

## BRF 26-140 Decisions on the design of the pathway for removing land from the Crown pastoral estate

<b>Ki / To:</b>	Hon Chris Penk Minister for Land Information	<b>Rā / Date:</b>	9 December 2025
<b>Priority Level</b>	Priority: High	<b>Action required by</b>	15 December 2025

### Purpose

This briefing provides advice on detailed parameters for the proposed new pathway for removing land from the Crown pastoral estate, and seeks your decisions to enable Toitū Te Whenua Land Information New Zealand (LINZ) to issue drafting instructions to the Parliamentary Counsel Office (PCO).

### Toitū Te Whenua Land Information New Zealand

#### Whakapā/contacts

Ingoa/Name	Nama waea/ Contact number	Whakapā tuatahi/first contact
<b>Becci Whitton</b> Leader, Strategy and Policy	027 212 4943	<input checked="" type="checkbox"/>
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#### Ngā kōrero a te Minita/Minister's comments

✓. EXCELLENT DOCUMENT, THANK YOU.

### Key messages

- You were authorised by Cabinet on 8 December 2025 to make further policy decisions on the design of the pathway to remove land from the Crown pastoral estate.

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- This briefing seeks the following policy design decisions across the three stages of the land disposal process:
  - Confirm criteria that must be considered for the gateway decision and removal
  - Agree to enable preferential allotment (i.e. selling or leasing to a preferred buyer), with competitive allotment also available at the discretion of the Commissioner of Crown Lands (the Commissioner)
  - Agree that reclassification and disposal may only proceed once the necessary planning permissions for the project have been obtained
  - Agree that approved proposals can be subject to conditions and ongoing monitoring to ensure that public benefits are realised.
- A final briefing will seek your decision on whether there should be provision for appeal against the Minister's decision.
- Following your decisions, LINZ will prepare drafting instructions on the Crown Pastoral Land Act 1998 (CPLA) and the Land Act 1948 reforms to be provided to PCO by 19 December 2025.

### Tohutohu/Recommendations

Toitū Te Whenua Land Information New Zealand recommends that you:			
1	<b>Indicate</b>	On Appendix 1 your agreement with the recommended design choices for the new pathway for removing land from the Crown pastoral estate.	Indicated

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Becci Whitton, Leader, Strategy and Policy  
**Toitū Te Whenua  
 Land Information New Zealand**

Rā/Date: 9 December 2025

B

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

Rā/Date: 10 DEC 2025

## Te Horopaki/Background

1. On 3 December 2025, the Cabinet Economic Committee agreed that the CPLA be amended to create a clearer pathway for removing land from the Crown pastoral estate where significant land use change is proposed (ECO-25-MIN-0203 refers).
2. The Minister for Land Information was authorised to make further policy decisions and issue drafting instructions relating to the design of the removal pathway process.
3. On 18 November 2025, you agreed on the objectives, gateway test design, consultation requirements, and decision-making roles (BRF 26-127 refers). This briefing seeks further policy decisions to enable LINZ to issue drafting instructions to PCO.

## Remaining policy decisions on the design of the land removal pathway

4. As shown in the table below, this briefing seeks your agreement to the remaining design decisions for the pathway to remove land from the Crown pastoral estate, so that LINZ can issue drafting instructions to PCO.

	Process steps	Decisions sought in this briefing
<b>Stage 1: Gateway</b>	<ul style="list-style-type: none"> <li>• Applicant submits proposal</li> <li>• Proposal checked for eligibility and completeness</li> <li>• Proposal assessed, including considering whether it likely meets a significant public benefit test (with “public benefit” to be defined in the legislation)</li> <li>• Consultation with relevant iwi and the Department of Conservation (DoC)</li> <li>• The Commissioner makes a recommendation to the Minister about whether the proposal warrants further assessment</li> </ul> <p><b>Gateway decision:</b> <i>Minister for Land Information decides whether to proceed to a detailed assessment</i></p>	<p>A. Confirm criteria that must be considered for the gateway decision and removal</p>
<b>Stage 2: Detailed assessment</b>	<ul style="list-style-type: none"> <li>• The Commissioner issues an initial Right of First Refusal (RFR) notice of disposal to relevant iwi</li> <li>• The Commissioner carries out detailed assessment against criteria set out in the CPLA</li> <li>• The Commissioner consults relevant iwi, DoC, relevant councils, and Crown agencies</li> </ul>	

