

BRF 26-053 Update on Crown land legislation review – high level decisions

Ki / To: Hon Chris Penk, Minister for Land Information

Rā / Date: 8 September 2025

Ngā mahi matua kia mahia/key actions required

Minita/Minister	Key action required:	Deadline
Hon Chris Penk, Minister for Land Information	<p>Note your decisions will inform the direction of more detailed policy work, ahead of Cabinet paper and decisions scheduled for October 2025.</p> <p>Indicate on Appendix 1 your preferred options for enabling secondary use on Crown pastoral land, and further enabling land use flexibility.</p>	11 September 2025

Toitū Te Whenua Land Information New Zealand Whakapā/contacts

Ingoa/Name	Tūnga/Position	Nama waea/ Contact number	Whakapā tuatahi/first contact
Stacey Newlands	Acting Head of Strategy and Policy	021 242 3602	<input type="checkbox"/>
Becci Whitton	Leader, Strategy and Policy	027 212 4943	<input checked="" type="checkbox"/>

Ngā kōrero a te Minita/Minister's comments

EXCELLENT BRIEFING. THANKS!

Pūtake/Purpose

- 1 This briefing updates you on the Crown land legislation review, and seeks your high-level directions on enabling secondary use and additional land use flexibility on Crown pastoral land. Your decisions will inform the direction of more detailed policy work, ahead of the Cabinet paper and decisions scheduled for October onwards.

Pānui whāinga/Key messages

- 2 The Crown Pastoral Land Act 1998 (CPLA) currently restricts lessees primarily to pastoral farming, conservation, and commercial recreation. While these uses reflect the CPLA's original intent, there is a clear opportunity to enable a broader range of secondary activities, such as tourism, renewable energy, and forms of afforestation, that can occur alongside pastoral farming, while maintaining or enhancing the inherent values of the land. ✓

Enabling secondary use on Crown pastoral land

- 3 Toitū Te Whenua Land Information New Zealand (LINZ) recommend establishing a permit system as the primary legislative mechanism for approving secondary uses, backed by a list of discretionary activities set in a schedule. Alternative options, such as widening the definition of "pastoral activity" and amending lease agreements, were considered but are not recommended. These approaches either lack sufficient flexibility, or can pose legal and operational risks. ✓
- 4 We currently frame the definition of secondary use as any non-pastoral activities undertaken on Crown pastoral land. We will provide you with further advice on the principles and criteria for decision-making matters. ✓
- 5 We recommend that the mechanism for approving secondary use rely on a combination of principles set in legislation, with the Commissioner of Crown Lands' (the Commissioner) retaining discretion to approve each application. This approach balances flexibility of the Commissioner to consider a wide variety of possible secondary uses, with high-level principles and criteria set in legislation for guidance. ✓
- 6 Secondary uses may introduce new liability risks for the Crown as landowner, such as remediating environmental degradation or residue risk if the lessee or the business operator fails. We propose a package of legislative mechanisms to manage these risks, such as a duty of care provision in legislation, with the lessee remaining the central point of accountability. We will provide further advice on what the Commissioner's decision-making criteria, and the package of legislative mechanisms, will look like. ✓

Further enabling land use flexibility

- 7 In some cases, enabling secondary uses alone may not be sufficient to realise the full economic potential of Crown pastoral land. Activities such as full-lease afforestation of exotic species, or large-scale tourism, infrastructure or residential development fundamentally conflict with the CPLA's purpose. We are seeking your direction on the extent to which you wish to enable

opportunities and will discuss the challenges and implications posed at our meeting on 11 September.

- 8 In these instances, we recommend removing the land from the Crown pastoral estate entirely and administering it under the Land Act 1948 or other appropriate legislation to enable alternative land use with greater economic benefit. ✓
- 9 The appropriate legislative mechanism to remove land from the Crown pastoral estate is dependent on the lessee's willingness to give up the lease and engage in any future development planned. ✓
- 10 We seek your direction on whether to undertake further work on compulsory acquisition, in cases where the lessee is unwilling to give up the lease. Any potential option, such as a new power under the Land Act, would require fair compensation to the lessee. Both voluntary surrender and compulsory mechanisms will require careful consideration of Treaty settlement obligations, including potential Rights of First Refusal with iwi and the requirement for competitive allotment in the disposal of Crown land under the Land Act. —

Next steps

- 11 We will be discussing this briefing with you (alongside separate advice on permitted and discretionary pastoral activities), on 11 September 2025.

