



Standard for review of unrenewable occupation licences and unused Crown land under Part 3 of the Crown Pastoral Land Act 1998

LINZS45004

1 April 2010

Table of contents

TERMS AND DEFINITIONS	4
FOREWORD.....	5
1 SCOPE.....	7
2 INTENDED APPLICATION OF STANDARD	7
3 RECORDS	7
4 COMMENCEMENT OF REVIEW—UNUSED CROWN LAND	8
4.1 General information requirements.....	8
4.2 Consultation	8
4.3 Property inspection.....	8
4.4 Report to Commissioner of Crown Lands.....	8
4.5 Advice to agencies and early notification meeting.....	8
5 REVIEW REQUIREMENTS	9
5.1 Information gathering	9
5.1.1 Discussions with holder	9
5.1.2 Property inspection	9
5.1.3 Reports	9
5.2 Information analysis	10
6 PRELIMINARY PROPOSAL.....	11
6.1 Draft for consultation	11
6.2 Consultation	11
6.3 Approval from Commissioner of Crown Lands	11
6.4 Legal clearance	13
6.5 Provide to holder before public notice and consultation with iwi.....	13
7 PUBLIC NOTICE AND IWI CONSULTATION	14
7.1 Provision of notice	14
7.2 Report to Minister of Conservation	14
8 SUBSTANTIVE PROPOSAL.....	15
8.1 Consultation	15
8.2 Report to Commissioner of Crown Lands.....	15
8.3 Legal clearance	17
8.4 Advice to holder.....	17
8.5 Implementation	17

Appendix A: General information requirements.....18

Appendix B: Requirements to fulfil consultation under section 85(3)(b) and (c) of the Crown Pastoral Land Act 1998.....21

Appendix C: Guide to consultation.....23

Tables

Table 1:	Information that must accompany preliminary proposal	12
Table 2:	Information that must accompany substantive proposal	16
Table 3:	General information required for reviews.....	18

Terms and definitions

For the purposes of this standard, the following terms and definitions apply.

Term/abbreviation	Definition
CCL	Commissioner of Crown Lands
CPLA	Crown Pastoral Land Act 1998
Crown land	as defined in s 2 of the Land Act 1948
DGC	Director-General of Conservation
DOC	Department of Conservation
holder	as defined in s 2 of the CPLA
improvement	as defined in s 2 of the CPLA
iwi authority	the authority that represents an iwi and which is recognised by that iwi as having authority to do so. Definition from s 2 of the Resource Management Act 1991.
LINZ	Land Information New Zealand
neighbouring	as defined in s 2 of the CPLA
occupation licence	as defined in s 2 of the CPLA
operator	a person either employed or contracted by LINZ to carry out services in the process of reviewing unrenovable occupation licences and unused Crown land under Part 3 of the CPLA
preliminary proposal	as defined in s 34 of the CPLA
review	a review under Part 3 of the CPLA
significant inherent value	as defined in s 2 of the CPLA
substantive proposal	as defined in s 46 of the CPLA
unrenovable occupation licence	as defined in s 2 of the CPLA
unused Crown land	as defined in s 2 of the CPLA

Foreword

Introduction

Under Part 3 of the Crown Pastoral Land Act 1998 (CPLA) the Commissioner of Crown Lands (CCL) must review all Crown land held under unrenovable occupation licences to determine the land's future use.

The CCL may also review unused Crown land either on its own or as part of a review of an unrenovable occupation licence. All such reviews have commenced as at the date of this standard.

Review of unrenovable occupation licences and unused Crown land are governed by Part 3 of the CPLA. The objects of that Part are set out as follows:

- (a) To promote the management of Crown land in a way that is ecologically sustainable; and
- (b) To enable the protection of significant inherent values of Crown land; and
- (c) Subject to paragraphs (a) and (b), to make easier—
 - (i) The securing of public access to and enjoyment of Crown land; and
 - (ii) The freehold disposal of Crown land capable of economic use.

The CCL needs to be provided with complete and up-to-date information on unrenovable occupation licences and unused Crown land proposed for review. It is essential that consultation under the CPLA is completed before decisions are made.

Purpose of standard

The purpose of this standard is to ensure that Crown land held under unrenovable occupation licences, or unused Crown land, is reviewed in a fair and transparent process that meets the requirements of the legislation.

