

BRF 25-316 Draft Cabinet paper *Initiating a targeted review of Crown land legislation*

Ki / To:	Hon Chris Penk Minister for Land Information	Rā / Date:	20 May 2025
Priority Level	Priority: Medium	Action required by	22 May 2025 (for high level feedback) 27 May (for further feedback)

Purpose

This briefing provides you with the draft Cabinet paper *Initiating a targeted review of Crown land legislation (Attachment 2)*. It also responds to your questions regarding land disposal powers.

Toitū Te Whenua Land Information New Zealand Whakapā/contacts

Ingoa/Name	Nama waea/ Contact number	Whakapā tuatahi/first contact
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Ngā kōrero a te Minita/Minister's comments

Thanks!

Key messages

1. You have requested a Cabinet paper seeking agreement to a review of the Crown Pastoral Land Act 1998 (CPLA) and the Land Act 1948 (Land Act). Land Information New Zealand (LINZ) has developed a draft Cabinet paper (**Attachment 2**) reflecting your preferred approach for a review.
2. As discussed with you, the proposed scope of the review currently includes:
 - enabling secondary land use on the Crown pastoral estate; ✓
 - revenue structures that ensure a fair return to the Crown; ✓
 - provisions for permitted and discretionary activities under the CPLA; ✓
 - options for addressing overlap between the Crown pastoral land and resource management regimes; and ✓
 - updates to the Land Act to improve land management in the modern context. ✓
3. Following our meeting with you to discuss the scope, your office had two further questions for LINZ on land disposal powers including whether a provision could be included in either the CPLA or the Land Act to enable the future sale of Crown land through a targeted review. This briefing also responds to those questions. ✓
4. The next step is to develop a discussion document to seek input from key stakeholders and other users of Crown land on areas of proposed change to the CPLA and Land Act. yes.
5. Officials are available to discuss your feedback on the draft Cabinet paper at our meeting on Thursday 22 May. LINZ will then start departmental consultation and following this will send you a revised version for consultation with your Ministerial colleagues.
6. The Ministry for the Environment is currently working to reduce overlap between the resource management regime and other regimes. LINZ will keep you informed of any policy decisions taken as part of this work, and the potential impact on the Crown pastoral regime and your own review. ✓

Tohutohu/Recommendations

Toitū Te Whenua Land Information New Zealand Recommends that you:			
1.	Me mātai/Note	that you requested LINZ prepare a Cabinet paper seeking agreement to a review of the Crown Pastoral Land Act 1998 and the Land Act 1948 reflecting your preferred approach for a review.	Noted
2.	Āmine/Agree	to discuss the attached draft Cabinet paper, <i>Initiating a targeted review of Crown land legislation</i> , at your meeting with LINZ officials on Thursday 22 May.	Agree/ Disagree
3.	Āmine/Agree	to provide further feedback to LINZ on the attached draft Cabinet paper, <i>Initiating a targeted review of Crown land legislation</i> , by Tuesday 27 May.	Agree/ Disagree
4.	Me mātai/Note	that following your feedback, LINZ will commence departmental consultation and will send a revised version to you for consultation with your Ministerial colleagues.	Noted

A. X. Moran

Amanda Moran
 Head of Strategy and Policy
Toitū Te Whenua
Land Information New Zealand

Rā/Date: 20 May 2025

Chis Penk
 Hon Chis Penk
Te Minita mō Toitū Te Whenua
Minister for Land Information

Rā/Date: 20 MAY 2025

Tāpiritanga/Attachments

Document number	Name of attachment
1.	Land Disposals under Crown Land Legislation
2.	Draft Cabinet paper: <i>Initiating a targeted review of Crown land legislation</i>

Background and context

1. In March 2025, LINZ provided you with advice outlining three possible approaches to the scope of a review of the Crown Pastoral land Act 1998 (CPLA) and the Land Act 1948 (Land Act) [BRF 25-269 refers]. You indicated a preference to a targeted review that also included an assessment of the interface with the resource management regime. The review will also support Government objectives and priorities under afforestation on Crown-owned land. ✓
2. The targeted plus option proposed more substantives reviews of the Land Act, while the fundamental option proposed a comprehensive review of both Acts and LINZ's land management systems. ✓
3. You requested that LINZ draft a Cabinet paper that seeks agreement from your Ministerial colleagues to your preferred approach by the end of June. A draft Cabinet paper *Initiating a targeted review Crown land legislation* is attached as **Attachment 2** for your initial feedback. Following your feedback we will commence departmental consultation. ✓
4. Following our meeting, your office had two further questions for LINZ on land disposal powers. This briefing responds to those questions.

