Toitū Te Whenua
Land Information
New Zealand

BRF 26-199: Feedback from Te Rūnanga o Ngāi Tahu

Ki / To:	Hon Chris Penk Minister for Land Information	**Rā / Date:**	27 February 2026
Priority Level	Priority: High	**Action required by**	4 March 2026

Purpose

This briefing seeks your decisions in response to feedback provided by Te Rūnanga o Ngāi Tahu on the proposed secondary use permit system.

Toitū Te Whenua Land Information New Zealand Whakapā/contacts

Ingoa/Name	Nama waea/ Contact number	Whakapā tuatahi/first contact
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Hannah O'Donnell **Leader, Strategy and Policy**	027 302 1856	☐

Ngā kōrero a te Minita/Minister's comments

✓ EXCELLENT!
PLEASE PROCEED WITH DRAFT LEGISLATION, SUBJECT TO MAKING THOSE (NOW) AGREED AMENDMENTS.

THX,

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Tohutohu/Recommendations

Toitū Te Whenua Land Information New Zealand Recommends that you:			
1.	**Me mātai/Note**	That Te Rūnanga o Ngāi Tahu has provided further feedback on the secondary use permit system.	Noted
2.	**Indicate**	Your decisions regarding options to respond to the points raised by Te Rūnanga o Ngāi Tahu on Attachment 1.	Indicated

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

Rā/Date: 27 February 2026

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

Rā/Date: 4 MAR 2026

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Background

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. You met with Justin Tipa, Kaiwhakahaere (Chair) of Te Rūnanga o Ngāi Tahu (Te Rūnanga) on 16 December 2025, to discuss the concerns Te Rūnanga has with the proposed changes to the CPLA.
3. Following this meeting, Toitū Te Whenua Land Information New Zealand (LINZ) provided Te Rūnanga with updated information on the proposed design of the secondary use permit system. Te Rūnanga has provided a letter to the Commissioner of Crown Lands (the Commissioner) with their feedback (see **Attachment 2**).

Feedback from Te Rūnanga o Ngāi Tahu

4. Te Rūnanga is concerned that the secondary use permit system undermines the Right of First Refusal (RFR) on the disposal of Crown land provided for in the Ngāi Tahu Claims Settlement Act 1998. This is particularly the case for secondary uses that create a new right to use the land for activities that could last for 50 years or more, or involve substantial capital investment that creates practical and commercial expectations of ongoing permit re-granting and continuity of the activity. Te Rūnanga notes in their letter that they see no effective means of addressing their concerns, short of a right of veto over secondary use applications.
5. We note that these concerns are similar to some of those with the Conservation Acts (Land Management) Amendment Bill (CALM Bill) [see BRF 26-131]. In November 2025, Te Rūnanga filed legal proceedings in the High Court over changes they consider will impact their Treaty Settlement. One of the matters of concern is the granting of concessions for activities that create expectations of long-term rights to exclusive use of areas in the conservation estate. The CALM Bill is being progressed while the High Court proceedings are underway.
6. s 9(2)(h) [redacted]
7. s 9(2)(h) [redacted]

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[redacted]

8. In addition, because secondary use permits are tied to a particular pastoral lease, they cannot be issued for a period longer than the remaining life of the lease (i.e. a maximum of 33 years). In practice, the expected life of a secondary use activity, expectations around approval of further permits, and reversibility once the activity ceases would be discussed and agreed at the point of issuing the first permit, and these matters would be included in the consultation carried out with relevant iwi.

9. Te Rūnanga also provided feedback on points of detail about the secondary use permit system, particularly their concerns about the breadth of the criteria for secondary uses that have a more than minor adverse effect.

10. Options identified in response to the concerns raised by Te Rūnanga are set out in **Attachment 1**.

Application of section 5: Māori interests

11. Te Rūnanga acknowledged the intention that section 5(1)(a) of the CPLA (Māori interests) will apply to secondary use permits. Te Rūnanga emphasised that section 5 must be applied "in a manner that ensures early, genuine, and effective engagement with Ngāi Tahu, supported by clear and meaningful outcomes. Our expectation is that the Crown will uphold Te Tiriti o Waitangi and give full effect to its principles."

12. The Government is currently progressing a review of references to the principles of the Treaty of Waitangi in legislation. s 9(2)(f)(iv) [redacted]

13. [redacted]

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14. [redacted]

s 9(2)(f)(iv) [redacted]

15. [redacted]

16. [redacted]

Next Steps

17. If you wish to make changes to the Bill as proposed in this briefing, further instructions will be issued to the Parliamentary Counsel Office (PCO). These decisions will then be included in the Cabinet Legislation Committee (LEG) paper.