Tohutohu/Recommendations

Toitū Te Whenua Land Information New Zealand recommends that you:

Note your decisions are necessary to inform the direction of more detailed policy work, ahead of Cabinet paper and decisions scheduled for October 2025.

Indicate on **Appendix 1** your preferred option for enabling secondary use on Crown pastoral land, and further enabling land use flexibility.

Becci Whitton
Leader, Strategy and Policy
Toitū Te Whenua Land Information New Zealand
 Rā/Date: 08/09/2025

Hon Chris Penk
Te Minita mō Toitū Te Whenua/ Minister for Land Information
 Rā/Date: 11.9.2025.

Tāpiritanga/Attachments

Appendix 1: Detailed options table

Proactive release

Te Horopaki/Background

Your decisions are required to progress the review of Crown land legislation

- 1 In May 2025, you sought agreement with your Ministerial colleagues to the scope of a targeted review of the Crown Pastoral Land Act 1998 (CPLA) and Land Act 1948 (BRF 25-269 and BRF 25-316 refers). The scope¹ included:
 - Enabling secondary use of Crown pastoral land
 - Reviewing the framework for permitted and discretionary pastoral activities under the CPLA.
 - Consideration of revenue and cost-recovery mechanisms.
 - Updating the Land Act to support efficient, modern land management.
- 2 In July 2025, you requested that we also begin work on additional options to further enable land use flexibility, including different forms of landholding where enabling secondary use on Crown pastoral land alone is insufficient to realise economic opportunities (BRF 25-373 refers).
- 3 We aim to deliver our advice in the following tranches:

Date	Advice
Week beginning 8 September	Update on Crown land legislation review, and high-level decisions on enabling secondary use and land use flexibility (this briefing) Reviewing the framework for permitted and discretionary pastoral activities under the CPLA (BRF 26-056)
Week beginning 15 September	Detailed advice on enabling secondary use Revenue and cost-recovery mechanisms
Week beginning 22 September	Detailed advice on further enabling land use flexibility Updating the Land Act to support efficient, modern land management
Week beginning 10 October	Cabinet Paper and Regulatory Impact Statement (RIS) for consultation with Ministers

- 4 Depending on your discussions with us and your priorities, the timelines above can be adjusted as needed.
- 5 The purpose of this briefing is to seek your decisions on high-level options identified in enabling secondary use on Crown pastoral land, and further enabling land use flexibility. Based on your preferences, we will follow up with detailed advice in the coming weeks.

¹ Issues that are out of scope include reviewing the pastoral rent-setting methodology, and reinstating tenure review in its form prior to the enactment of the Crown Pastoral Land Reform Act 202.

Enabling secondary use on Crown pastoral land

There is currently limited suitable legislative mechanism to enable non-pastoral activities that can supplement pastoral farming

- 6 Approximately 1.2 million hectares of the South Island high country is classified and managed as Crown pastoral land due to its unique value in supporting extensive pastoral farming alongside maintaining unique biodiversity and landscape values. The Crown pastoral land legislation was reformed in 2022 to enhance environmental and farming outcomes, whilst still recognising lessees' security of tenure and the history of the area.
- 7 Under current legislative framework, lessees on Crown pastoral land are primarily restricted to pastoral farming, conservation, and commercial recreation.² While these uses reflect the intent of Crown pastoral leases, they limit the ability of lessees to adapt to changing economic and land management conditions.
- 8 There is an opportunity to enable a broader range of secondary activities³ on Crown pastoral land, while maintaining or enhancing the inherent values of the land. These secondary uses could help diversify income streams, improve lease management, and contribute to the long-term viability of the Crown pastoral estate, both in terms of economic return and increasing resources available to lessees for managing the land and maintaining or enhancing inherent values.
- 9 However, there is a legislative gap: **no suitable mechanism** exists to consistently and transparently approve secondary activities that fall outside the scope of existing permissions.

We recommend a permit system, combined with a list of activities, as the main legislative mechanism to enable secondary use

- 10 We have shortlisted the following high-level options to enable secondary use:
- ✓ • **A permit system**, similar to the current commercial recreation permit.
 - ✗ • **Widening the definition of "pastoral activity"**, to include other activities that might sit alongside pastoral farming (such as other forms of farming)
 - ✗ • **Changing the lease agreement** to allow for secondary use, through direct negotiations between lessee and Crown.
 - ✓ • **A list of secondary uses set in legislation**, which can be set in a schedule.

² The introduction of commercial recreation permits in 1976 was the first step in recognising value in enabling secondary uses on Crown pastoral land. However, the scope of the commercial recreation permit is largely restricted to tourism and commercial recreation activities, limiting its utility in enabling secondary uses.