Superseded documents

This standard supersedes the following documents.

LINZ 2000, *Commencement of review of other Crown land: Crown Pastoral Land Standard 11*, Office of the Chief Crown Property Officer, LINZ, Wellington

LINZ 2000, *Preliminary proposal for Review of Other Crown land: Crown Pastoral Land Standard 12*, Office of the Chief Crown Property Officer, LINZ, Wellington

LINZ 2000, *Substantive proposal for Review of Other Crown land: Crown Pastoral Land Standard 13*, Office of the Chief Crown Property Officer, LINZ, Wellington

LINZ 2000, *Implementation of substantive proposal for review of other Crown land: Crown Pastoral Land Standard 14*, Office of the Chief Crown Property Officer, LINZ, Wellington

References

The following documents are necessary for the application of this standard.

- Crown Pastoral Land Act 1998
- Land Act 1948
- LINZ 2007, *LINZS45000: Standard to determine authority to act and record Crown land*, Property Regulatory Group, LINZ, Wellington

1 Scope

- (a) This standard sets out the information and consultation required to review unrenewable occupation licences or unused Crown land under Part 3 of the CPLA.
- (b) This standard does not provide requirements for the tenure review of Crown pastoral leases under Part 2 of the CPLA.¹
- (c) This standard does not provide information about identifying marginal strips under Part IVA of the Conservation Act 1987.
- (d) This standard does not provide information about the disposal of land under the Land Act 1948, which occurs following completion of a review.

2 Intended application of standard

This standard is intended to be applied by operators when carrying out reviews of unrenewable occupation licences and unused Crown land under Part 3 of the CPLA.

3 Records

The operator must ensure that records of every review of an unrenewable occupation licence or unused Crown land are kept and are available for audit.

¹ The requirements for tenure review of pastoral leases are set out in *LINZS45003: Standard for tenure review of Crown pastoral land under Part 2 of the Crown Pastoral Land Act 1998*.

4 Commencement of review—unused crown land

4.1 General information requirements

The operator must provide the information specified in Appendix A when the CCL is making a decision whether to undertake a review of unused Crown land, and update it as necessary during the review process. Refer to paragraph 4.4 below.

4.2 Consultation

- (a) The operator must ensure that the consultation by the CCL with the Director-General of Conservation (DGC) and other parties under s 85 of the CPLA has been completed before the CCL makes a decision whether to undertake a review of unused Crown land.
- (b) The requirements for consultation during a review under Part 3 of the CPLA are set out in Appendix B.
- (c) Appendix C sets out guidelines about the meaning of consultation as it relates to reviews under Part 3 of the CPLA.

4.3 Property inspection

If the operator considers that a property inspection is necessary, the inspection must be carried out only as authorised by the CCL.

4.4 Report to Commissioner of Crown Lands

The operator must provide a report and recommendation to the CCL when seeking a decision on whether to undertake a review of unused Crown land, including:

- (a) the information specified in Appendix A,
- (b) confirmation that financial and other departmental resources are available to undertake the proposed review,
- (c) reporting on the consultation carried out under s 85 of the CPLA (refer to paragraph 4.2 and Appendix B), and
- (d) a request for the CCL to approve gathering the information required in paragraph 6.3 of this standard, if the operator's recommendation is to undertake the review.

4.5 Advice to agencies

The operator must advise the Department of Conservation (DOC) and any other party as authorised by the CCL, of the CCL's decision on whether to undertake the review.

5 Review requirements

5.1 Information gathering

5.1.1 Discussions with holder

- (a) Any discussions with the person who was the holder at the commencement of the review, and any person who was the holder of a special lease over the land, must be carried out only in accordance with the instructions of the CCL.
- (b) The operator must keep a full record of any discussion with the persons listed in (a), and be able provide this record to the CCL if required.

5.1.2 Property inspection

The operator must make arrangements with the person who was the holder at the commencement of the review for a property inspection if required by any party authorised by the CCL.