The draft Cabinet paper seeks agreement to undertake a targeted review of the CPLA and Land Act

5. The draft Cabinet paper details your decision to undertake a targeted review of the two Acts. This briefing provides further information on the areas proposed to be included in the scope, including overlap with the resource management regime. It also provides a high-level overview of alternative review options you considered.
6. As discussed with you, the scope of the review will include:
 - enabling secondary land use on the Crown pastoral estate;
 - revenue structures that ensure a fair return to the Crown;
 - the provisions for permitted and discretionary activities under the CPLA;
 - options for addressing overlap between the Crown pastoral land and resource management regimes; and
 - updates to the Land Act to improve land management in the modern context.

Enabling secondary land use on the Crown pastoral estate

Alignment with the Afforestation on Crown-owned land work programme

7. The legislation currently limits non-pastoral land use on the Crown pastoral estate. Crown pastoral leaseholders have been indicating interest in planting trees on their leases and have set out the legislative barriers preventing this.

8. Following our initial advice to you on this in 2024, LINZ became part of the cross-agency afforestation on Crown-owned land (AOCL) programme that supports you and the Ministers responsible for Forestry, Climate Change and Conservation. [REDACTED]

s 9(2)(f)(iv)

9.

s 9(2)(f)(iv)

Enabling secondary land uses as part of the review

10. In addition to afforestation, Crown pastoral leaseholders are interested in a wider range of commercial secondary activities on their land. To date leaseholders have enquired about, or made applications, on a range of activities including growing horticultural crops, beer brewing and solar farming. Widening the range of secondary land uses on parts of a lease that are not suited to pastoral farming enables and provides for leaseholders to diversify income. It supports your portfolio objectives for improving land management by ensuring best use and fair returns to the Crown.
11. Enabling secondary land use requires legislative change. The draft Cabinet paper seeks approval to progress work to identify options for secondary land use. Policy work is now underway which will consider:
- better enabling third parties to carry out commercial activities on the Crown pastoral estate, with the permission of the leaseholder,
 - developing an approvals framework that is enabling and outcomes focused, so that future innovations in the use of the Crown pastoral land are not unduly restricted by prescriptive legislation,
 - making it clearer, easier and more efficient to apply and approve these secondary activities, and
 - ensuring a fair return to the Crown as the landowner when these activities take place on the Crown pastoral estate.

Revenue structures that ensure a fair return on the Crown

12. Reviewing revenue structures is directly linked to the secondary land uses work. When you discussed the review scope with LINZ, you agreed to a targeted approach that would enable the Crown a fair return from afforestation and other secondary uses on Crown pastoral land.
13. This aspect of the review will focus on the mechanisms for securing a return from secondary uses. LINZ has started the next phase of policy work to provide for an effective regime. This will include consideration of systems similar to the existing

regimes for calculating stock carrying capacity, and charging for commercial recreation permits. There are limitations associated with both approaches which we will work through in the next phase, as well as considering any alternative options.

14. Also in scope is considering targeted changes to the Land Act that where appropriate will better enable LINZ to recover costs from third parties or allow them to contribute to the management of the Crown asset they benefit from. Exploring the existing Department of Conservation approach and current programme of change to streamline their permitting process and cost recovery scheme may offer solutions for efficiencies LINZ could adopt.

Opportunities alongside the review on land uses that will generate higher profits

15. Alongside the review, LINZ is continuing work with other agencies on land uses that will generate higher profits, in particular opportunities to earn carbon credits.
16. Crown pastoral leaseholders noted that being able to enter the NZ ETS to earn carbon credits is a key driver for undertake planting. s 9(2)(f)(iv)

17. s 9(2)(f)(iv)

18. s 9(2)(f)(iv)

Provisions for permitted and discretionary activities under the CPLA

19. Schedule 1AB of the CPLA sets out three classifications of activities on pastoral land: permitted (that do not require consent under the CPLA); discretionary (that require consent from the Commissioner of Crown Lands); and prohibited (consent cannot be applied for or given under the CPLA). Schedule 1ABA sets criteria for considering whether the activity is necessary to enable the leaseholder to exercise rights and obligations under their lease. Both schedules connect with and inform the decision-making process and criteria set out in sections 10 and 11 of the CPLA.
20. Reviewing the provisions for permitted and discretionary activities in the Schedules is in the review scope. In our discussions with the High Country Accord Trust, they provided us with their views on where improvements could be made to some provisions (they subsequently provided this to your Office). Our initial assessment of the Accord's view is that there is merit in progressing a review to assess the Accord's recommendation, as well as identifying any improvements based on our own

operational experience. We will also consider any non-legislative options that may improve the use and application of the Schedules.