³ The range of non-pastoral secondary land uses we considered include afforestation (native and/or exotic), horticulture, beekeeping, and renewable energy generation.

- 11 We recommend a **permit system** as the main mechanism, based on its likely effectiveness, flexibility, and practicality:
- A permit strikes an appropriate balance between decision-making criteria set in legislation, along with flexibility for the Commissioner to make approvals on a case-by-case basis. This balance ensures legal clarity for lessees and LINZ staff, while accounting for different types of secondary use and the varying individual circumstances of Crown pastoral land.
 - Compared to other options, we anticipate that a permit will be more straightforward to implement. This is because the legislative framework already supports a permit system with existing commercial recreation permits, and as such lessees and LINZ operational staff are familiar with a permit system. ✓
 - We note that the High Country Accord Trust (HCAT) is supportive of a permit system. The High Country Advisory Group (HCAG) is of the view that secondary uses should be subject to a consenting regime, with Commission of Crown Land as decision-maker. ✓
- 12 There is rapid development in diversification trends and technologies in the primary sector. Solely relying on a list of secondary use activities in legislation may be overly restrictive, as activities and economic situations change and new uses emerge. However, a list of secondary uses as a schedule provides guidance to all parties as to the types of activities that can be considered secondary uses.
- 13 We recommend setting out a **list of secondary uses** (such as arable farming, afforestation, horticulture, viticulture, farm shops and hospitality and renewable energy generation) in a schedule⁴. In addition, the schedule should include a reference to the Commissioner being able to approve other secondary uses that are considered appropriate regarding the purpose of the CPLA. We will provide further advice on what activities should be in the list.
- 14 We do not recommend the remaining options on the following basis:
- In some Australian states, activities like farm visits are considered a "pastoral activity". However, in New Zealand, no formal definition of "pastoral activity" exists in legislation, and the industry understanding of "pastoral activity" centres on grazing livestock. Introducing a definition of "pastoral activity" alone would not enable activities such as afforestation and may have unintended consequences for other parts of the legislation.
 - Changing the lease agreement between lessees and the Crown, while providing a clear framework for compliance, may result in lengthy and expensive negotiations for the Crown. The lessees and the entity conducting farming or secondary activities are often different, further complicating the efficacy of lease amendments. It would also mean having to amend

⁴ This approach is broadly consistent with the provisions for discretionary pastoral activities in Part 2, Schedule 1AB in the CPLA and commercial recreation permits in section 66A of the Land Act.

the provisions for calculating rent in the CPLA, which are based on livestock carrying capacities. Changing the lease may also trigger Rights of First Refusal (RFR) requirements and possibly competitive allotment requirements unless an exemption in section 54 of the Land Act applies.⁵

We recommend that the mechanism for approving secondary use rely on a combination of principles set in legislation, with Commissioner's discretion ✓

- 15 We currently frame the definition of secondary use as any non-pastoral activities undertaken on Crown pastoral land.
- 16 Decision-making criteria on permitting secondary use could include consistency with the purpose of the CPLA (inherent values), along with a certain threshold for impact on pastoral farming capacity.⁶ We will provide you with further advice on what the principles for decision-making matters and criteria should consist of.
- 17 We shortlisted three options on how proposals for secondary uses could be approved. The decision-making criteria for approvals may be:
- Strictly defined in legislation with little discretion for the Commissioner
 - Partly defined in legislation, and partly up to Commissioner's discretion ✓
 - Not defined in legislation, and purely up to Commissioner's discretion
- 18 We recommend a balance of criteria in legislation with the Commissioner's discretion. This approach balances the flexibility of the Commissioner to consider a wide variety of possible secondary uses, with high-level principles and criteria set in legislation for ease of compliance. ↩
- 19 For example, high-level principles may indicate secondary use must maintain or enhance inherent values, while details on trade-offs between cultural and ecological values may be detailed in operational policy. This approach is consistent with the decision-making provisions for other permissions on Crown pastoral land, including discretionary pastoral activities, commercial recreation permits, and easements. It is also used in most overseas jurisdictions.
- 20 We do not recommend the other options due to the following:
- Thresholds solely set in legislation may be overly restrictive on enabling evolving and innovative land uses. For example, it is difficult for a fixed income-based threshold to account for the fluctuating income streams (income from tourism activities could overtake pastoral farming during peak tourism season). A sweeping land area-based threshold, where

⁵ Specifically, the current exemption from RFR in the Ngai Tahu and Te Taihū Settlement Acts would not apply to the newly negotiated lease.

