

Tenure Review: a detailed guide

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04



Introduction

This brochure is a summary of the Tenure Review process for pastoral leaseholders. It provides:

- detailed information on the four main stages in Tenure Review
- detailed information on the roles of the main players
- explanations of technical terms
- explanations of the legal steps and how they affect the leaseholder

Tenure Review is a legal process so LINZ recommends you seek your own, independent legal advice.

LINZ has produced other, less detailed information on Tenure Review for leaseholders and the public:

- Tenure Review Fact Sheet (answers basic questions for leaseholders)
- Letter to leaseholders (more detail for leaseholders whose invitations to enter Tenure Review have been accepted by LINZ)
- A Guide to Tenure Review (brochure aimed at public)

All this information is available on LINZ's Internet site at www.linz.govt.nz.

Tenure Review

Tenure Review is voluntary and provides an opportunity for you to gain freehold title to part of your leasehold land. Land with ‘significant inherent’ values (e.g. land with historic, scientific, ecological and/or cultural characteristics) needs to be protected, usually by restoration to full Crown ownership and control. Protected land is usually managed by the Department of Conservation (DoC).

How much land you get depends on a number of factors including:

- an evaluation of your leasehold land, to identify ‘significant inherent values’
- consultation with Fish and Game
- an analysis of public submissions
- consultation with iwi
- consultation with DoC

You are consulted throughout the review and you see the documents that are produced including the report on significant inherent values. The final decision cannot be implemented unless you agree.

Tenure Review outcomes

Each tenure review follows the same process but may have different results. A successful tenure review provides a balance of outcomes. Land that is capable of economic use may be freeholded, ‘significant inherent’ values are protected and public access and recreation opportunities may be created.

In some cases all the land of a particular lease may be proposed for conservation. In others, all the land may be freeholded to you.

LINZ’s role

The Tenure Review process is a team effort. It is voluntary for you as the leaseholder, and consultative, involving you, DoC, Fish and Game, iwi and the public. LINZ administers the process under the Crown Pastoral Land Act 1998. We make sure the process is followed correctly and that the best information is available to all parties for the right outcome to occur.

LINZ uses Service Providers to represent us in the field. Our service provider is your main contact for Tenure Review. Service providers manage the day to day details of your tenure review from start to finish.

All the decisions on a tenure review are made by LINZ staff under the authority of the Commissioner of Crown Lands.

Four stages of Tenure Review and your involvement

Outlined below are the four stages of Tenure Review. For each stage we summarise how you, the leaseholder, are involved and provide further detail on each stage. We also give you an indicative overall timeline for each stage and the whole process. Tenure Review takes time but that's because it's important that all the views of those who are affected are taken into account. You can be confident about the outcomes of Tenure Review because of that consultation.

Tenure Review's four stages are:

1. Information Gathering (the **start** of your review).
2. Preliminary Proposal (the **first cut** of the proposal, as agreed with you is advertised for public submissions)
3. Substantive Proposal (**decision time**: views raised in public and iwi submissions are considered and you decide whether to accept the final proposal or not)
4. Implementation of Substantive Proposal (surveying and fencing is done and **you get your freehold title**)

Stage 1: Information Gathering (the **start** of your review).

Summary: You have already made the first move by inviting LINZ to undertake tenure review of your lease. We consulted the Director-General of Conservation as part of the process to accept your invitation. With your permission, your leasehold land is inspected and a report is prepared detailing significant inherent values on your property. Information is also supplied to LINZ from iwi and Fish and Game. Once Tenure Review gets underway we assign a service provider to review your leasehold land. The service provider will provide you all information from this point on, including a timeline for each stage of your review.

Stage 2: Preliminary Proposal (you see the **first cut** of the proposal and it is advertised for public submissions)

Summary: Preliminary Proposal (PP) for Tenure Review. You, DoC and iwi are consulted. The information gathered in stage one is used to produce

the ‘first cut’ of the proposal for your leasehold land. The service provider shows you **the first ‘cut’** of the proposal which will generally divide the land into freehold and conservation sections and show public access routes. When you and LINZ agree, **the proposal is advertised for public submissions as a ‘Preliminary Proposal’**

Further detail:

Plan: The ‘first cut’ of the proposal for your leasehold land outlines possible options on a plan. You see:

- which parts could go back to the Crown
- which parts could be owned by you
- which parts of the Crown land you could be allowed to use with special permission
- proposed public access routes

Payments: Part of Tenure Review is an exchange of payments. The ‘first cut’ of your proposal will show you how much you could expect to pay for your section of freehold land and how much you could expect to receive from the Crown for the remainder of your leasehold interest, based on current market valuations.