Reducing overlap and duplication with the resource management regime

21. You have shared feedback received from the Accord and leaseholders about the overlap between the Crown pastoral land and resource management regimes. The statutes do have different purposes and functions which is why leaseholders sometimes need to apply for consent to both LINZ and their local authority. The CPLA has a dual function of land asset management (providing the Crown's consent as landowner) and environmental (land use) regulation. The RMA focuses on environmental regulation but across all natural and built environments.
22. Inside the targeted scope of the review LINZ is exploring options to amend Schedule 1AB of the CPLA to reduce duplication between the regimes (this links to the provisions for permitted and discriminatory activities work stream above). LINZ is also looking at how operational changes and advocacy in local authority plan making under the resource management regime could reduce overlap and duplication.
23. Amending the RMA could effectively remove the regulatory overlap. However, further analysis would be needed to ensure no additional operating costs or tasks would result for LINZ. LINZ has been consulting with MfE on the resource management reform proposals. Hon Chris Bishop, Minister Responsible for RMA Reform, is currently considering an option that will have the effect of reducing regulatory overlap. The proposal is to establish a test in legislation to determine if an adverse effect should be managed under the Planning Act, based on consideration of whether the effect is adequately regulated under other systems. LINZ will keep you informed of decisions taken and the potential impact on the Crown pastoral regime.

Updating the Land Act to improve land management in the modern context

24. The above work areas support improvements in the Crown pastoral estate. You also agreed to a targeted review of the Land Act 1948 to make minor amendments that will improve efficiencies. The Land Act has not had significant amendments since it was enacted.
25. LINZ has been considering issues and progressing work on processes related to alienation (disposal by way of lease, license, or sale), leases and licenses, and trespass provisions. Focusing on these areas will make land management arrangements workable in the modern context and will better support those who engage with us to use the land. As noted in paragraph 20 above, this stream will also consider efficiencies around fees and charges.

Further questions on land disposals under legislation

26. Following our 27 March meeting, your office asked two further questions:
 - confirmation that the cost of Crown land disposals under the Land Act was usually prohibitive; and

- whether a provision could be included in either the CPLA or the Land Act to enable the future sale of Crown land.

Cost of land disposals under the Land Act

27. Wherever possible, LINZ disposes of Crown land that is no longer required. It has now reached a point where most remaining land is marginal with low commercial value. It is not LINZ policy to sell Crown land at a loss.
28. LINZ can confirm that the resource required to prepare remaining Crown land for sale can cost more than the value of the land itself. This is due to a number of factors including its low commercial potential and that it is costly to survey and subdivide.
29. LINZ continues to look for opportunities to dispose of remaining parcels of Crown land wherever disposal appears to be cost effective.
30. Another area that LINZ has been working on with MfE is on the impact of resource management regime resource consent requirements for subdividing land for disposal under the Land Act. Further analysis on this is required and we will also explore this matter in our review of Land Act.

Legislative provisions to enable the future sale of Crown land

31. You have asked whether through a targeted review, a provision could be included in either the CPLA or the Land Act to enable the future sale of Crown land.
32. More detailed information is attached in **Attachment 1** – this provides an overview of the current provisions as well as potential options to reform the land disposal process. These options are not within the scope of a targeted review.

Consultation and engagement with stakeholders

33. LINZ proposes to develop a discussion document to seek input from key stakeholders and other users of Crown land on the areas of proposed change to the CPLA and Land Act
34. Prior to this, LINZ will engage directly with key stakeholders for CPLA proposals including the High Country Accord Trust, the LINZ appointed High Country Advisory Group, and iwi stakeholders.
35. Further analysis will be done for potential changes across both Acts to ensure proposals do not compromise any obligations under existing Treaty settlement legislation and other arrangements with iwi.

Next steps

36. You have indicated to officials you would like to take a Cabinet paper to the Cabinet Economic Policy Committee (ECO) on 25 June 2025.

37. Following your feedback on the attached draft Cabinet paper, LINZ will initiate departmental consultation will then send a revised version to you for consultation with your Ministerial colleagues.
38. The timeline for the Cabinet paper is outlined below.

Action	Date
High level feedback on the draft Cabinet paper provided from your office (to start departmental consultation)	Thursday 22 May (Officials Meeting)
Further feedback on draft Cabinet paper provided from your office	Tuesday 27 May
Departmental consultation	Friday 23 – Thursday 29 May
Updated Cabinet paper provided to your office following your feedback and departmental consultation	Friday 30 May (AM)
Ministerial consultation	Friday 30 May – Monday 9 June
Updated Cabinet paper provided to your office following Ministerial consultation	Tuesday 17 June
Lodgement	By 10am, Thursday 19 June
Cabinet Committee (ECO)	Wednesday 25 June
Cabinet	Monday 30 June

39. Officials are available to discuss the contents of this briefing and draft Cabinet paper at our meeting with you on Thursday 22 May.