⁶ A possible threshold would be a percentage-based impact on the land's carrying capacity, where a use would cease to be considered "secondary" if it exceeds the percentage.

secondary activity can only take place on a certain part of the land, can fail to enable innovations such as large-scale solar panels that can coexist with pastoral farming.

- s 9(2)(h)

such discretion may result in operational difficulties, such as the Commissioner's ability to make consistent, equitable decisions due to a lack of direction set in legislation. It would be inconsistent with the approach to other permissions the Commissioner may grant under the CPLA.

Liability risks should be addressed through a package of mechanisms, with the lessee remaining the central point of accountability

- 21 The Crown may incur significant liability risks due to enabling secondary use. Examples include secondary uses that may be hard to reverse (such as permanent afforestation or large-scale infrastructure), or environmental contamination due to poor management by the lessee.
- 22 While there is no one approach that can eliminate liability risks, a package of mechanisms – set in legislation for clarity and compliance – can reduce the risks. These mechanisms can include a duty of care provision, requirement for a liability insurance (as is already the case for commercial recreation permits), and mechanisms such as financial guarantees.
- 23 We consider that an approval for secondary use (such as a permit) should be considered as an agreement between the Crown and the lessee, similar to a sublease. This would mean the accountability for the activity would sit with the lessee, who may still have agreements with other parties to conduct the activities, but in turn provides a direct line of accountability to the Commissioner and therefore better protection for the Crown's interest in the land.
- 24 We will provide more detailed advice on the package of mechanisms, including clarification on the roles and responsibilities of third parties.⁷

Enabling land use flexibility outside of the CPLA's purpose

- 25 While enabling some readily identifiable secondary uses of Crown land can support lessees to achieve stronger economic returns than traditional pastoral use, we recognise that this alone may not always be sufficient to fully realise the potential of some land parcels. This includes scenarios where a pastoral lease does not allow for potential activities that are more economically viable or the best land use. Examples include urban development and large-scale infrastructure, significant-lease afforestation, large-scale commercial crops, horticulture, viticulture, or permanent tourism activities including facilities that displace pastoralism.

⁷ Status quo is third parties can apply for commercial recreation permits and operate on the pastoral estate.

- 26 Additional legislative mechanisms that permit activities and development that go beyond enabling secondary uses on Crown pastoral land is required to enable such activities.
- 27 Although a reinstatement of tenure review (in its form prior to the enactment of the Crown Pastoral Land Reform Act 2022) is out of scope, we have identified high-level options to enable activities that fall outside of the CPLA's purpose. It should be noted that some of the solutions to removing land from a Crown pastoral lease to enable alternative land use could in part resemble the tenure review process, where a leaseholder requires compensation and there is a comprehensive assessment of the surrendered pastoral lease. The future treatment of inherent values is important and although the detail falls out of the strategic scope of this paper, we will be considering this further.
- 28 While these alternative land use activities may generate significant economic benefits and be a preferred use of Crown pastoral land, they fall outside of the CPLA's purpose, which focuses on pastoralism and maintaining/enhancing inherent values. For example, full-lease exotic afforestation is likely to permanently change the pastoral landscape, impacting both the land's inherent values, and ability to undertake pastoral farming both now and in the future.
- 29 Additional mechanisms that enable activities and development that go beyond secondary uses on Crown pastoral land are therefore required if such activities are to be pursued.

Risks

- 30 Removing partial or full land parcels from a CPL is not a simple process. It requires the parcel to be surrendered to the Crown, the removal of its pastoral status and then it would need to be sold, leased or managed to effect the change in use.
- 31 Most CPL is held in 33 year leases with a perpetual right of renewal so any removal of land from a Crown pastoral lease will involve compensation to the lessee.
- 32 Iwi authorities hold a Right of First Refusal (RFR) over all Crown land for any sale or any lease of 50 years or more (including rights of renewal). Any amendment to or extinguishing of this right will likely entail compensation and potentially other Te Tiriti issues. We would need to investigate further the likely extent of risk and liability for the Crown.
- 33 In addition, section 53 of the Land Act requires the Crown to enter into a competitive allotment process for the disposal of any Crown land (not required by an RFR) unless the exemptions in section 54 of the Land Act apply. This means the removal of land from the Crown Pastoral Estate to another form of tenure may have to be offered via public auction or tender. Any amendment to or extinguishing of this obligation may be controversial.
- 34 We expect a variety of other interested parties and stakeholders to be concerned with any changes to the ownership and guardianship of the existing pastoral leasehold land. Concerns over access and environmental management are commonplace.