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	<ul style="list-style-type: none"> <li>• 1st Crown valuation</li> <li>• The Commissioner recommends to the Minister of Land Information whether disposal should proceed</li> </ul> <p><b>Removal decision:</b> Minister for Land Information decides whether removal of the land from the Crown pastoral estate should proceed for the purpose of achieving the benefits of the proposed land use change</p>	
	<p style="writing-mode: vertical-rl; transform: rotate(180deg); font-size: 10pt; font-weight: bold;">Stage 3: Reclassification and disposal</p> <ul style="list-style-type: none"> <li>• Update valuations (if required)</li> <li>• The Commissioner advises the lessee of the terms and conditions under which they will accept a surrender of that part of the lease</li> <li>• Lessee confirms if they will surrender</li> <li>• Planning permissions are secured by the applicant (disposal would not proceed until it was evident that the proposal would be permitted under relevant planning legislation)</li> <li>• Survey of land (if required)</li> <li>• Surrender of the lease</li> <li>• Reclassification of the land as Crown land</li> <li>• CCL makes RFR offer</li> <li>• If RFR declined, proceed to allotment</li> <li>• If prospective purchase is on lesser terms than the RFR, proceed to new RFR offer</li> <li>• Title is raised and sale or lease confirmed</li> </ul>	<p>B. Agree to enable preferential allotment (i.e. selling or leasing to a preferred buyer), with competitive allotment also available at the discretion of the Commissioner ✓</p> <p>C. that reclassification and disposal may only proceed once the necessary planning permissions for the project have been obtained ✓</p>
	<p><b>Disposal complete</b></p> <p>Ongoing monitoring as required would ensure that benefits are realised, or remedial steps are taken</p>	<p>D. Agree that approved proposals can be subject to conditions and ongoing monitoring to ensure that public benefits are realised ✓</p>

- A. Test and criteria for the gateway decision and removal decisions
5. Cabinet has agreed that the CPLA be amended to create a clearer pathway to remove land from the Crown pastoral estate if the public benefits of a proposed land use outweigh the negative impacts on inherent values across the Crown pastoral estate or the ongoing pastoral farming of the remaining pastoral land (ECO-25-MIN-0203 refers).

6. To give effect to this, LINZ recommends that, with approval from the Minister for Land Information, the Commissioner may reclassify and dispose of land if, in the Minister's opinion, the public benefits of the proposed land use outweigh the negative impacts on inherent values or ongoing farming of the remaining pastoral land.
7. In this test, "public benefit" is the expected economic, social, cultural and environmental benefits at regional or national scale, compared with the status quo and realistic alternatives (including other locations or tools such as secondary use permits).
8. LINZ recommends that the legislation specifies that in making their decisions (at both the gateway and removal decision points) the
9. Minister must consider:
  - a. Public benefit: expected economic, social, cultural and environmental benefits of the proposal, and fiscal implications for the Crown
  - b. Māori interests: consistency with Treaty settlement legislation and impacts on supporting the Crown's relationship with Māori under Te Tiriti o Waitangi/the Treaty of Waitangi and the relationship of Māori with their culture and ~~traditions with their ancestral lands, water, mahinga kai, wāhi tapu, and other taonga~~
  - c. Effects on land for pastoral farming: effects on pastoral production and on the ongoing viability of the residual lease, including any need for compensation or adjustment
  - d. Effects on inherent values: effects on inherent values and whether protection or enhancement can be secured through legal instruments and conditions.
10. The level of assessment and consideration at the gateway and full assessment stages will be proportionate to the relative standards of each test.<sup>1</sup> This means that at the gateway stage the Minister must be satisfied that there is a *reasonable likelihood* that the proposal will meet the test, and at the second decision stage that the test is met.