18. You may wish to discuss, or direct officials to discuss, any proposed changes with Te Rūnanga.

Tāpiritanga/Attachments

Attachment 1: Table of decisions

Attachment 2: Letter from Te Rūnanga o Ngāi Tahu

[1] Section 5 states that "in order to recognise and respect the Crown's responsibility to give effect to the principles of Te Tiriti o Waitangi/the Treaty of Waitangi, the Crown must recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, mahinga kai, wāhi tapu, and other taonga in any case where [the actions under the CPLA to which this section applies are then listed]."

Attachment 1: Table of decisions

Issue	Current provisions in the Bill	Recommendations	Decision
Te Rūnanga is concerned that the secondary use permit system undermines RFR entitlements. One of the defining characteristics of a disposal that triggers RFR is that it "is, or could be, for 50 years or longer."[1]	The Bill does not contain any provisions related to the length of a secondary use permits, nor to re-granting of permits.	Because secondary use permits will be tied to a particular pastoral lease, it is not possible for a permit to be granted for longer than the remaining period of the lease (i.e. a maximum of 33 years). When a permit expires, if the leaseholder wishes to continue carrying out the secondary use activity, they will need to apply for a new permit. Practical questions arise about certainty for leaseholders: for example, a leaseholder applying for a secondary use permit close to the end of their lease period for an activity that is expected to last longer than that, and about ensuring efficient decision-making for new permits for existing activities. We have considered whether legislative provisions relating to re-granting a permit would be helpful. However, because permits cannot be issued for longer than the existing lease, it is not appropriate to include any sort of automatic right of re-grant in the legislation. In practice, the Commissioner has the ability to issue a permit on such terms and conditions as they may determine. This includes the possibility of agreeing that the permit could be re-granted when the lease is renewed, along with any other conditions the Commissioner may wish to impose at that time. This is not an automatic right of re-grant, as the Commissioner has full discretion on whether to re-grant or not, but it means the Commissioner has the ability to work with leaseholders to give them a degree of certainty so they have confidence to invest in secondary use activities. We also considered whether the Commissioner should consider different criteria when re-issuing a permit, compared to the original decision. However, the factors the Commissioner should weigh, the consultation they should undertake, do not change just because the activity is already being carried out. Ensuring efficient decision-making is therefore better addressed through operational processes. **Recommendation:** No change to the Bill.	☑ Yes ☐ No

[1] Ngāi Tahu Claims Settlement Act 1998, section 48(1).

Issue	Current provisions in the Bill	Recommendations	Decision
	The Bill includes a schedule of specified activities for which secondary use permits may be granted. The purpose of the schedule is to signal, in legislation, to leaseholders the types of activities they can apply to undertake. The Commissioner must consult with iwi on applications for any activity that is not on the schedule.	The following activities with an expected lifespan of more than 33 years are currently included in the schedule: • Native plantation forestry • Environmental restoration or enhancement activities, including carbon/biodiversity programmes involving indigenous vegetation, wetlands, or other activities beneficial to inherent values. Given that these activities have a general lifespan beyond the maximum duration of a single permit, they should be removed from the schedule. While this step would not fully address the concern raised by Te Rūnanga, it would send a clearer signal in legislation about the length and scale of expected secondary uses.[2] If you consider that giving a clear signal about expected secondary uses in legislation is important, then this option should be preferred. Alternatively, the schedule could be removed from the Bill, and a list of expected secondary uses instead be included in guidance. This would give the Commissioner flexibility to update the list as needed in response to actual practice (rather than amending a schedule via Order in Council). If you consider this flexibility is important, this option should be preferred. If the schedule is removed from the Bill, consultation requirements will also need to be updated. Currently, the Bill requires consultation with iwi on applications for activities *not* in the schedule. If the schedule was removed, this requirement would also be removed. Instead, consultation with iwi would be carried out in accordance with section 5 the CPLA, which applies to secondary use permits. **Option 1:** Remove "native forestry" and "environmental restoration or enhancement activities" from the schedule of specified activities for which secondary use permits may be granted. **OR** **Option 2:** Remove the schedule of specified activities for which secondary use permits may be granted, and associated provisions, from the Bill. Consequently, make secondary use permits subject to section 5(1)(b), so that all applications must be consulted on with relevant iwi.	YES TO OPTION 1. ☑ Yes ☐ No

[2] The remaining activities in the schedule would be: Arable farming; Viticulture; Horticulture; Apiculture; Aquaculture; Gravel extraction, stockpiling, processing, or screening; Processing or sale of products grown or reared on site; Research, fieldwork, training facilities, and activities associated with primary production, conservation, or outdoor education; Visitor accommodation, hospitality, and other commercial recreation activities.

