

BRF 26-139 Decisions on technical amendments to permitted and discretionary pastoral activities under the Crown Pastoral Land Act

Ki / To:	Hon Chris Penk Minister for Land Information	Rā / Date:	24 November 2025
Priority Level	Priority: Urgent	Action required by	26 November 2025

Purpose

This briefing seeks your decisions on three technical matters regarding the Crown Pastoral Land Act 1998 reform to enable LINZ to finalise the Cabinet paper *Enabling more productive use of Crown land* for consideration by the Cabinet Economic Policy Committee (ECO) on 3 December.

Toitū Te Whenua Land Information New Zealand

Whakapā/contacts

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Ngā kōrero a te Minita/Minister's comments

Key messages

- This briefing seeks your decisions on three technical matters under the Crown Pastoral Land Act 1998 to enable LINZ to finalise the Cabinet paper, *Enabling more productive use of Crown land*, for ECO on 3 December.
- The decisions are to:
 - Confirm amendments to Schedule 1AB to improve clarity and keep regulation proportionate to risk.
 - Agree to targeted amendments to section 11 and Schedule 1ABA to restore discretion and align decision-making criteria, including updating financial viability wording to “long-term financial viability.”
 - Note that alignment of secondary use permits with commercial recreation permits will be addressed through drafting, and explicit Cabinet delegation for these technical decisions is not necessary.
- If agreed, LINZ will prepare drafting instructions for the Parliamentary Counsel Office and update the Cabinet paper before it is lodged on 27 November.

Tohutohu/Recommendations

Toitū Te Whenua Land Information New Zealand recommends that you:			
1.	Āmine/Agree	To confirm the proposed changes to Schedule 1B	Agree / Disagree
2.	Āmine/Agree	To targeted amendments to section 11 and Schedule 1ABA	Accept / Decline
3.	Āmine/Agree	To wording change in section 11(3)	Accept / Decline
4.	Me mātai/Note	Note that all proposed changes to Schedule 1AB comply with section 1000(5) of the Crown Pastoral Land Act 1998	Noted
5.	Me mātai/Note	Note that minor issues of consistency between secondary use permits and commercial recreation permits will be addressed through drafting process	Noted



Becci Whitton, Leader
Toitū Te Whenua
Land Information New Zealand

Rā/Date: 24 November 2025

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

Rā/Date:

Proactive release

Te Horopaki/Background

1. This briefing seeks your final policy decisions to inform the Cabinet paper *Enabling more productive use of Crown land*, which is scheduled for consideration by the Cabinet Economic Policy Committee (ECO) on 3 December. These decisions will allow LINZ to update the paper before it is submitted for Cabinet consideration.
2. The briefing relates to three technical matters under the Crown Pastoral Land Act 1998:
 - a. Amendments to Schedule 1AB (classification of permitted activities).
 - b. Alignment of decision-making criteria for discretionary pastoral activities and secondary uses.
 - c. Alignment of secondary use permits with commercial recreation permits.
3. LINZ previously recommended that you seek Cabinet delegation to make final decisions on these matters (BRF 26-092 and BRF 26-109 refer). That approach was proposed, in part, due to insufficient time to complete the necessary policy work before Cabinet was initially expected to consider the paper on 12 November. ECO's decision to defer consideration to 3 December allowed LINZ to complete this work. Your decisions can now be incorporated directly into the Cabinet paper, meaning delegation is no longer required.

Amendments to Schedule 1AB

You have agreed to progress changes that improve clarity and keep regulation proportionate to risk

4. You have previously agreed to progress changes to Schedule 1AB to improve clarity and ensure that the regulation of permitted and discretionary pastoral activities remains practical and proportionate to risk (BRF 26-056 refers).

We have assessed all proposed changes against statutory tests to ensure compliance

5. Under section 100O(5), an activity may only be classified as permitted if it will have no more than minor effects on inherent values in all reasonably foreseeable circumstances and is either necessary for pastoral farming or contributes to obligations under the Land Act or the maintenance or enhancement of inherent values. Activities that could have more than minor effects may be classified as discretionary. LINZ has assessed all proposed changes against these statutory tests. Details of the proposed changes how they comply with the statutory tests are set out in **Appendix 1**.
6. The activities recommended for inclusion as permitted meet both limbs of section 100O(5). They occur in highly modified areas such as curtilage zones surrounding farm buildings or within the footprint of lawfully established infrastructure, and conditions such as "no increase in size," "no change in alignment," and "no soil disturbance in waterways or wetlands" ensure that environmental effects remain negligible and

predictable. Higher-risk activities will continue to require consent as discretionary activities, preserving the integrity of the regime.

