

BRF 26-196 Delegated and minor and technical decisions on the Crown Pastoral Land Act and Land Act Amendment Bill

Ki / To:	Hon Chris Penk Minister for Land Information	Rā / Date:	23 February 2026
Priority Level	Priority: High	Action required by	25 February 2026

Purpose

Toitū Te Whenua Land Information New Zealand (LINZ) seeks your decisions on matters required to finalise the Crown Pastoral Land Act and Land Act Amendment Bill.

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

Tohutohu/Recommendations

Toitū Te Whenua Land Information New Zealand Recommends that you:			
1.	Me mātai/Note	Issues have arisen during drafting of the Crown Pastoral Land Act and Land Act Amendment Bill that require you to make decisions.	Noted
2.	Indicate	Your decisions on Attachment 1.	Indicated
3.	Āmine/Agree	That these decisions will be included in the paper for Cabinet Legislation Committee consideration, as necessary.	Agree / Disagree




Hannah O'Donnell
Leader, Strategy and Policy
Land Information New Zealand

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

Rā/Date: 23 February 2026

Rā/Date:

25 FEB 2026

Background and context

1. On 8 December 2025, Cabinet agreed that the Crown Pastoral Land Act 1998 (CPLA) and Land Act 1948 be amended to:
 - enable more economic uses by pastoral leaseholders
 - create a pathway for removing land from the pastoral estate for new uses with significant public benefits
 - modernise the legislation.
2. Cabinet delegated authority to you to make further policy decisions about the land removal pathway, and to make minor, technical and consequential decisions on the other reforms.
3. Drafting instructions were issued to the Parliamentary Counsel Office (PCO) in December 2025. This briefing seeks further decisions from you under delegated authority required to finalise the Crown Pastoral Land Act and Land Act Amendment Bill (the Bill).

Matters requiring your decision that have arisen during drafting

4. Through the drafting process a number of matters have been identified that require further decisions. The more substantive decisions relate to the final design of the land removals pathway process. Other decisions are mainly of a minor and technical nature.
5. Two matters will require policy decisions to be sought in the paper to the Cabinet Legislation Committee (LEG paper), but these are consistent with the Bill's overall policy intent.
6. Attachment 1 sets out the drafting issues that require your decisions. There are five categories:
 - a. Matters requiring a decision in the LEG paper
 - b. Matters requiring a decision under your delegation to make further policy decisions related to the design of the land removal pathway
 - c. Minor and technical decisions for noting in the LEG paper
 - d. Other minor and technical decisions that do not need to be included in the LEG paper
 - e. Drafting matters that are within the scope of Cabinet's decision and therefore are for you to note only.

Next steps

7. In order for the Bill to be lodged for LEG consideration on 26 March 2026, you have indicated that consultation with government departments and Ministers can occur on a draft of the Bill, ahead of the LEG paper being finalised.
8. Once we have confirmed your decisions on the matters set out in this briefing, we will provide a draft version of the Bill to your office that can be shared with your Ministerial colleagues.
9. We will then also circulate the draft Bill to the following departments (portfolios) for comment:
 - Ministry for the Environment (Climate Change, Environment, RMA Reform)
 - Ministry of Justice (Justice)
 - Te Tari Whakatau (Treaty of Waitangi Negotiations)
 - Ministry for Primary Industries (Agriculture, Biosecurity, Forestry)
 - Department of Conservation (Conservation, Hunting and Fishing)
 - Te Puni Kōkiri (Māori Crown Relations)
 - Department of Internal Affairs (Local Government)
 - Ministry of Business, Innovation and Employment (Economic Growth, South Island).
10. The Treasury and the Department of the Prime Minister and Cabinet will be informed.
11. You can expect to receive a briefing about feedback received from Te Rūnanga o Ngāi Tahu [BRF 26-199] on Tuesday 24 February, for discussion with officials on Wednesday 25 February 2026.
12. Should further changes be required to the Bill in response to the feedback from Te Rūnanga o Ngāi Tahu, or from other departments or Ministers, we will provide further instructions to PCO, alongside LINZ's final comments on the Bill.
13. The Cabinet paper is due to be lodged on Thursday 19 March, to be considered by LEG on Thursday 26 March. Following Cabinet consideration on Monday 30 March, the Bill will be available for introduction.

