

In Confidence

Office of the Minister for Land Information

Cabinet Economic Policy Committee

CONSULTATION ON PROPOSALS TO UPDATE FEES FOR LINZ SURVEY AND TITLE SERVICES

Proposal

- 1 This paper seeks Cabinet approval to release a public discussion document on options to update fees for Land Information New Zealand (LINZ) survey and title services. This consultation would take place from mid-April to late May 2024.

Relation to government priorities

- 2 This is a regular review of survey and title fees that requires Cabinet approval to ensure that fees are set at an appropriate level to recover costs. Survey and title services support the property rights system that underpins the economy by enabling the buying, selling and leasing of property.

Executive Summary

- 3 As the Minister for Land Information, I oversee LINZ's responsibility for maintaining the land title register and cadastral survey records. New Zealand's property market and land development industries rely on the services that LINZ provides to alter these records, which are delivered through the Landonline technology platform.
- 4 In 2018 Cabinet approved a modernisation of Landonline, mainly funded through a repayable Crown loan of \$103 million. Cabinet noted that a fee review to enable LINZ to repay the Crown loan would occur by early 2021, and a second fee review would occur when the modernising Landonline programme was completed. Since 2019 LINZ has been continuously releasing modernised Landonline products and services which deliver substantial efficiency benefits to customers.
- 5 LINZ undertook a review of survey and title fees in 2021, and new fees were put in place on 1 February 2022. In the year ended 30 June 2023, LINZ received \$77.9 million in fee revenue and the cost of delivering services was \$91.4 million (a \$13.5 million deficit). Survey and title fee revenue and expenses are managed through a memorandum account. By 30 June 2025, the memorandum account is forecast to have a deficit of about \$41 million which will rise if fees are not increased.
- 6 If fees are not increased, then balancing the memorandum account within a reasonable period will either require LINZ to make substantial cost reductions to its survey and title services, or a capital injection from the Crown. A high proportion of the

increased costs are repayment of the Crown loan for modernising Landonline which has already been drawn down.

- 7 I am seeking Cabinet's agreement for LINZ to publicly release the discussion document in **Appendix Two** which presents three options for increased fees. Under the recommended option:
- fees for the most common titles transactions rise from \$90 to \$117;
 - fees for the most common survey transactions rise from \$850 to \$1,130; and
 - fees for public land record search rise from \$6 to \$9 for each search.
- 8 Survey and title fees are only a very small proportion of land development and housing costs. I do not expect the proposed fee increases to have a significant impact on these sectors.
- 9 Following public consultation, I intend to present final fee proposals to Cabinet for approval in July 2024.

Background

LINZ provides survey and title services to the public

- 10 Through LINZ, the government provides a range of services required by law to maintain the land ownership register and cadastral survey records. These services enable New Zealanders to securely own, transact, develop and invest in land and property. The land register and cadastral survey records are held and administered via a technology platform called Landonline.
- 11 Secure title stated in official records provides security of ownership. Having an efficient technology system greatly reduces the time and costs of buying, selling or changing rights in land. New Zealand's property rights administration is world-leading in measures of both efficiency and quality.

Survey and title services are funded by fees charged to users

- 12 The delivery of survey and title services is funded by fees. The fees are paid by members of the public and other service users, such as lawyers and surveyors, who pass the cost on to their customers (including property purchasers, property developers, and people who subdivide property). Fees have historically been charged for these services because customers receive an economic benefit from transacting in land and property.

Modernising Landonline is delivering benefits

- 13 The Landonline platform is over 20 years old and is no longer suitable for modern customer and security requirements. In October 2018, Cabinet approved a Landonline modernisation project which is referred to as the Survey and Title Enhancement Programme (STEP). Cabinet approved a \$103 million repayable Crown loan to fund Landonline modernisation.

- 14 Since 2019 STEP has continuously tested, piloted and released modernised products and services. These include online search for land records, electronic dealings for almost all sale and purchase transactions, and automatic notice of change of ownership for councils. These have been well received by customers for their usability and intuitiveness. STEP will see a reduction of security risks, better delivery to customer needs and enable financial efficiency savings of over \$124 million for customers by 2030.
- 15 STEP delivery is currently rated 'Green' by the independent governance board which has oversight on delivery challenges, risks and financial performance.