We have refined earlier proposals on the content of Schedule 1AB

7. Since your previous briefing (BRF 26-065), LINZ has made two minor refinements to improve drafting clarity without changing the substance of the amendments you agreed earlier. First, the maintenance of lawfully established flood protection measures is now recognised as a separate permitted activity rather than being grouped with roads and tracks. Second, the proposed definition of “pastoral platform” has been removed because it has limited practical use within the Schedule. These refinements simply ensure that drafting instructions are clear and internally consistent.
8. In addition, LINZ now recommends not introducing the previously proposed blanket permission for leaseholders to clear indigenous vegetation where this is incidental to carrying out another permitted activity, such as maintaining farming infrastructure. On further analysis, this change is not needed. While ambiguity remains about whether a permit is required for incidental clearance, section 6 of the Crown Pastoral Land Act provides that any question about the class within which a pastoral activity falls must be decided by the Commissioner, which is final. This statutory mechanism ensures that such questions can be resolved without creating a new permission.
9. Introducing the blanket permission would also carry greater uncertainty about meeting the statutory threshold for amendment, present higher reputational and environmental risk, and is likely to be relatively controversial. Retaining the current approach avoids these risks and keeps the permitted activity list robust and defensible.

The proposed amendments reduce compliance costs while maintaining environmental safeguards

10. These amendments will improve clarity and certainty for leaseholders and LINZ, reducing disputes and compliance costs. They also ensure that low-risk activities are not subject to unnecessary consent processes, while maintaining environmental safeguards and statutory protections.
11. The main risk relates to perceptions that the changes make the regime more permissive. This can be mitigated through clear drafting and guidance that reinforce the statutory limits and conditions attached to permitted activities.

Consistency of decision-making criteria for discretionary pastoral activities and secondary use permits

12. You have previously considered advice on the test for discretionary pastoral activities and agreed to retain the current legislative settings, supported by guidance. Since then, leaseholders have raised concerns about how this test compares to the new test for secondary uses. They perceive that it may be easier to obtain a secondary use

permit than approval for a discretionary pastoral activity, in the case where effects on inherent values are more than minor. This risked creating a sense of imbalance and uncertainty, potentially driving greater land use change away from pastoral farming than is your policy intent.

13. The two tests were designed for different purposes and operate within distinct frameworks. The discretionary pastoral activity test is deliberately strict, requiring that an activity be necessary for the lessee to exercise rights and obligations under the lease. This high threshold prevents cumulative impacts on inherent values and ensures that pastoral farming remains the dominant land use.
14. By contrast, the secondary use test is intended to provide flexibility for non-pastoral land uses on a minority of the lease. Its purpose is complementary: supporting the long-term viability of pastoral farming while enabling lessees to diversify income.
15. The secondary use test will consider impacts on both inherent values and pastoral farming, which acts as a safeguard even though the framework will be broader and more discretionary. These differences are appropriate given the distinct purposes of each test. For discretionary pastoral activities, the criteria when effects are more than minor are narrow and prescriptive, limiting the Commissioner's discretion because the listed factors are definitive rather than illustrative. For secondary uses, the criteria when effects are more than minor are expected to be broader and allow consideration of environmental, economic, and strategic outcomes. This difference has contributed to perceptions of potential imbalance.
16. A key source of perceived imbalance is how financial viability is assessed. The discretionary pastoral activity test focuses on "ongoing financial viability." Some parties (including the High-Country Accord Trust) interpret this as avoiding immediate insolvency, precluding assessment of cumulative financial impacts over time.
17. By contrast, the secondary use framework is intended to support long-term viability and allow consideration of wider economic benefits, reflecting its purpose of resilience and diversification.

Proposed changes restore discretion and allow consideration of long-term viability

18. LINZ recommends amending the criteria for discretionary pastoral activities when effects are more than minor to enable the Commissioner to consider all relevant rights and obligations under the lease or licence. We also recommend updating the financial viability wording to refer to "long-term financial viability" rather than "ongoing financial viability," allowing long-term and cumulative impacts on the viability of farming the lease to be considered while preserving the integrity of the Crown Pastoral Land Act framework.
19. These proposed amendments would improve consistency in how discretion is exercised and how financial viability is assessed, while retaining the distinct purposes and thresholds of each test. They do not merge the frameworks or dilute

environmental safeguards; rather, they ensure that both tests allow proportionate decision-making and a more nuanced assessment of cumulative impacts.

Consistency of secondary use permits with commercial recreation permits

20. LINZ previously noted a potential issue regarding overlap between secondary use permits and commercial recreation permits (BRF 26-109 refers). Some activities, particularly tourism accommodation, fall within scope of both permit types. This overlap could lead to applicants applying under the wrong category, creating confusion and inconsistency in decision-making.
21. Given the matters addressed in the rest of this briefing, LINZ no longer considers Cabinet delegation necessary to address this remaining issue. This inconsistency is a relatively minor and technical issue that does not materially affect the workability of the legislation and is best resolved through the drafting process.