Issue	Current provisions in the Bill	Recommendations	Decision
Te Rūnanga is concerned with the breadth of the criteria for approving secondary use activities with more than minor adverse effects.[3] Specifically, in their view: • there is a risk that applicants could claim benefits at broad spatial scales while place-based adverse effects are inadequately weighed, resulting in harm to culturally significant sites	The Bill currently provides that, where a secondary use activity has a more than minor adverse effect, the Commissioner may approve a secondary use application if: • the activity supports long-term maintenance or enhancement of inherent values when considered across the lease as a whole or within the local ecological district or the South Island high country	The purpose of this criterion is to enable secondary uses that may have a more than minor impact on site-specific inherent values, but benefit inherent values overall. This purpose could be clarified by removing the words "ecological district or the South Island high country." We note that activities with wider benefits may still be enabled by one of the following criteria: • the activity makes a significant contribution to biodiversity, freshwater, or other environmental management goals nationally or regionally • the outcome of the activity will, in any other way, support the purpose and outcomes of the CPLA. **Recommendation:** Amend this criterion to, "the activity supports long-term maintenance or enhancement of inherent values when considered across the lease as a whole".	☑ Yes ☐ No
• the addition of "or does not preclude" is misaligned with only enabling secondary uses that contribute to the long-term viability of pastoral farming. Instead, a positive contribution to the long-term viability of pastoral farming should be required	• the activity supports, or does not preclude, the long-term viability of the lease for pastoral farming purposes	The words "or does not preclude" were added to this criterion in response to your feedback on BRF 26-109. LINZ's view is that removing these words from this criterion would better align the criterion to the purpose of the CPLA to support ongoing pastoral farming. **Recommendation:** Remove "or does not preclude" from this criterion.	☑ Yes ☐ No
• economic imperatives could override the protection of inherent values.	• the activity will result in a significant social or economic benefit to the community or the nation.	This criterion was added in response to your feedback [email from your office, 20 November 2025 in response to BRF 26-109]. As noted in BRF 26-109, LINZ originally considered this criterion, but concluded that activities that offer significant social and economic benefits (especially on a national scale) will likely result in the displacement of pastoral farming as the primary activity, and therefore unlikely to align with the purpose and outcomes of the CPLA. **Recommendation:** Remove this criterion.	☑ Yes ☐ No

[3] The criteria currently included in the Bill are:
(i) the activity will make use of existing, lawfully established buildings, or infrastructure on the land:
(ii) the activity supports long-term maintenance or enhancement of inherent values when considered across the lease as a whole or within the local ecological district or the South Island high country:
(iii) the activity supports, or does not preclude, the long-term viability of the lease for pastoral farming purposes:
(iv) the activity makes a significant contribution to biodiversity, freshwater, or other environmental management goals nationally or regionally:
(v) the activity will make a significant contribution singularly or as part of a wider project toward reducing greenhouse gas emissions or the effects of climate change:
(vi) the activity will result in significant social or economic benefit to the community or the nation:
(vii) the activity will reduce the risk, or avoid or mitigate the effects, of a natural hazard or biosecurity risk:
(viii) the outcome of the activity will, in any other way, support the purpose and outcomes of this Act.

Te Rūnanga o NGĀI TAHU

13 February 2026

Commissioner of Crown Lands
Toitū Te Whenua Land Information New Zealand
PO BOX 5501
Wellington 6145

By email: charris@linz.govt.nz

Tēnā koe,

Proposed Framework for Secondary Use Permits under the Crown Pastoral Land Act 1998

1. Te Rūnanga o Ngāi Tahu (**Te Rūnanga**) acknowledges Land Information New Zealand's Memorandum dated 18 December 2025, providing further detail on the proposed framework for decision-making on secondary use permits under the Crown Pastoral Land Act 1998 (**CPLA**).

2. Te Rūnanga continues to have significant concerns with the proposed secondary use permit framework as previously outlined in our letter of 7 November 2025. The framework risks shifting the purpose of the CPLA away from protection and long-term stewardship toward commodification and effective privatisation. The changes outlined in the memorandum do not materially address these concerns and, in several respects, reinforce them.