35 We also need to align with other agency initiatives including the preservation and national park conservation initiatives from the Department of Conservation and with the Afforestation on Crown Lands (AOCL) programme which you discussed with your Ministerial colleagues on Monday 8 September.

Removing areas of land from the Crown pastoral estate is likely the best way to enable new activities

36 The CPLA works well for administering pastoral leases and protecting the land's inherent values, and many of the Act's provisions are carefully tailored to pastoral activities (e.g. stock number limitation provisions). Providing for some secondary activities could be consistent with this Act but more significant non-pastoral activities would not fit easily into the current scheme of the Act.

37 There will be some activities that by their extent, land usage and impact are no longer secondary or ancillary and are unable to be dealt with adequately by the proposed adapted permit system. The new predominant use takes over and may be quite distinct and permanent usage or may require different tenure such as a business park development, private residential housing or more extensive permanent tourism accommodation complex.

An alternative approach would be to significantly amend the CPLA to allow for such activities

38 To facilitate new land uses, the CPLA would need to be amended to widen its purpose to enable activities not associated with pastoralism. We do not recommend this action as it is inconsistent with the title, purpose and intent of the Act and it would be challenging to make it so. Even with wide scale amendments the Act is unlikely to be fully enabling.

The appropriate legislative mechanism to facilitate greater changes to land use depends on whether the lessee wants to give up their pastoral lease

39 Based on the assumption that it is appropriate to remove land from the Crown pastoral estate the land must first be returned to full Crown ownership and control. The mechanisms to achieve this depends on the lessee's willingness to give up the pastoral lease. The scenarios include if a lessee has decided to discontinue with a Crown pastoral lease for a variety of reasons or the lessee is willing to engage in a new proposal involving the land and is happy to facilitate this by agreeing to the surrender.

40 Pastoral leased land is private property that has been permanently alienated from the Crown by way of a lease. Therefore, the Commissioner would be trying to re-acquire the land or an interest in it.

41 If the lessee is willing to give up the lease there are already provisions to enable a lease to be surrendered to the Commissioner on agreed terms under the Land Act.

- 42 The Commissioner can remove the land from the CPLA and re-lease it or sell it as Crown land under the Land Act. However, both RFR obligations and the requirement for competitive allotment will apply to any subsequent lease or disposal.
- 43 In the case that the lessee is *willing to give up the lease*, the high-level options in summary are:
- **The Lessee surrenders the lease.** We note that a lessee is unlikely to surrender a lease if the land is highly productive or desirable. This particular mechanism of surrender is already contained in the Land Act. The remaining issue is the triggering of RFR and competitive allotment.
 - **The lease is transformed into a non-pastoral lease.** The Land Act provides for different types of land to be held as a lease, including pastoral land, commercial land and industrial land. Depending on the proposed purpose of the new lease, further legislation might be required to change current pastoral leases from pastoral land to a different type of land. This would take the land out of the jurisdiction of the CPLA but keep the land subject to the Land Act. This will entail risk, as discussed including compensation.
 - **The Crown buys out the lessee.** The Commissioner acting on behalf of the Crown could acquire the lease from the leaseholder at a fair market rate. Historically the acquisition of the lease via the tenure review process has been far in excess of market value, but previous purchase prices are likely to influence current leaseholder expectations.
- 44 We recommend that further work is done on all aspects of the process steps identified where the lessee is willing to give up the lease. Sometimes all of these steps will be used to achieve the outcome, or they can operate as alternatives depending on the scenario and whether it is a surrender with or without compensation.
- 45 In the case that the lessee is *unwilling to give up the lease*, the high-level options to give effect to a change in land use require the exercise of compelling powers. The existing compulsory powers are:
- **Compulsory acquisition powers under the Public Works Act (PWA).** Under this option, the Crown may acquire (including by compulsion) the lessee's interest in the lease if the land is required for a public purpose under the PWA. The activities under the PWA are limited to activities by the Crown (or local government) which are for a public purpose
 - This means a lessee could be forced into a termination process, and may be offered compensation. We note that these powers are limited and largely restricted to acquiring land for public works, such as roads, schools, and other public infrastructure. Acquiring land for private benefit would be inconsistent with the intent of the Public Works Act (PWA).
 - **Section 117 of the Land Act** allows the Governor-General to resume possession of Crown land if required for any public purpose or is required for mining or if it is deemed to contain minerals, oil, thermal energy or water or gas. This provision has not been used to our

knowledge and using an untested provision may result in legal risks for Crown. [REDACTED]

s 9(2)(h)

- **A new power under the Land Act (or bespoke legislation) to acquire the land for public use.** Another way to provide the necessary statutory authority for compulsory acquisition of a property right is to establish new legislation, either through a new Land Act provision or a specific new Act.