Whakatūpato/Risks

22. The proposed changes are technical and low risk but may be seen as making the framework more permissive—particularly amendments to Schedule 1AB, which would permit some low-impact activities subject to strict conditions. Stakeholders favouring tighter controls may view this as weakening environmental protections.
23. Aligning decision-making criteria could also be misinterpreted as a broader policy shift, even though changes are narrowly targeted to restore discretion and improve clarity. This could prompt criticism that economic outcomes are being prioritised over environmental safeguards.
24. These risks can be mitigated through clear drafting and proactive communication. The legislation should reaffirm statutory safeguards, and LINZ will prepare guidance to explain the purpose and limits of the changes. Engagement during the select committee process will help reinforce these messages.

Mātanga kōrero/Consultation

25. Public consultation on these amendments will occur as part of the select committee process following introduction of the Bill. This process provides an opportunity for stakeholders and the wider public to comment on the changes and raise any concerns.

Ngā Tāwhaitanga/Next Steps

26. The Cabinet paper was provided to your office on 20 November. LINZ can further update the Cabinet paper based on your decisions on this briefing.
27. Following Cabinet's decision, LINZ will work closely with the Parliamentary Counsel Office to support the drafting process.

Tāpiritanga/Attachments

Document number	Name of attachment
1.	Appendix 1: Detailed changes to Schedule 1AB and compliance with section 100(O)(5)

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BRF 26-139 Appendix 1: Detailed changes to Schedule 1AB and compliance with section 100(O)(5)

Changes to Schedule 1AB – Changes Part 1: Permitted Activities

CLAUSE	ACTION	POLICY INTENT		COMPLIANCE WITH S100(O)(5)	
		<i>Permitted activity</i>	<i>Conditions</i>	<i>Effect of permitted activity on inherent values no more than minor (100(O)(5)(a))</i>	<i>Required for pastoral farming or obligations under section 99 of land act 1948, or maintenance or enhancement of inherent values (100(O)(5)(b))</i>
1 and 2	Repeal and replace	The chemical control of any exotic pest plant	<ul style="list-style-type: none"> The control method is aerial spot-spraying or targeted ground spraying only. The activity is occurring on land which has a slope of not more than 20°. No indigenous plant species are targeted. By-kill is limited to the land in and immediately around the targeted plant pest species By-kill is limited to regenerating indigenous species. Total amount of by-kill does not exceed 500m² per hectare. Where relevant, GPS data must be retained for five years and be available for provision to the Commissioner on request. 	Meets (a) because method restrictions and by-kill caps ensure any effect on indigenous vegetation is minor and confined to infestation sites.	Meets (b) because pest plant control is essential for pastoral farming and prevents ecological degradation, supporting inherent values.
3	Amend	Any earthworks, planting, gardening, tree felling, sowing of seed, or top-dressing within the curtilage of any existing dwelling, woolshed, implement shed or livestock facilities.	N/A	Meets (a) because activities are confined to curtilage of existing structures, avoiding new clearance beyond highly modified zones.	Meets (b) because maintenance within curtilage is necessary for farm infrastructure and pastoral operations.
4g	Amend	Soil disturbance as reasonably required for— <ul style="list-style-type: none"> maintaining existing, lawfully established flood irrigation repairing wheel ruts from mobile irrigators repairing or replacing pipes, hydrants or other infrastructure associated with existing, lawfully established irrigation systems 	<ul style="list-style-type: none"> The irrigation system is lawfully established. No change or expansion of the area irrigated. No change in the method of irrigation. No clearance of indigenous vegetation. No soil disturbance in any waterway or wetland. 	Meets (a) because conditions prevent clearance of indigenous vegetation and soil disturbance in waterways; effects remain minor.	Meets (b) because maintaining irrigation systems is necessary for pastoral farming and compliance with good husbandry obligations.
4k	Amend	Soil disturbance as reasonably required for— <ul style="list-style-type: none"> maintaining, repairing or replacing existing stock water troughs, water lines, water tanks or stock water dams installing new water troughs or water lines in areas that have been oversown and top-dressed or cultivated. 	N/A	Meets (a) because soil disturbance is limited to lines to install pipes and troughs to replace existing infrastructure or to new infrastructure in cultivated and oversown/top-dressed areas only. In these circumstances, any removal of indigenous vegetation will be minor.	Meets (b) because stock water infrastructure is essential for pastoral farming and animal welfare.
8	Repeal	Consequential amendment, reflecting that proposed amendments to 4(g) and 4(k) will group all irrigation and stock-watering permissions under those two clauses, meaning 8 is no longer necessary.	N/A	N/A	N/A