Tāpiritanga/Attachments

1. Attachment 1: Table of decisions.
2. Attachment 2: Additional provisions for the land removal pathway.

Attachment 1: Table of decisions

#	Topic	Description and LINZ recommendation	Decision
A. Matters requiring a policy decision in the LEG paper			
A.1	Consultation on secondary use permits	<p>Cabinet agreed that the Commissioner of Crown Lands (the Commissioner) may permit a secondary use that is not in the schedule of generally permissible secondary activities if, in their opinion, it is likely that the activity can be carried out in a way that will be consistent with the decision-making outcomes of the CPLA and following consultation with iwi. Cabinet also agreed that the legislative requirements for the secondary use permit be consistent with that of the commercial recreation permit. When assessing commercial recreation permits, and discretionary pastoral activity consents, the Commissioner must consult with the Department of Conservation.</p> <p>LINZ recommends that the Bill explicitly require the Commissioner to consult with the Department of Conservation when assessing secondary use applications. This is an important step in determining the inherent values associated with the application and the likely impacts on them.</p>	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
A.2	Decision making criteria for secondary use permits	<p>Cabinet agreed on criteria that must be met to approve a secondary use activity with more than minor adverse effects on inherent values or pastoral farming. These criteria include whether the activity will reduce the risk or avoid or mitigate the effects of an anthropogenic hazard (a hazard that is related to, or resulting from, the influence of human beings on nature).</p> <p>Following further analysis of the types of hazards likely to occur on a Crown pastoral lease, LINZ recommends that anthropogenic risks no longer be included, as the criteria covering natural hazard risks is sufficient.</p>	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
B. Matters requiring a decision under your delegation			
B.1	Land removal introductory statement	<p>The land removal pathway is intended to be used when a proposal has significant negative effects on inherent values or is not compatible with pastoral farming. Questions arose during drafting about how to manage this in the legislation, as the purpose of the Act and the outcomes for decision makers should apply to all of the requirements that follow in the Act. One approach is to exempt the land removals pathway from the purpose and outcomes of the CPLA related to maintaining and enhancing inherent values while providing for pastoral farming [section 4(1)(a)]. However, under this approach it is not entirely clear how the purposes of the CPLA would apply to the land removals pathway. It is also important to note that the scope of the review of the CPLA excluded changes to the purpose of the Act.</p> <p>LINZ recommends that a new introductory statement is added to the beginning of the new provisions enabling the land removals pathway. This introductory statement clearly sets out that this part of the Act enables the classification of pastoral land to be changed and the land to be disposed of to allow it to be used for a specific use that has a public benefit that outweighs the negative impact on inherent values or inconsistency with pastoral farming. It also clarifies that decision makers must seek to achieve the Act's outcomes related to achieving a fair return to the Crown and supporting the Crown's relationship with Māori, but that there is no need to maintain or enhance inherent values while providing for pastoral farming. This clarifies how the purposes and outcomes for the Act are to apply in these specific circumstances while preserving the purpose of the Act, and implements your decisions in BRF 26-160.</p>	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
B.2	Passing land removal applications to the Minister	<p>In BRF 26-140, we advised you of the steps for processing applications for land removal. This included that the proposal will be checked for eligibility and completeness. During drafting, the issue arose about how to manage incomplete applications that have sat despite requests for information, along with vexatious, misleading or inappropriate applications. While the decision maker is the Minister, it is important that the Minister's time is not inappropriately taken up with such applications.</p> <p>LINZ recommends that only complete applications that meet the requirements for the gateway test should be passed to the Minister, and the Bill has been drafted to give the Commissioner the power to decline a vexatious, misleading or incomplete application. LINZ does not intend to process misleading or inappropriate applications, and the Commissioner would advise the Minister if applications received are vexatious or misleading. Any completed application, together with the Commissioner's recommendation and consultation feedback, must be provided to the Minister.</p>	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
B.3	The standard for the land removal's gateway test	<p>The purpose of the gateway test is to be an initial, preliminary filter to decide whether an application should proceed to full assessment. While both stages use the same assessment criteria, the standard applied to the assessment at each stage will be different. It's not intended that the gateway test will predetermine the outcome of the full assessment, or that a full assessment would occur at the gateway stage in practice. We expect more information to become available at the full assessment stage that could result in a decision not to approve the removal of the land from the Crown pastoral estate.</p> <p>During drafting it emerged that the term 'reasonably likely' to proceed may inadvertently indicate that a higher standard could be required for the gateway stage than the standard originally intended. LINZ recommends that the wording 'reasonably likely' be replaced with a different phrase (such as 'could be able to meet') to clarify the intention that the gateway test is a lower threshold than the full assessment. This language better reflects the purpose of the gateway as an initial filter of applications and not a full assessment. Wording of this kind is used in section 14 of the Fast-Track Approvals Act.</p>	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree

#	Topic	Description and LINZ recommendation	Decision
B.4	Consultation on land removals with iwi with a legal interest	You agreed that the Commissioner should consult with iwi "with a legal interest in the land" for proposals to remove land from the Crown pastoral estate. Through the drafting process, we have identified that it is not clear what is meant by the words "has a legal interest in" and if that is meant to mean something different from the relevant iwi within whose takiwa that activity is taking place. LINZ recommends replacing the phrase "that has a legal interest in the land" with "relevant iwi."	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
B.5	Preconditions for land removal	You previously agreed that any applicant with a proposal to remove land from a pastoral lease needed to secure all relevant planning permissions before disposing of the land that has been approved for removal from the Crown pastoral estate [BRF 26-140 refers]. There may be other permissions under other regulatory regimes that could also materially change the proposal. LINZ recommends that the Bill widen this requirement to cover other statutory permissions in the Minister's decision, so that these are obtained prior to land removal. In the same way, LINZ recommends that the applicant must meet any of the terms and conditions in the Minister's decision that are also needed prior to land removal. This reduces the risk of disposing of the land when the proposed use does not then proceed and the anticipated public benefits are not realised.	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
B.6	Publishing land removal decisions	Section 22D requires the Commissioner to publish a summary of decisions regarding specified permissions made on the Crown pastoral estate. LINZ recommends that the Minister for Land Information's decision to remove land from the Crown pastoral estate should also be published alongside other decisions made on the Crown pastoral estate. This ensures consistency of requirements for transparency about decisions relating to the pastoral estate.	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
B.7	What happens when land removal projects fail	You have agreed that the Commissioner be empowered to impose conditions and ongoing monitoring on any land disposed of under the new land removal pathway [BRF 26-140]. While these measures will help to address the risk of public benefits not being achieved, we have identified through the drafting process that further provisions are needed to ensure ongoing protection for land removed from the pastoral estate either if the disposal process fails or the proposed land use does not eventuate. Currently, the Commissioner does not have a power to reclassify land as pastoral land nor grant a new pastoral lease without first completing a review under Part 3. LINZ recommends that when this disposal process fails for any reason before the process is complete (so the land remains in the Crown's possession and there is no reasonable prospect it will be disposed of), or the land has been disposed of and the land is returned to the Crown possession, the Minister must as soon as reasonably practicable decide whether the original land removal decision still stands. The Minister will receive advice from the Commissioner to help them make this decision. If the Minister decides the original decision still stands, the Commissioner must reoffer the land. If the Minister rescinds the original decision, the Commissioner must reclassify the land as pastoral land (which brings it back within the protective umbrella of the CPLA). The Bill will also enable the Commissioner to re-lease the land as part of a new or existing pastoral lease. Attachment 2 shows how these additional provisions fit with the other steps in the land removal pathway.	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
C. Minor and technical decisions for noting in the LEG paper			
C.1	Adding commercial recreation activities to the schedule of secondary use activities	We have identified that there may be instances where there is a close relationship between secondary activities and commercial recreation activities, for example, when a leaseholder establishes a beer brewing operation (a secondary use) with a tasting room (a commercial recreation activity). To ensure that leaseholders only need to apply for one permit for the same broad activity, the Bill gives the Commissioner the ability to decide on the most appropriate type of permission to grant for any application. This will enable the Commissioner to approve commercial recreation activities under a secondary use permit when it is specifically undertaken by leaseholders and bundled with other secondary use activities in the same application – despite the activity being a commercial recreation activity as defined in section 66A of the Land Act. In addition, LINZ recommends amending the schedule of activities for which secondary uses permits may be granted to include <i>visitor accommodation, hospitality and other commercial recreation activities</i> . This provides clarity for leaseholders that they can, in some circumstances, apply for a secondary use permit for activities that, strictly speaking, are commercial recreation activities.	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
C.2	Regulation making powers for secondary use permits	Cabinet agreed that the legislative requirements for the new secondary use permit should be consistent with those relating to the commercial recreation permit. LINZ recommends that you agree to amend section 100R of the Crown Pastoral Land Act 1998 so that regulations can be made for secondary use permits in the following areas: <ul style="list-style-type: none"> • prescribing the information to be provided in an application [section 100R(1)(a)] • prescribing the matters the Commissioner must take into account when deciding the level of adverse effects on inherent values [section 100R(1)(b)] • prescribing the fees and charges for applications. (Note that LINZ plans to use the new fees and charges provisions to cost recover and set land use fees for secondary use permits and the land removal proposals. This amendment was included to ensure legislative consistency with other permissions active on the Crown pastoral estate). 	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree

#	Topic	Description and LINZ recommendation	Decision
C.3	Regulations prescribing information requirements for secondary use permits	<p>As agreed by Cabinet, the information requirements for secondary use permits will mirror those for commercial recreation permits.</p> <p>LINZ recommends that the Bill amend the Crown Pastoral Land Regulations 2023 to set out the information required in the applications for secondary use permits:</p> <ul style="list-style-type: none"> the full name, phone number, and email address (if any) of the applicant the lease to which the application relates a description of the proposed activity and its location a description of any potential effects of the proposed activity on inherent values the proposed financial projections or annual returns (whichever is applicable) relevant to the application. <p>In addition, LINZ recommends adding the following additional information, so that the information requirements support the assessment of applications against the decision-making criteria for the secondary use permit:</p> <ul style="list-style-type: none"> a description of the potential effects of the proposed activity on the current carrying capacity of the lease land an assessment of any other impacts of the secondary use on pastoral farming activities on the lease an explanation of how the proposed secondary use will help support the long-term pastoral farming of the lease. 	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
C.4	Ability to make standards and directives for secondary use permits	<p>LINZ recommends that section 100S of the Crown Pastoral Land Act 1998 be amended to allow the Commissioner and LINZ's Chief Executive to make standards and directives about the framework for determining applications for secondary use permits. This ensures consistency between the system for secondary use permits and the system for commercial recreation permits.</p>	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
D. Other minor and technical decisions			
D.1	Commencement	<p>LINZ recommends that the Bill should come into force 6 months after Royal assent to ensure the necessary operational and finance systems and processes are in place.</p>	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
E. Drafting matters for you to note			
E.1	Land removal pathway decision criteria	<p>You agreed that the Minister must consider a number of criteria when deciding whether the public benefits of a proposed land use outweighed the negative impacts on inherent values and the ongoing pastoral farming of the remaining pastoral land. This criteria highlighted the expected economic, social, cultural and environmental benefits, Māori interests, and effects on the land's inherent values and effects on the land for pastoral farming.</p> <p>There are also several other considerations the Minister might wish to consider when making a decision to remove land from the Crown pastoral estate, informed by the Commissioner's recommendation. These include the impact of a proposal on adjacent Crown land or neighbouring properties, and the appropriateness of the activity on that site. For this reason, the Bill contains a provision giving the Minister the ability to consider any other relevant matters when deciding whether to approve specific land use and remove land from the Crown pastoral estate.</p>	<input checked="" type="checkbox"/> Noted
E.2	Land removal pathway appeal settings	<p>You agreed that the Minister's decision to remove land from the Crown pastoral estate should be subject to judicial review [BRF 26-160 refers]. After discussions with the Parliamentary Counsel Office, it was decided that it was not necessary to expressly provide for judicial review in the Bill as it is available by default. In the same way, it was also decided that it was unnecessary to explicitly bar rehearings or appeals for the Minister's decision in the Land Act, as that Act does not currently provide for the Minister's decisions to be reheard.</p>	<input checked="" type="checkbox"/> Noted
E.3	Consistency between the secondary use and commercial recreation permits	<p>Cabinet agreed that the legislative design of the secondary use permit system should be consistent with the system for commercial recreation permits. For this reason, the Bill clarifies that secondary use permits will be granted in accordance with sections 66A(5), (6), (8) and (9) of the Land Act.</p>	<input checked="" type="checkbox"/> Noted

Attachment 2: Additional provisions for the land removal pathway

Land removal pathway steps	
An application has been assessed, and the Minister has decided to grant an application to reclassify the land and remove it from the pastoral estate for a proposed use	
The Commissioner accepts surrender of the lease, reclassifies the land and carries out the disposal process under the Land Act	
The disposal process fails to reach an outcome (e.g. if market conditions alter and the use is no longer attractive to the applicant)	The land is disposed of (with conditions)
	The Commissioner monitors the conditions
	The conditions are not met, and the land is returned to the Crown under contractual terms
In either of these scenarios, the land is now held under the Land Act with neither protection for inherent values nor the achievement of significant public benefits. This outcome is not consistent with the policy intent of the land removal pathway.	
LINZ recommends the following additional provisions:	
In either of the scenarios above, as soon as reasonably possible, the Minister, after receiving advice from the Commissioner, must decide whether the original decision to remove the land from the pastoral estate still stands	
If yes, the Commissioner must reoffer the land in accordance with the Minister's decision	If no, the Commissioner must reclassify the land as pastoral land, which ensures the protections of the CPLA apply
The Commissioner tries the disposal process again	<p>The land is now 'unused Crown land' under the CPLA. The Commissioner could now either:</p> <ul style="list-style-type: none"> • grant a new pastoral lease over that land or add it into an existing pastoral lease (the CPLA needs to be amended to enable this), or • carry out a review under Part 3 of the CPLA. Part 3 reviews can lead to a range of outcomes, such as the land being retained as a conservation area or reserve, or leased for a specified purpose. However, in acting under this part, the Commissioner must take into account the outcomes of the CPLA, including protection for inherent values.