46 Whatever the pathway for compulsory acquisition, there is a general constitutional principle requiring fair compensation for taking the property right, so the cost to the Crown would be similar to a voluntary acquisition if made at a fair market price.

47 We recommend that if the Minister wishes to pursue pathways to compulsory acquisition, then further work is done on investigating the options identified. Our recommendation at this stage is that it is likely that a new power under the Land Act or bespoke legislation is the most likely option to achieve this outcome.

Next steps

48 We propose using the meeting on 11 September to determine if the compulsory acquisition powers should be considered further. The decisions to pursue or not this line of policy development will guide the next phase of policy development.

BRF 26 - 063 Appendix 1: Options table for Minister's decisions

Policy issues and context	Options	Analysis and key trade-offs	Cabinet-mandated criteria				Stakeholder Feedback	Indicate your preferred options	Notes
			Efficiency	Effectiveness	Flexibility	Transparency			
Options for the primary mechanisms to enable secondary use on Crown pastoral lease									
<p>1. Mechanism to enable approvals and decision-making</p> <p>Allowing secondary uses of Crown pastoral land, which compliments and aligns with legal and environmental obligations.</p>	<p>1A. Status quo: leave system as it is, continue to use commercial recreation permit to approve activities such as tourism and recreation.</p>	<p>Strengths:</p> <p>System widely understood by leaseholders and third parties and operationally well-implemented.</p> <p>Weaknesses:</p> <p>Lacks mechanisms to approve wider range of secondary uses beyond tourism and recreation, limiting opportunities for revenue generation for leaseholders and the Crown, and potentially resulting in leases becoming less economically viable, or more susceptible to external shocks due to lack of legislative mechanisms to diversify.</p>	0	0	0	0		<input type="checkbox"/> X	
	<p>1B. Permit system (recommended in conjunction with list in legislation): either a new permit alongside the current commercial recreation permit, or an amended version of it, tailored specifically to enable non-pastoral activities that supplement pastoral farming, and are consistent with the purpose of the CPLA.</p>	<p>Strengths:</p> <p>Avoids major legislative overhaul (e.g. changing the CPLA's purpose). Leaseholders and LINZ staff already familiar with how permit systems work. Can accommodate a wide range of activities if they are consistent with the purpose of the CPLA.</p> <p>Weaknesses:</p> <p>Certain types of activities that are inconsistent with the CPLA's purpose, such as large-scale exotic afforestation, may be difficult to enable even under a permit system.</p> <p>Should the existing commercial recreation permit be amended (rather than a new permit created), there are limitations to what activities can be allowed under CPLA's s12 commercial recreation permit test (e.g. whether activity uses previously consented infrastructure). Rewrite of the test may be necessary.</p>	+	+	+	0	<p>HCAT – supports permit system along with same test for secondary uses as discretionary pastoral activities and commercial rec permits.</p> <p>Should not be easier to get a secondary use permit than consent for a pastoral farming activity.</p>	<input checked="" type="checkbox"/>	
	<p>1C. Widen the definition of "pastoral": in some Australian states, activities like farm visits are considered a "pastoral activity". This option proposes to include activities adjacent to pastoral farming (such as farm tours) under the definition of permissible "pastoral activity".</p>	<p>Strengths:</p> <p>Would allow secondary use to be undertaken without a more complex mechanism (e.g. application for a permit), and is relatively easy to understand.</p> <p>Weaknesses:</p> <p>This option will likely be inadequate for enabling a wide range of secondary uses beyond those adjacent to pastoral farming. For example, it would be difficult to justify afforestation or renewable energy generation as a type of "pastoral activity".</p> <p>In New Zealand, there is no legislative definition of what "pastoral", or "pastoral activity" is. If this option</p>	-	+	-	+		<input type="checkbox"/> X	

