Anau–Milford Sounds Road at Milford Sound and it is desired to exclude the land from the national park to allow it to be declared road: And whereas section 11 (1) of the National Parks Act 1980 prohibits the exclusion of land from a national park, except by Act of Parliament: Be it therefore enacted as follows:
- (1) The land to which this section relates is excluded from the Fiordland National Park and—
- (a) The land described in **paragraph (a) of subsection (2)** is declared to be a conservation area for the purposes of the Conservation Act 1987 and the Minister of Conservation, without further authority than this paragraph, may do all such acts and things as may be necessary to exchange that land for land to be acquired by the Crown for national park purposes under the National Parks Act 1980:
- (b) The land described in any of **paragraphs (b) to (e) of subsection (2)** is declared to be Crown land for the purposes of the Land Act 1948 and is available to be declared to be road under section 114 of the Public Works Act 1981.
- (2) This section relates to those pieces of land in the Southland Land District—
- (a) Comprising 2024 square metres, more or less, being Sections 16 and 17, Block II, Town of Cromarty, and being part of the land described in the Fiordland National Park Order 1978/333 (S.O. Plan 2803):
- (b) Comprising 2260 square metres, more or less, being part Section 6, Block I, Milford Sound Survey District, and shown marked “A” on S.O. Plan 11831, and being part of the land described in the Fiordland National Park Order 1978/333:
- (c) Comprising 4290 square metres, more or less, being part Section 6, Block I, Milford Sound Survey District, and shown marked “C” on S.O. Plan 11831, and being part of the land described in the Fiordland National Park Order 1978/333:
- (d) Comprising 970 square metres, more or less, being part Fiordland National Park situated in Block I, Milford Sound Survey District, and shown marked “D” on S.O. Plan 11831, and being part of the land described in the Order in Council published in the *Gazette* 1993, page 2949:

- 5 (e) Comprising 420 square metres, more or less, being part  
Fiordland National Park situated in Block I, Milford  
Sound Survey District, and shown marked "I" on S.O.  
Plan 11832, and being part of the land described in  
the Order in Council published in the *Gazette* 1993,  
page 2949.

**9. Harbour Board endowment lands in Marlborough—**

10 Whereas the land to which this section relates comprises part  
of the land vested in the Wairau Harbour Board in trust,  
without power of sale, as an endowment for harbour purposes  
under section 79 (1) of the Reserves and Other Lands Disposal  
and Public Bodies Empowering Act 1910: And whereas the  
Wairau Harbour Board was empowered, by section 9 of the  
15 Reserves and Other Lands Disposal Act 1958, to subdivide  
some of that land: And whereas the assets, liabilities, rights,  
powers, functions, duties, and authorities of the Wairau  
Harbour Board have been vested in the Marlborough Harbour  
Board by an Order in Council made under section 14 of the  
Marlborough Harbour Act 1958: And whereas the assets,  
20 liabilities, rights, powers, functions, duties, and authorities of  
the Marlborough Harbour Board were vested in the  
Marlborough District Council ("the Council") by an Order in  
Council dated 25 March 1991 published in the *Gazette* 1991,  
page 1039: And whereas the Council wishes to have the  
25 authority to sell or exchange the land described in **subsection**  
**(3) (a)**: And whereas the Council does not have that authority:  
And whereas on the transfer of the land, the certificate of title  
issued for the land described in **subsection (3) (b)** contravened the  
Reserves and Other Lands Disposal and Public Bodies Act  
30 1910: And whereas it is desired to validate the transfer of the  
land and issue of the certificate of title: Be it therefore enacted  
as follows:

35 (1) The Council may sell or exchange any portion of the land  
to which **subsection (3) (a)** relates, freed and discharged from all  
trusts, reservations, and restrictions but subject to leases  
122467, 122674, and 122465.

40 (2) The transfer of the land in **subsection (3) (b)** by transfer  
125340 and the issue of certificate of title Volume 4A folio 881  
(Marlborough Registry) are, to the extent that they  
contravened the Reserves and Other Lands Disposal and Public  
Bodies Act 1910, validated and declared always to have been  
lawful.

(3) This section relates to all those pieces of land situated in  
the Marlborough Land District—

- (a) Comprising 3036 square metres, more or less, being Lots 1, 2, and 4 on Deposited Plan 2911 situated in Block IV, Cloudy Bay Survey District, and being the balance of the land comprised and described in certificate of title Volume 1A, folio 1212 (Marlborough Registry): 5
- (b) Comprising 1012 square metres, more or less, being Lot 3 on Deposited Plan 2911 situated in Block IV, Cloudy Bay Survey District, and being all the land comprised and described in Certificate of Title Volume 4A, folio 881 (Marlborough Registry). 10

**10. Clutha District Council endowment lands**—Whereas the land to which this section relates was vested in the Borough of Milton without power of sale by section 31(2) of the Reserves and Other Lands Disposal Act 1949: And whereas the Borough of Milton became part of the Bruce District Council (Bruce County–Milton Borough–Kaitangata Borough Union Order 1986 published in the *Gazette* 1986, page 3523): And whereas the Bruce District Council became part of the Clutha District Council (Local Government Re-organisation Order 1989 published in Part VII of the *Gazette* 1989, page 2410): And whereas it is desirable that the Clutha District Council has the authority to sell or otherwise dispose of the land to enable the transfer of the land to the Crown for addition to the Puerua Estuary Wildlife Management Reserve: And whereas the land is subject to a grazing lease issued in 1983 for 21 years with a right of renewal: And whereas the land is no longer grazed: Be it therefore enacted as follows: 15 20 25

(1) The Clutha District Council may dispose of the land to which this section relates by sale or otherwise freed and discharged from all trusts, reservations, and restrictions but subject to the grazing lease 626946. 30

(2) This section relates to that piece of land in the Otago Land District comprising 18.6155 hectares (46 acres), more or less, being Section 1 Block XVII, Coast Survey District, (S.O. Plan 3739) and being part of the land comprised and described in Certificate of Title Volume 112, folio 201 (Otago Registry). 35

**11. Lands of General Trust Board of Anglican Diocese of Auckland**—Whereas the land to which this section relates was vested in the General Trust Board of the Anglican Diocese of Auckland: And whereas section 15 of the Reserves and Other Lands Disposal and Public Bodies Empowering Act 1915 authorised the issue of a certificate of title for the land to the 40

5 General Trust Board of the Anglican Diocese of Auckland as an estate in fee simple, in trust as a church site, without power of sale: And whereas the church on the site is old, in need of maintenance, and is no longer adequate for the needs of the parish at Albany: And whereas the General Trust Board wishes to sell all or part of the land to fund the building of new church facilities: Be it therefore enacted as follows:

10 (1) The General Trust Board of the Anglican Diocese of Auckland may dispose of the land to which this section relates by sale or otherwise, freed and discharged from all trusts, reservations, and restrictions.

15 (2) This section relates to that piece of land situated in the Auckland Land District comprising 4046 square metres, more or less, being Allotment 333 of the Parish of Paremoremo, situated in Block III, Waitemata Survey District, and being all the land comprised and described in Certificate of Title Volume 382, folio 293 (Auckland Registry).

*Entries in Registers*

20 **12. Entries in registers**—District Land Registrars are authorised and directed to make such entries in their respective registers and to do such other things as may be necessary to give full effect to the provisions of this Act.