#### B. Design of the allotment mechanism

11. Stage 3 of the pathway requires decisions about how the Commissioner allocates interests in the land once the Minister for Land Information has decided the land may be removed from the Crown pastoral estate.
12. Disposal of the land will be undertaken by the Commissioner under the Land Act. The Land Act requires competitive allotment for the disposal of land, unless an exemption applies. LINZ considers that preferential allotment (subject to any Treaty settlement RFR) may be justifiable for this pathway as the decision to reclassify the land relies on the public benefits associated with a particular proposed use.

<sup>1</sup> Cabinet agreed that at the gateway stage the Minister for Land Information will decide whether there is a reasonable likelihood that an applicant's proposal will meet the test for removal (ECO-25-MIN-0203 refers).

13. LINZ recommends that the legislation enable the Commissioner to use preferential allotment for the disposal of land through the new pathway (the Commissioner could still elect to use competitive allotment if appropriate).
14. LINZ also recommends that an exemption is provided in the CPLA, similar to that in Part 3, so removing the land from the lease is not considered a subdivision under the Resource Management Act 1991.

#### **C. Obtaining planning permission**

15. LINZ recommends that reclassification and disposal may only proceed once the necessary planning permissions for the project have been obtained. This is to ensure that the land can be used for its proposed use.
16. If the consents materially change the project (for example, reducing its scale) and this is likely to significantly decrease the public benefit or significantly increase the effects of the activity, the Minister for Land Information would be empowered to revise their earlier decision, on the recommendation of the Commissioner.

#### **D. Ensuring delivery of public benefits**

17. The pathway is intended for public-benefit proposals tied to specific sites and delivered by a clearly identified applicant. There is a risk that once land is transferred or long-term lease rights are granted, the promised public benefits are not delivered, are delayed, or are eroded over time.
18. LINZ recommends that the Commissioner be empowered to place conditions and ongoing monitoring on proposals approved under this pathway to ensure the delivery of public benefits. This could include, for example:
  - a. Fixed-term development leases, potentially convertible to further fixed-term or freehold once defined completion tests (including consent compliance and delivery milestones) are met
  - b. Strong purpose and use clauses tied to the assessed public benefits
  - c. Development milestones, staged rights and completion tests
  - d. Performance security (bonds, guarantees, parent support)
  - e. Step-in and reversion rights allowing the Crown to intervene if delivery fails
  - f. Controls on transfer, subdivision and on-sale to prevent windfall gains unrelated to public-benefit delivery.

#### **Mātanga kōrero/Consultation**

19. LINZ has engaged with iwi partners, the High Country Advisory Group and the High Country Accord Trust on the concept of a new land disposal pathway, but not the details of the options presented in this briefing. A summary of feedback received through consultation was provided to you in BRF 26-127 *Policy decisions for new legislative pathway for removing land from the Crown pastoral estate*.

## Ngā Tāwhaitanga/Next Steps and/or angawā/timeframes

20. LINZ will provide you with a final briefing seeking your decision on whether there should be provision for appeal against the Minister's decision on 10 December 2025.
21. Following your decisions, LINZ will prepare drafting instructions on the CPLA and Land Act reforms to be provided to PCO by 19 December 2025.

## Tāpiritanga/Attachments

Document number	Name of attachment
1.	BRF 26-140 Appendix 1: Table for Minister's decisions on the design of the land removal pathway

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BRF 26-140 Appendix 1: Table for Minister's decisions on the design of the land removal pathway