BRF 26-053 Appendix 1: Options table for Minister's decisions

Policy issues and context	Options	Analysis and key trade-offs	Cabinet-mandated criteria				Stakeholder Feedback	Indicate your preferred options	Notes
			Efficiency	Effectiveness	Flexibility	Transparency			
		<p>is to be undertaken, a definition will need to be created. This may be time consuming and not compatible with current timeframes.</p> <p>The industry understanding of "pastoral" centres on raising and grazing livestock and this understanding may be difficult to change.</p>							
	<p>1D. Changing lease agreement: through direct negotiations between lessee and the Crown, the condition for the lease is changed to enable secondary use.</p>	<p>Strengths: A change in lease agreement creates a clear, tailored framework through direct negotiations between leaseholder and the Crown. Removes need for a new legislative mechanism.</p> <p>Weaknesses: Potential for negotiations to become lengthy, extensive and expensive for the Crown. Formulas for rent calculation may need to be individualised for each lease. Less public visibility due to conditions being in a private agreement.</p> <p>The leaseholder and the entity conducting farming or secondary activities are often different, further complicating the efficacy of lease amendments. Changing the lease may also trigger Rights of First Refusal (RFR) requirements (specifically, the current exemption from RFR in the Ngai Tahu and Te Taihū Settlement Acts would not apply to the newly negotiated lease).</p>	-	+	+	-	<p>HCAAT – having the option to use other tools including a special lease depending on the proposed activity may be appropriate.</p>	<input type="checkbox"/> x	
	<p>1E. Listed in legislation (recommended in conjunction with permit system) which can be a list of discretionary secondary uses in a schedule.</p>	<p>Strengths: Compared to other options, provides the most clarity and certainty on the range of permissible activities for applicants, and more consistent decision-making for the Commissioner.</p> <p>A schedule of discretionary secondary uses (to guide applicants) along with a line that broadly indicates that any other activity the Commissioner considers are consistent with the CPLA's purpose and outcomes may be a discretionary secondary use. This would provide a combination of flexibility and a degree of certainty. Can be combined with a new permit system.</p> <p>Weaknesses: Runs the risk of becoming outdated relatively quickly. As such a list must go through legislative amendment to be updated, it is a relatively time-consuming and restrictive option if used by itself and not in conjunction with another mechanism.</p>	+	+	-	+		<input checked="" type="checkbox"/>	

BRF 26-053 Appendix 1: Options table for Minister's decisions

Policy issues and context	Options	Analysis and key trade-offs	Cabinet-mandated criteria				Stakeholder Feedback	Indicate your preferred options	Notes
			Efficiency	Effectiveness	Flexibility	Transparency			
Mechanism to enable approvals and decision-making									
<p>2. Mechanism to enable approvals and decision-making</p> <p>Secondary use is currently framed as any non-pastoral activities undertaken on Crown pastoral land.</p>	<p>2A. Solely defined in legislation: definition of "secondary use" along with decision-making principles, matters and criteria solely set out in legislation.</p>	<p>Strengths:</p> <p>Having the definition of "secondary use" solely defined in legislation (along with principles, matters and criteria) reduces the risk of legal challenges and is the least ambiguous option.</p> <p>Weaknesses:</p> <p>Least flexible option, unintended consequences are likely if a fixed threshold for secondary use is strictly and solely set in legislation.</p> <p>For example, it is difficult for a fixed income-based threshold to account for the fluctuating income streams of secondary activity (a % constraint on income may constrain activities that are seasonal based, such as tourism); land area-based threshold does not account for new technologies such as solar panels that can coexist with pastoral farming (and a % constraint on possible land area that can be used could be considered overly restrictive).</p>					<p>HCAT – did not agree with defining secondary use based on the income earned or area of the lease the activity is undertaken on.</p>	<input type="checkbox"/>	
	<p>2B. Partly defined in legislation, partly up to Commissioner's discretion (recommended): definition of "secondary use" along with decision-making principles, matters and criteria partly set out in legislation at a reasonably high-level, with Commissioner discretion for decision-making backed by more detailed operational policy.</p>	<p>Strengths:</p> <p>Maintains legislative principles, matters and criteria as primary mechanism for guiding Commissioner's decisions (e.g. consistency with inherent values), set at a high-level for the Commissioner to be able to exercise discretion and enable a variety of secondary use. Detailed assessment criteria and threshold for secondary use could be defined in operational policy.</p> <p>Weaknesses:</p> <p>Need to strike the appropriate balance between decision-making criteria in legislation versus discretion. s 9(2)(h)</p>					<p>HCAT – impacts on pastoral farming to be part of the assessment in the consenting process, rather than using a definition in the legislation – make it case by case.</p> <p>HCAG – secondary uses should be subject to a consenting regime, with Commissioner as decision maker.</p> <p>HCAG – Commissioner must follow current processes for assessing activities and inherent values, current CPLA purpose, outcomes and criteria for decision-making key to protecting inherent values.</p>	<input checked="" type="checkbox"/>	
	<p>2C. Commissioner discretion on case-by-case basis: definition of "secondary use" along with decision-making principles, matters and criteria solely up to the Commissioner's discretion.</p>	<p>Strengths:</p> <p>Most flexible option and gives wide discretion to enable secondary use.</p> <p>Weaknesses:</p> <p>Risk of pathway to secondary use becoming a "free-for-all". Potential for inconsistent and opaque decisions (due to lack of reference to legislation), potentially resulting in difficulties for operations and for the Commissioner's day-to-day decision-making.</p>						<input type="checkbox"/>	