Survey and title fees need to be reviewed as costs are exceeding revenues

- 16 LINZ's survey and title fee revenue and expenses are managed through a memorandum account. Memorandum accounts transparently disclose the costs of delivering services funded by third parties, and are intended to trend towards a nil balance within a reasonable period.
- 17 When Cabinet approved STEP it noted that two fee reviews would occur. The first fee review was undertaken in 2021 and resulted in the first fee increase for survey and title services since July 2011. In August 2022, Cabinet noted that the timing of the next fees review, which was initially planned for the completion of STEP, would occur at a time based on the balance of the memorandum account, and activity in the property market.
- 18 The memorandum account has carried a surplus balance since 2015, with a balance of \$27.4 million as at 30 June 2023. In the year ended 30 June 2023, LINZ received \$77.9 million in revenue from survey and title fees and the cost of delivering services was \$91.4 million (a \$13.5 million deficit). By 30 June 2024, the memorandum account is forecast to have an ongoing deficit balance resulting from:
- increased investment in modernising Landonline through STEP, and supporting the existing Landonline system for a longer period than was anticipated;
 - lower than budgeted survey and title fee revenues in 2022 and 2023 due to reduced property market activity and lower transaction volumes; and
 - increased costs to support LINZ's core property rights business and information technology security and support.
- 19 Budget 2023 approved a repayable Line of Credit of up to \$85 million over three years to enable LINZ to maintain the balance of the memorandum account and enable service continuity, until a fee review is carried out. LINZ will start to draw down on the Line of Credit in the first half of 2024.

Not reviewing fees presents risks for the property market

- 20 Without an increase to fees, then in order to balance the memorandum account substantial cost reductions would be required to the modernisation of Landonline and survey and title administration. A high proportion of the increased costs are due to the

repayment of the Crown loan for STEP. The scale of cost reductions needed could present risks to the efficient, secure and timely delivery of survey and title services.

- 21 In the 2022/23 year the time taken to approve compliant cadastral survey datasets averaged 10.12 days, and the time taken to process compliant manual title transactions averaged 11.18 days. Cost reductions to this administration could result in the provision of survey and title services taking longer, impacting on the functioning of the property market.
- 22 LINZ has recently completed the Budget 2024 baseline review to save 6.5 per cent of Crown funded operating expenditure from the 2024/25 financial year. Although third party (fees) funded services are not included in this target, LINZ regularly monitors survey and titles expenses to identify where savings can be made.

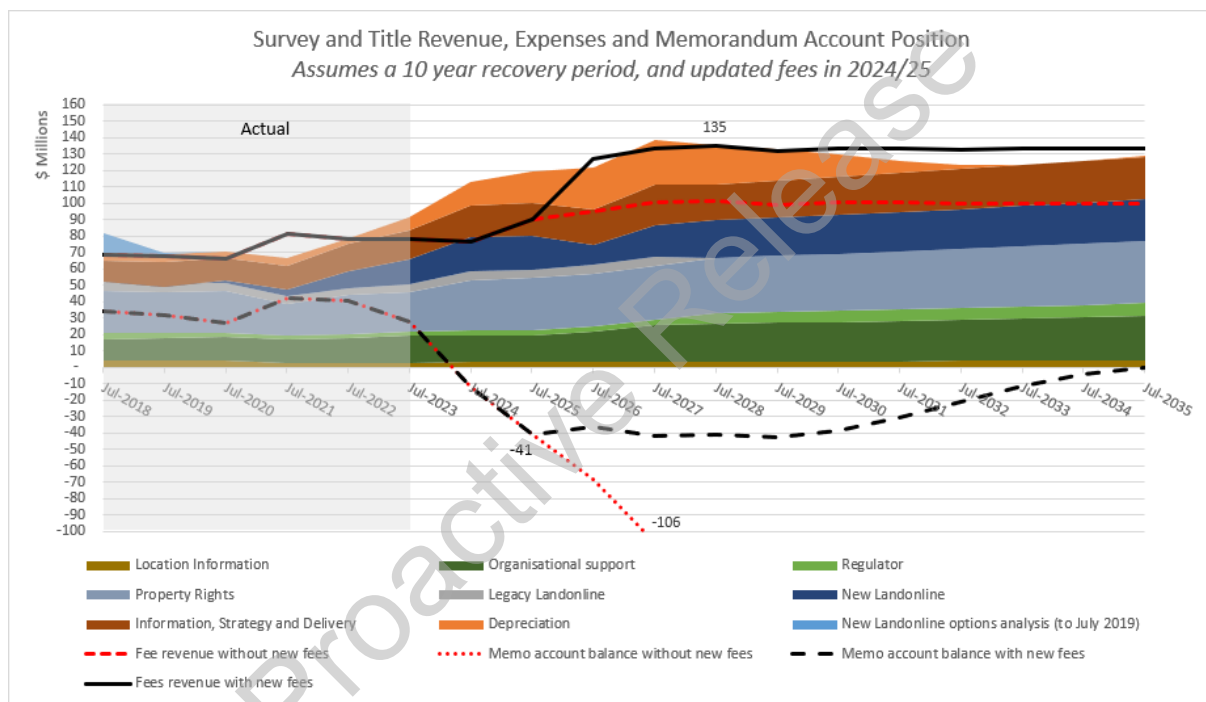
Fee change proposals for public consultation