Policy issues and context	Options	Analysis and key trade off	Review criteria				Indicate your agreement	Notes
			Efficiency	Effectiveness	Flexibility	Transparency		
<p><b>A. Confirm the criteria that the Minister must consider</b></p>	<p><b>LINZ recommends:</b></p> <ul style="list-style-type: none"> <li>That the Act specifies that in making their decisions (at both the gateway and removal decision points) the Minister must consider:                             <ol style="list-style-type: none"> <li>Public benefit</li> <li>Māori interests</li> <li>Effects on land for pastoral farming</li> <li>Effects on inherent values</li> </ol> </li> </ul>	<p><b>Benefits</b></p> <p>LINZ considers that these criteria provide transparency for applicants, iwi, stakeholders and the public as to what matters are considered.</p> <p>The decision-making criteria provides greater certainty about the decision-making process, reducing the risk of legal challenge to the decision. These criteria ensure the interest of the Crown in the rest of the lease is not compromised and unintended land management issues are avoided. They also ensure that any unintended effects on neighbouring properties and the long-term configuration of the Crown pastoral estate are also identified and managed.</p> <p><b>Risks/Challenges</b></p> <p>The application of a public benefit test is fundamentally a judgement call. The Crown pastoral estate represents some of New Zealand's most iconic landscapes, and the Minister's judgement call to remove land from this estate could be challenged.</p>	<p>+</p>	<p>+</p>	<p>++</p>	<p>+</p>	<p><input checked="" type="checkbox"/></p> <p>↓</p> <p>BUT SUBJECT TO AMENDED VERSION OF "MĀORI INTERESTS" SCOPE AT PARA 9.6. (PAGE 5 OF 7 WITHIN THE BRIEFING DOC), IE:</p> <ul style="list-style-type: none"> <li>- SETTLEMENT OBLIGATIONS; +</li> <li>- TOLL, GENERALLY.</li> </ul>	
<p><b>B. Agree to enable preferential allotment (i.e. selling or leasing to a preferred buyer), with competitive allotment also available at the discretion of the Commissioner</b></p>	<p><b>LINZ recommends:</b></p> <ul style="list-style-type: none"> <li>The Land Act enables the Commissioner of Crown Lands to use preferential allotment for the disposal of land through the new pathway.</li> <li>An exemption is provided in the CPLA, similar to that in Part 3, so removing the land from the lease is not considered a subdivision under the RMA.</li> </ul>	<p><b>Benefits</b></p> <p>Preferential allotment would provide certainty for applicants, enabling them to make the necessary investment to progress their proposal, including obtaining resource consents, undertaking surveys, and valuing the land.</p> <p>Under the status quo (competitive allotment for all land disposals), the Minister has no ability to control who ultimately becomes the owner of the land. Existing exemptions to competitive allotment were not designed with the proposed pathway in mind and are therefore unlikely to apply in most cases.</p> <p>LINZ considers that competitive allotment could create barriers for major projects with significant public benefits. In the rare cases where competitive allotment is desirable (e.g. if a transparent process is paramount), it is still available as an option.</p> <p><b>Risks/Challenges</b></p> <p>Preferential allotment reduces transparency of the process compared to competitive allotment, and may</p>	<p>+</p>	<p>+</p>	<p>++</p>	<p>+</p>	<p><input checked="" type="checkbox"/></p>	

Scoring for review criteria is based on prior analysis on the benefits of creating a new legislative pathway in *Regulatory Impact Statement: Review of the Crown Pastoral Land Act 1998 and the Land Act 1948*. Given that the options under all three stages are part of the same legislative pathway, the scoring for each option is identical.

BRF 26-140 Appendix 1: Table for Minister's decisions on the design of the land removal pathway

Policy issues and context	Options	Analysis and key trade off	Review criteria				Indicate your agreement	Notes
			Efficiency	Effectiveness	Flexibility	Transparency		
		be less likely to ensure the Crown receives the best price for the land.						
<b>C. Agree that reclassification and disposal may only proceed once the necessary planning permissions for the project have been obtained</b>	<b>LINZ recommends:</b> <ul style="list-style-type: none"> <li>Disposal may only proceed once the necessary resource consents for the project have been obtained.</li> </ul>	<b>Benefits</b> Reduces the likelihood of land being removed from the Crown pastoral estate that cannot or is not used for its approved purpose.					<input checked="" type="checkbox"/>	
		<b>Risks/Challenges</b> Likely uncertainty and potential confusion for the public in the period between the Minister's decision to authorise removal and disposal of the land, while the project awaits resource management approvals.	+	+	++	+		
<b>D. Agree that approved proposals can be subject to conditions and ongoing monitoring to ensure that public benefits are realised</b>	<b>LINZ recommends:</b> <ul style="list-style-type: none"> <li>The Commissioner of Crown Lands be empowered to place conditions and ongoing monitoring to ensure the delivery of public benefits.</li> </ul>	<b>Benefits</b> Ensures that the benefits sought are realised, and if not, that remedial steps can be taken.					<input checked="" type="checkbox"/>	
		<b>Risks/Challenges</b> Complying with monitoring requirements will mean costs for the new landholder.	+	+	++	+		

**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