BRF 26-053 Appendix 1: Options table for Minister's decisions

Policy issues and context	Options	Analysis and key trade-offs	Cabinet-mandated criteria				Stakeholder Feedback	Indicate your preferred options	Notes
			Efficiency	Effectiveness	Flexibility	Transparency			
Enabling additional land use flexibility where use is not consistent with the CPLA									
3. Preferred approach where new land use is desired that is not consistent with the intent of the CPLA	3A. Remove the land from the Crown pastoral estate (recommended option)	<p>Strengths:</p> <p>This enables a Crown pastoral lease no longer mainly used for pastoralism to be able to adopt another land use.</p> <p>This avoids acting inconsistently with the intention and objectives of the CPLA.</p> <p>This enables a land parcel to be removed from limiting constraints associated with Crown pastoral leases.</p> <p>Weaknesses:</p> <p>Additional legislative powers are required with either bespoke legislation or amendments to existing legislation.</p> <p>It may be unpopular with some stakeholders.</p> <p>May trigger RFR and competitive allotment.</p> <p>Significant costs and lengthy timeframe.</p>	+	+	+	+	<p>HCAG – removal from lease may be appropriate in specific cases (e.g. infrastructure) – concerns about fragmentation and impact on inherent values if land removed from a lease, as well as legislative interactions (e.g. PWA, CPLA, right of first refusal) – tenure changes should be time-bound and subject to review and monitoring</p> <p>Ngai Tahu – providing new rights on Crown land, should be no assumption that NT position on RFR will be the same as for existing rights – considered that RFR will be triggered if new rights enabled</p>	<input checked="" type="checkbox"/>	
	3B. Change the purpose of the CPLA	<p>Strengths:</p> <p>Explicitly states that a variety of uses or land development are acceptable.</p> <p>Weaknesses:</p> <p>Not consistent with the purpose of the CPLA – would require a fundamental change to the intent of the legislation.</p> <p>If the development is not associated with pastoralism it will look like the legislation is not designed for the outcome and is adapted for an alternative purpose.</p> <p>May trigger RFR and competitive allotment.</p>	-	+	+	-		<input type="checkbox"/> x	
Whether to explore option of compulsory acquisition of lessee not willing to give up lease									
4. Preferred approach where the lessee does not wish to give up or change the purpose of their lease.	4A. Further explore option of compulsory acquisition to enable additional land use flexibility	<p>Strengths:</p> <p>This will deliver on acquiring land for alternative land use and delivering potential economic gain</p> <p>Weaknesses:</p> <p>A draconian measure and always one of last resort.</p> <p>Courts are stringent when assessing these as removing fundamental property rights from the weaker party.</p>	+	+	-	-		<input type="checkbox"/> x	

BRF 26-053 Appendix 1: Options table for Minister's decisions

Policy issues and context	Options	Analysis and key trade-offs	Cabinet-mandated criteria				Stakeholder Feedback	Indicate your preferred options	Notes
			Efficiency	Effectiveness	Flexibility	Transparency			
		Existing legislation deals with public works rather than the acquisition of land for private enterprises. Amendments would be needed and danger of opening the floodgates for private development. Will impact negatively on many stakeholder relationships and iwi. Significant costs, risks and lengthy timeframe.							
	4B. Do not undertake further work on compulsory acquisition	<p>Strengths:</p> <p>Prioritise efforts on pathways with a higher likelihood of achieving the desired outcomes.</p> <p>Maintain stronger relationships with iwi, leaseholders and all impacted stakeholders. Demonstrates trust.</p> <p>Weaknesses:</p> <p>May not be able to deliver on changes in land use and economic gain where a leaseholder is unwilling.</p> <p>Likely to impact more ambitious projects with most economic potential which cross several leases such as large-scale business parks, widespread afforestation or urban development.</p>	-	-	-	+	<input checked="" type="checkbox"/>		

Key:

- ++ much better than doing nothing/the status quo/counterfactual
- + better than doing nothing/the status quo/counterfactual
- +/- a mixture of positive and negative effects
- 0 about the same as doing nothing/the status quo/counterfactual
- worse than doing nothing/the status quo/counterfactual
- much worse than doing nothing/the status quo/counterfactual

Green shaded is LINZ preferred option