Consultation with LINZ: Before the first cut of the proposal for your leasehold land becomes public, you will be asked to agree to the proposal including the value of land rights being exchanged. Our service provider will ensure that you get answers to any questions you have about the ‘significant inherent values’ identified on your leasehold land and can also explain the various conditions that might be attached to the proposal e.g. ‘easements’ across the land that allow access by third parties or grazing permits that may allow you to run stock on land that is eventually returned to the Crown.

Public submissions: Once you’ve had your say, we consult with the Director-General of Conservation and the Minister of Conservation and come back to you with a finalised first cut of the proposal. You acknowledge it and this version of the proposal is advertised for public submissions as the ‘Preliminary Proposal’ (PP) in local newspapers and on the LINZ website. The local iwi authority is also consulted at this time.

Stage 3: Substantive Proposal (**decision time:** views raised in public and iwi submissions are considered and you make up your mind whether to accept the final proposal or not)

Summary: Substantive Proposal (SP) for Tenure Review. **Decision time.** LINZ consults with DoC to consider issues raised in public and iwi submissions. We will work through any proposed changes from public or iwi submissions with you and negotiate changes to your proposal.

A second ‘cut’ of the proposal is developed to take into account any changes resulting from public or iwi submissions. **You make a decision whether or not to accept this second cut (SP).**

Further detail:

From first cut to final proposal (SP): LINZ considers all the public submissions, all matters raised by Maori and how they might affect the first cut (Preliminary Proposal) for your leasehold land. We consult with the Director-General of Conservation and seek agreement from the Minister of Conservation to any special conditions or concessions attached to the land granted under the Conservation Act or Reserves Act .We will work through any proposed changes resulting from public or iwi submissions with you and negotiate any changes to your tenure review. Then we put the final proposal (the ‘substantive proposal’) in front of you for signature.

Actions on you: You’ve got 90 (calendar) days to decide whether to accept the final proposal or not. If you want to go ahead then you need to check that anyone else with an interest in the land (e.g. your bank, the appropriate regional council etc) is happy that you’re accepting the proposal. You need to get them to sign the appropriate section of the proposal to prove that they have consented. Once you have all the appropriate consents, you can sign the proposal yourself and send it back to our service provider. You need to be aware that once you’ve done that, there will be an “irrevocable and binding contract between you and LINZ.” If you do not gather all the appropriate consents and send back the form within 90 days, the substantive proposal will fall over. You must gain all the appropriate consents.

If you turn the proposal down: The consultative process of Tenure Review means it’s rare that everybody gets everything they want. If you decide that you do not want to accept the final proposal then let LINZ know. You should be aware that if LINZ does not receive notification from you that you have accepted the final proposal with all the appropriate consents, within 90 days, then you will have been deemed to have rejected the proposal.

LINZ recommends you seek your own, independent legal advice when considering the final proposal.

Stage 4: Implementation of the Substantive Proposal (surveying, fencing is done and **you get your freehold title**)

Summary: Implementation of the Substantive Proposal for Tenure Review. The **finish line**. The timeframe for the implementation of substantive proposals in Tenure Review depends on the completion of a number of steps including the surveying and fencing of land. Given the large areas of land involved and seasonal weather factors, it can take 12 months before the process is complete. **At the end of the process you get your freehold title** (DoC gets conservation or reserve land). Depending on the terms of settlement, **you or LINZ may be required to pay the difference between your freeholded land** and the conservation or reserve land removed from your lease.

Further detail:

Final proposal becomes public: When LINZ receives the substantive proposal from you showing that you have all the appropriate consents and that you have accepted the final proposal, we check it. Then we register a notice on every leasehold or other title to which the final proposal relates, in **Landonline**, LINZ's digital title and survey plan system. That notice will show the area of freehold land to be owned by you and the area that will be restored to the Crown.

Leasehold titles are public information and can be accessed through **Landonline**. You can use **Landonline** at any of LINZ's five Processing Centres in Auckland, Hamilton, Wellington, Christchurch or Dunedin. Many lawyers and surveyors are registered users of **Landonline** and access it via their computers from their own offices. If your lawyer has **Landonline**, they can print you out a copy of the leasehold title with the notice on it.