10	Amend	Burning slash, stumps, or dead vegetation within existing, lawfully established cultivated paddocks.	N/A	Meets (a) because burning is restricted to cultivated paddocks; effects confined to modified areas.	Meets (b) because burning slash is a routine land management practice necessary for pastoral farming.
11	Amend	Spraying of exotic vegetation within existing lawfully established cultivated paddocks	N/A	Meets (a) because spraying is confined to cultivated paddocks; no indigenous vegetation affected.	Meets (b) because weed control is essential for maintaining productive pasture.
12	Amend	Maintaining, repairing or replacing existing lawfully established drains, water races or culverts	<ul style="list-style-type: none"> No increase in the width or length of the drain, water race or culvert No alteration in position, route or alignment. 	Meets (a) because conditions prevent expansion or realignment; no disturbance to waterways; effects negligible.	Meets (b) because maintaining drainage infrastructure is required for pastoral farming and s99 obligations.
13	Amend	Top-dressing areas which have been top-dressed previously	N/A	Meets (a) because repeat top-dressing using same method avoids cumulative intensification; effects remain minor.	Meets (b) because top-dressing supports soil fertility and pastoral productivity.
14	Amend	Resowing areas that have been sown previously using the same method, including direct drilling.	N/A	Meets (a) because resowing is limited to previously sown areas using same method; effects minor.	Meets (b) because pasture renewal is necessary for ongoing farming viability.
15	Amend	Cultivating areas which have been cultivated previously, using the same cultivation method	N/A	Meets (a) because cultivation is restricted to previously cultivated areas using same method; effects minor.	Meets (b) because cultivation is required for maintaining productive pasture systems.
16	Amend	Maintaining, repairing or replacing existing lawfully established roads, paths, or tracks (including laying local gravel)	<ul style="list-style-type: none"> No increase in the width or length of the road, path or track. No change in surface material. No alteration in route or alignment. 	Meets (a) because maintenance of roads/tracks under strict conditions prevents expansion or realignment; effects minor.	Meets (b) because roads and tracks are essential for farm access and operations.
17	Amend	Maintaining, repairing or replacing existing lawfully established fire breaks	<ul style="list-style-type: none"> No increase in the width or length of the firebreak. No alteration in the position, or alignment of the firebreak. No disturbance to the bed of any water way or wetland. 	Meets (a) because firebreak maintenance is limited to existing footprint; no disturbance to waterways; effects negligible.	Meets (b) because firebreaks are critical for farm safety and obligations under s99.
19	Amend	Maintaining, repairing or replacing existing lawfully established fences	<ul style="list-style-type: none"> No increase in the width, height or length of the fence. No alteration in the fence position. No post-holes are dug in the bed of any waterway or wetland. 	Meets (a) because fence maintenance is limited to existing footprint; no disturbance to waterways; effects minor.	Meets (b) because fences are necessary for stock management and lease obligations.
New	Insert	Soil disturbance for maintenance or repair of lawfully established buildings	<ul style="list-style-type: none"> No increase in width, height, length, or floor area. No alteration in position or location. 	Meets (a) because soil disturbance for repairs is confined to existing footprint; no expansion; effects negligible.	Meets (b) because building maintenance is required for pastoral farming operations.
New	Insert	Maintaining, repairing or replacing any lawfully established flood protection infrastructure including groyne, stop banks, or overflow channels	<ul style="list-style-type: none"> No increase in the width, height or length of the infrastructure. No change in the position or location of the infrastructure. Repair or replacement must be of the same type(s) of materials as the existing structure. 	Meets (a) because maintenance under strict conditions prevents expansion or realignment; effects confined to previously disturbed areas.	Meets (b) because flood protection infrastructure is essential for pastoral farming and land stability.

Changes to Schedule 1AB - Changes to Part 2: Discretionary Activities

CLAUSE	ACTION	POLICY INTENT	COMMENT
Clause 2	Amend	Clarify the interface between Part 2 (Discretionary activities) and Part 1(permitted activities) by: clarifying that activities listed under this part are discretionary only when they do not comply with permitted activity rules in Part 1.	Clause 1 states that activities under sections 7(1), 8(2), and section 100 of the Land Act remain discretionary unless permitted or prohibited. Clause 2 lists examples of discretionary activities but does not clarify their relationship to permitted activities in Part 1. Aspects of some activities appear in both lists (e.g. irrigation, fencing, spraying vegetation). This creates ambiguity about when an activity is discretionary versus permitted.

Changes to Schedule 1AB - Changes to Part 4: Interpretation

CLAUSE	ACTION	POLICY INTENT	COMMENT
Definition of Curtilage	Repeal and replace	Definition to encompass the area of ground immediately surrounding a dwelling or other main building, including any ancillary buildings or amenity plantings, but not land which is used for grazing.	Proposed change consequential proposed amendment to permitted activities within curtilage (refer changes to Schedule 1AB, Part 1, Clause 3).