- 23 The fee review considers options for amendments to the existing survey and title fees only. Proposals for new types of fees, or changes to the fee structure have not been considered. I consider the current fee structure sufficiently fit for purpose at this time.
- 24 The discussion document proposes three options for new fee levels to meet the costs of the survey and title system:
- 24.1 **Option A:** allocate a cost recovery increase to the existing survey and title fees (recommended);
- 24.2 **Option B:** limit the fee rises for standard residential transactions such as the transfer of a residential title with a mortgage, while recovering more of the costs from the other services; and
- 24.3 **Option C:** limit the fee rises for manual processing services such as determining compliance of a complex cadastral survey dataset, while recovering more of the costs from the other services.
- 25 I consider Option A best meets the criteria set out in Treasury's Guidelines for Setting Charges in the Public Sector. I want to hear from stakeholders on the impacts of each option before making a final recommendation to Cabinet.
- 26 Under Option A:
- fees for the most common titles transactions (for example, for registering or depositing an instrument) rise from \$90 to \$117;
 - fees for the most common survey transactions (for example, to lodge a cadastral survey dataset) rise from \$850 to \$1,130; and
 - fees for a public land record search would rise from \$6 to \$9 for each search.
- 27 Land record search is proposed to increase by a higher proportion because it is a fully digital service and so is more sensitive to the investment in STEP and ongoing increased costs for supporting Landonline.

28 The proposed fee increases under each of the options would bring the memorandum account to a nil balance in 10 years. I consider this to be a reasonable period which allows for LINZ to spread the costs of modernising Landonline across the current and future survey and title customers who will benefit from the investment. **Appendix One** shows the impact of each option on fees for the most common survey and title transactions.

29 **Figure 1** shows the actual and forecast survey and title revenue, expenses and memorandum account balance from July 2018 to July 2035. The top row titled ‘Depreciation’ includes repayment of the Crown loan for STEP and recovery of any drawdown of the Line of Credit. The memorandum account is forecast to have a deficit of \$41 million by July 2025. If fees are not updated, then the memorandum account would have a deficit of \$106 million by July 2027.

Figure 1 Survey and title revenue, expenses and memorandum account balance



30 The modelling underpinning the options reflects a range of assumptions for forecast expenditure, inflation, transaction volumes, and a 10 year timeframe to bring the memorandum account back to a nil balance from the 2024/25 year. The model uses regular forecasts of property transactions from the New Zealand Institute of Economic Research (NZIER).

Request to consult the public on fee proposals

31 I seek your approval for LINZ to commence public consultation on a survey and title fees review by releasing the attached discussion document, with any necessary minor amendments made prior to release. This would allow public consultation to run from mid-April to late May 2024.