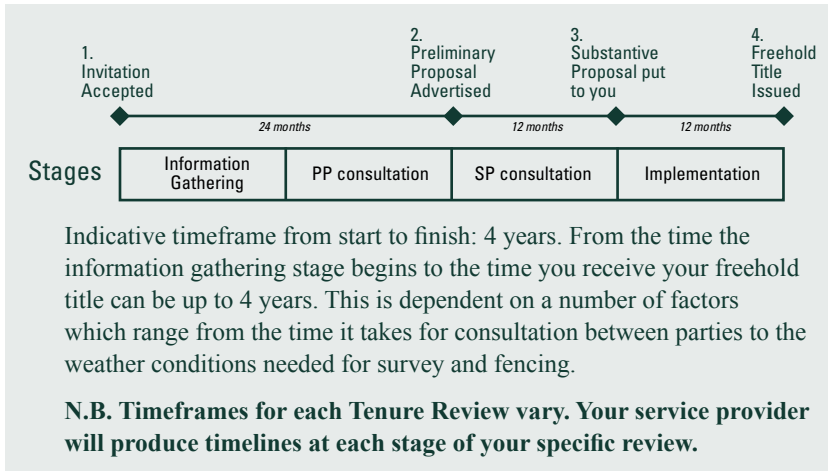
Surveying and fencing of land: The next step is for LINZ's Surveyor-General to decide whether any of the land needs to be surveyed. Once any required survey is completed, the Surveyor-General needs to be satisfied that the proposed boundaries of the land shown on the plan included in the proposal, both freehold and Crown parts, match the defined boundaries shown on the final plan. Once the Surveyor-General is happy, the final plan is approved.

Getting your title: LINZ updates the final legal documents and obtains signatures for any rights of way, grazing concessions etc. On settlement day, once your payment for your freehold land has been received LINZ can prepare for processing an application for your freehold certificate of title.

This may take about a month until you receive a copy of your new title.

Settlement notes: Settlement day is a specified number of working days after the day that the final plan and proposal are registered. You must pay for your freehold land by 3pm on the day of settlement, by bank cheque.

Costs: You have to pick up all your own costs for legal or other professional advice during Tenure Review. We strongly recommend that you do seek independent advice.



Conclusion

Tenure Review takes time. It is the only way for you to get freehold title over the land you currently farm. We encourage you to stick with the process. We hope you will be happy with the result.

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Appendix: background information on Tenure Review

LINZ website has more information

- More information about these stages of Tenure Review can be found on the LINZ website (www.linz.govt.nz). On the LINZ website you can:
 - see the latest advertised reviews
 - track the progress of each lease in Tenure Review
 - see a full list of all High Country leases: those in Tenure Review and those that are not in Tenure Review
 - view the overall state of Tenure Review

The Crown Pastoral Land Standards 6,7,8,9 and 10 issued by the Commissioner outline the different stages of the process.

Role of the Service Provider

Service Providers represent LINZ in the field and manage the day to day details of the Tenure Review process from start to finish

Their role includes understanding the views of all parties, leading consultation and negotiating proposals that meet the objectives of the Crown Pastoral Land Act 1998.

Service Providers can not make any of the decisions required for a tenure review. That is the role of LINZ.

LINZ works closely with Service Providers when proposals are being developed and LINZ staff may visit your property to gain a better understanding of the specific issues about your review.

DoC's role

DoC, as the Crown's conservation experts, has two roles in Tenure Review. The first is to provide advice to LINZ on significant inherent values. DoC's second role is to consent to any special conditions or concessions which will be attached to the land and where the Minister of Conservation will have an interest.

Scheduling

LINZ Service Providers will produce project plans for each stage of the

tenure review. These plans are signed off by LINZ and a copy provided to you at the beginning of each stage so that you are aware of the timetable and of the need for your input at specific points.

Transfer of lease

Please note that Tenure Review is personal to you, the leaseholder. This means that, if you transfer the lease, the tenure review comes to an end. Any further tenure review of the lease can only be initiated on the invitation of the new leaseholder.

This means that you cannot sell your lease on the basis that it is “in tenure review”.

Your rights and our rights

Tenure Review is voluntary for you and LINZ. You can decide to withdraw from Tenure Review. LINZ can also discontinue a review.