3. Without prejudice to our overarching concerns, Te Rūnanga provides the following feedback on specific elements of the proposed framework.

Proposed list of secondary uses

4. The rationale for the removal of exotic afforestation and renewable energy infrastructure from the proposed list of secondary uses is unclear. In the absence of these activities being identified as prohibited, Te Rūnanga assumes that applications for such uses may still be considered under the proposed framework. This lack of clarity creates uncertainty and heightens concerns about the scope and nature of activities that could be enabled through secondary use permits.

5. The assessment of the suitability and impacts of land uses is inherently dependent on the specific characteristics of the proposed activity, including its nature, scale, intensity, and duration, as well as the environmental, cultural, and landscape values of the place in which

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it is proposed. The Crown pastoral estate is not homogeneous. It comprises a diverse range of environments, values, and sensitivities. Accordingly, it is not well suited to a broad, activity-based regulatory approach that applies uniformly across the estate.

6. The proposed framework appears to be inherently enabling rather than precautionary, prioritising permissiveness over careful, place-based assessment. This undermines the ability to appropriately recognise and protect site-specific inherent values and to ensure that decisions are informed by the cumulative and long-term effects of land use change.

Decision-making Criteria

7. Criterion (b), which allows activities to be approved where they support long-term maintenance or enhancement of inherent values when assessed across the lease as a whole, an ecological district, or the South Island High Country, presents a significant risk. It enables applicants to claim benefits at broad spatial scales, while localised and place-based adverse effects may be inadequately identified, assessed, or avoided.

8. This is of particular concern for Ngāi Tahu values, which are inherently place-based. Cultural landscapes, wāhi tapu, wāhi taonga, and mahinga kai derive their significance from their specific locations, histories, and relationships. Benefits asserted at a regional or estate-wide level cannot justify, offset, or outweigh adverse effects on Ngāi Tahu values at place, nor can they mitigate the irreversible loss or degradation of culturally significant sites.

9. The addition of the words “or does not preclude” to criterion (c) appears misaligned with the stated policy intent of enabling secondary uses that contribute to the long-term viability of pastoral farming. As drafted, it allows approval of activities that merely coexist with pastoral farming without supporting or enhancing its viability, rendering the criterion largely ineffective. To align with the stated policy intent, the criterion should require a demonstrable and positive contribution to the long-term viability of pastoral farming and should operate as a threshold test for all applications.

10. Criterion (f), which allows approval based on significant social or economic benefit to the community or the nation, provides a clear pathway for economic imperatives to override the protection of inherent values. This concern is heightened by the fact that only one criterion must be satisfied for approval of an activity with more than minor adverse effects. The inclusion of this criterion reinforces our concerns that the proposed framework prioritises economic outcomes over the protective purpose of the CPLA and contributes to the commodification of the Crown pastoral estate, rather than ensuring the enduring protection of its inherent values.

Section 5 of the CPLA

11. Te Rūnanga acknowledges the proposal to amend section 5(1)(a) of the CPLA to apply to secondary use permits. Te Rūnanga emphasises that section 5 must be applied in a manner that ensures early, genuine, and effective engagement with Ngāi Tahu, supported by clear

and meaningful outcomes. Our expectation is that the Crown will uphold Te Tiriti o Waitangi and give full effect to its principles.

Right of First Refusal (RFR)

12. Te Rūnanga remains deeply concerned that the expansion of land uses by Crown pastoral leaseholders through secondary use permits amounts, in effect, to a de facto form of tenure review. This risk is particularly acute where secondary uses involve substantial capital investment, long timeframes, or exclusive occupation.

13. Such uses create practical and commercial expectations of ongoing renewal and continuity, which in turn undermine the Ngāi Tahu Right of First Refusal and the intent of the Ngāi Tahu Claims Settlement Act 1998.

14. Te Rūnanga has concluded that, in the absence of a substantive right of veto over secondary use approvals, no effective means of addressing these concerns exists.

Conclusion

15. These comments should not be construed as endorsement of the proposed secondary uses framework. They are provided in good faith, without prejudice, and do not detract from our fundamental concerns about the direction and implications of the proposed reforms.

16. Te Rūnanga remains committed to working alongside Land Information New Zealand to develop a Crown pastoral land management model that delivers positive outcomes for Ngāi Tahu and the Crown pastoral estate, upholds the protective purpose of the CPLA, and reflects and strengthens our Treaty partnership.

Nāku noa, nā

Ben Bateman
Chief Executive Officer