Next steps

- 32 Following public consultation, I intend to present final fee proposals for Cabinet approval in August 2024. This would allow new fee regulations to be drafted and new fees to be implemented in early 2025 (see **Table 1**).
- 33 Following this timeframe will enable fees to be changed as soon as is practical to allow LINZ to begin recovering the forecast memorandum account deficit while giving survey and title customers adequate notice of fee increases.

Table 1: Proposed timeline for the survey and title fees review

Milestone/Activity	Timeframe
Public consultation	Mid-April to end May 2024
Cabinet consideration of final fees	July 2024
Fee regulation drafting	July to August 2024
Fee regulations to Cabinet Legislation Committee and Executive Council for approval	September 2024
New fees in place (following the Christmas holiday period)	Early 2025

Cost-of-living implications

- 34 The proposals for updated fees will have modest impacts on the legal and surveying costs of buying and selling houses, and developing property:
- 34.1 **Impact on legal costs:** Lawyers pay LINZ search and title fees and pass the fee cost on to their clients through invoices for conveyancing services. The conveyancing cost to a person buying or selling a house tends to be from \$1,500 to \$2,500, depending on location and the complexity of the transaction. The proposed search and title fee increases will likely add about \$30 to \$50 to the cost for standard residential property transactions.
- 34.2 **Impact on survey costs:** Surveyors pay LINZ survey fees and pass the fee cost on to their clients through invoices for survey services. The proposed survey fee increases will add about \$150 to \$200 to the survey cost of a single parcel of land (if a survey involves multiple Landonline transactions including searches).
- 35 From regular discussions with lawyers and surveyors, LINZ has heard that there is support for the investment in modernising Landonline (with some concern from surveyors that fee payers are paying for modernising Landonline). LINZ has signalled to these stakeholders that there is a need to review survey and title fees.

Financial Implications

- 36 LINZ estimates that the fee proposals would result in an additional \$45 million each year of third-party funding paid from survey and title customers to fund the annual operating expenditure, and any funds drawn down of the \$85 million Line of Credit, within a 10 year period to balance the memorandum account. This increase in fees is expected to have a positive impact on both Operating Balance before Gains and Losses (OBEGAL) and net debt.

Legislative Implications

- 37 Subject to public consultation and Cabinet approval of new fees, the Parliamentary Counsel Office will be instructed to draft amendments to the following fee regulations in order to give effect to the new fees:

37.1 Land Transfer Regulations 2018;

37.2 Cadastral Survey (Fees) Regulations 2003; and

37.3 Land Information New Zealand (Fees and Charges) Regulations 2003.

Impact Analysis

Regulatory Impact Statement

- 38 As requested by the Treasury, a LINZ Quality Assurance panel has reviewed the discussion document and determined that it contains sufficient impact analysis to support Cabinet's decision to release it. Therefore, a separate regulatory impact statement is not required at this stage. A Cost Recovery Impact Statement will be completed at a later stage to inform Cabinet's final decisions on these proposals.

Climate Implications of Policy Assessment

- 39 The proposals in this paper will have no direct or indirect impacts on greenhouse gas emissions.

Population Implications

- 40 Some title transactions for Māori freehold land transactions are exempt from fees by section 123(4) of the Te Ture Whenua Māori Act 1993. The exemptions apply to Māori Land Court orders affecting or relating to the title in any Maori freehold land (other than those relating to beneficial ownership of the land when the legal ownership is different).
- 41 Other title transactions for Māori freehold land are not exempt from fees, and there is no exemption relating to survey fees for Māori freehold land in the Cadastral Survey Act 2002. There is also a survey fees impact on Māori due to the requirement for a survey plan of a customary marine title area in the Marine and Coastal Area (Takutai Moana) Act 2011.

- 42 Survey and title costs impact on Māori landowners. LINZ will seek to understand these impacts through the public consultation period by engaging with entities that represent or work with Māori landowners. LINZ will also try to reach Māori landowners directly through its communication channels.

Human Rights

- 43 I consider the consultation document complies with:
- 43.1 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 43.2 the principles and guidelines set out in the Privacy Act 2020; and
 - 43.3 relevant international standards and obligations.

Use of external resources

- 44 The property transaction forecasts used to estimate future survey and title fee revenues were obtained through regular reporting LINZ receives from NZIER, to improve the accuracy of its budget forecasts. The survey and title fees review project is not employing any external contractors.

Consultation

- 45 The following departments were consulted, with feedback taken into consideration in the development of this paper and the attached discussion document: The Treasury; Department of Internal Affairs; Te Kawa Mataaho - Public Service Commission; Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development; Ministry of Justice; Te Puni Kōkiri, Te Arawhiti; Kāinga Ora - Homes and Communities; Waka Kotahi - New Zealand Transport Agency; Department of Conservation; the Ministry of Business, Innovation and Employment; Ministry of Primary Industries; and Ministry for the Environment. The Department of Prime Minister and Cabinet was informed.

Communications

- 46 LINZ will run a public consultation process between mid-April and the end of May 2024. LINZ intends to issue a media release and include information about the review in its regular communications to its customers. These communications will direct people to the discussion document and provide advice on how to make a submission.
- 47 LINZ will engage with Māori landowners on the proposals to update survey and title fees. LINZ will undertake targeted consultation with sector groups representing surveyors, lawyers and councils, as well as seeking to reach members of the public with an interest in the review.
- 48 Although survey and title fees are only a very small proportion of land development and the expenses of purchasing property, public consultation on the fee proposals may generate media interest. LINZ will address the potential for any media enquiries in its communications plan for the consultation and will include the Ministry of Housing and Urban Development in any response to such enquiries.

Proactive Release

- 49 I propose that LINZ publish this Cabinet paper on its website, subject to redactions as appropriate under the Official Information Act 1982, at the same time as the discussion document is published on the LINZ website.

Recommendations

- 50 The Minister for Land Information recommends that the Committee:
- 1 **note** that Land Information New Zealand (LINZ) provides services required by law to maintain the land ownership register and cadastral survey records, and these services are funded by fees charged to the customers that access these services, such as property purchasers and developers;
 - 2 **note** that a combination of lower volumes of property market activity than forecast in 2022 and 2023, ongoing investment in modernising the Landonline technology platform supporting service delivery, and general inflation is currently causing the costs of survey and title administration to exceed fee revenues;
 - 3 **note** that the modernised Landonline platform is already delivering significant efficiency benefits for commercial users and for the public, that there is strong user support for modernising Landonline, and LINZ has signalled a fee review;
 - 4 **note** the public discussion document attached as Appendix Two, on options to update fees to fully recover the costs of modernising survey and title services and property rights administration;
 - 5 **agree** to the release of the survey and title fees discussion document in April 2024;
 - 6 **authorise** the Minister for Land Information to make minor amendments to the discussion document, with precise timing for release to be determined by the Minister for Land Information; and
 - 7 **note** that following the consultation period the Minister for Land Information will report back to Cabinet seeking approval for final fee decisions.

Hon Chris Penk

Minister for Land Information

Appendix One: Summary table of proposed survey and title fees

Examples of fees for the most common types of survey and title transactions (all GST inclusive)				
Transaction type	Current fees	Option A Cost recovery update for all fees (recommended)	Option B Limit fees for standard residential transactions	Option C Limit fees for manual processing of complex survey transactions
Survey				
Lodging survey data (including for a unit title development) that creates 1 or more parcels	\$850	\$1,130	\$1,400	\$850
Lodging survey data for a complex boundary reinstatement survey	\$850	\$1,130	\$1,400	\$850
Lodging survey data (other than for a unit title development) that creates 1 or more parcels	\$550	\$643	\$796	\$656
Fee for each parcel in the cadastral survey dataset	\$60, \$75, or \$100	\$80, \$112, or \$138	\$99, \$139, or \$171	\$81, \$114, or \$141
Title and Notices				
For registering or depositing an instrument (electronic)	\$90	\$117	\$90	\$119
For registering or depositing an instrument (other)	\$180	\$234	\$289	\$238
For depositing a plan	\$150	\$177	\$219	\$181
For a record of title	\$145	\$160	\$198	\$164
Search				
Copy of a title, instrument, or survey plan (electronic)	\$6	\$9	\$11	\$9

Appendix Two: Discussion Document - Updating fees for survey and title services

Proactive Release