5.1.3 Reports

If the CCL decides to undertake a review, the operator must obtain information on the land being reviewed, including:

- (a) reports on:
 - (i) the inherent values of the land and assessment of their significance,
 - (i) the cultural values of the land, and
 - (i) the fish and game resources of the land;
- (b) recommendations for the proposal from the parties providing the reports specified in (a) above;
- (c) information on the current use of the land;
- (d) an assessment of:
 - (i) the known potential economic uses of the land,
 - (ii) the impact of those potential land uses on the inherent values, including natural resources such as soil and water, and
 - (iii) the likelihood of those potential land uses to promote the management of the land in a way that is ecologically sustainable; and
- (e) any other information from a party authorised by the CCL.

5.2 Information analysis

- (a) The operator must analyse the information gathered to ensure that it meets the requirements of the CCL for the purposes of the review.
- (b) If the analysis indicates that information is missing, the operator must:
 - (i) report to the CCL, identifying what information is missing and who must provide it, and
 - (ii) obtain the agreement of the CCL before obtaining the information.

6 Preliminary proposal

6.1 Draft for consultation

The operator must prepare a draft preliminary proposal, and obtain the CCL's approval to consult on that proposal, before any consultation is carried out under s 85 of the CPLA. The draft preliminary proposal must:

- (a) set out the issues involved in the review in a way that facilitates consultation, including:
 - (i) an explanation of how the proposed designations meet the objects of Part 3 of the CPLA,
 - (ii) plans of the proposed designations for the land in the review,
 - (iii) identification of options available for designating the land and the basis for those options, and
 - (iv) information on significant inherent values that would be protected as a result of any designation; and
- (b) be as complete as possible given the information available.

6.2 Consultation

- (a) The operator must ensure that consultation by the CCL with the DGC and other parties under s 85 of the CPLA has been completed before the CCL devises the preliminary proposal under s 86 of the CPLA.
- (b) The requirements for consultation during reviews under Part 3 of the CPLA are set out in Appendix B.
- (c) Appendix C sets out guidelines about the meaning of consultation as it relates to reviews under Part 3 of the CPLA.

6.3 Approval from Commissioner of Crown Lands

When asking the CCL to devise a preliminary proposal under s 86 of the CPLA, the operator must provide the CCL with the information specified in Table 1 below.

Table 1: Information that must accompany preliminary proposal

Information required
1. the preliminary proposal
2. a report on the preliminary proposal, including: <ul style="list-style-type: none">(a) the information required by Appendix A, in its most up-to-date form, along with a comment on any updates to that information,(b) a description of the proposed designations under s 86(5) of the CPLA, including the significant inherent values that will be protected as a result of the designation,(c) a plan of the proposed designations,(d) a statement about how the designations relate to the matters to be taken into account by the CCL under s 84 of the CPLA(e) a statement about how the preliminary proposal meets the objects of Part 3 of the CPLA,(f) confirmation that financial and other departmental resources are available for the devised preliminary proposal,(g) a statement identifying any provisions in the preliminary proposal that are specific to the review,(h) a summary of the DGC's recommendations, from consultation under s 85 of the CPLA,(i) a summary of any recommendations from other parties, from consultation under s 85 of the CPLA,(j) a copy of the notification to the DGC of a proposed disposition under Part IVA of the Conservation Act 1987, and(k) any other relevant information.
3. a schedule of any holder's improvements that are to remain on the land, under s 86(7) of the CPLA
4. a copy of the report on consultation under Appendix B.2.3
5. a copy of any provisional consents obtained from the Minister of Conservation under s 87 of the CPLA
6. a copy of any other written consents for proposed designations required under ss 40 and 88 of the CPLA

6.4 Legal clearance

Before notice of a preliminary proposal is made under s 43 of the CPLA, the operator must obtain written legal clearance that the preliminary proposal documentation:

- (a) complies with all legal requirements, and
- (b) reflects the decision of the CCL to devise the preliminary proposal under s 86(4) of the CPLA.

6.5 Provide to holder before public notice and consultation with iwi

Before any public notice is published, or consultation with an iwi authority is carried out, the operator must ensure that a copy of the preliminary proposal has been provided to the party who was the holder at the commencement of the review.²

² Note that this is not a requirement of the CPLA.

7 Public notice and iwi consultation

7.1 Provision of notice

The operator must provide a copy of the public notice and the preliminary proposal to:

- (a) all parties consulted under s 85 of the CPLA, and
- (b) the iwi authority, when consulting with them under s 88 of the CPLA.

7.2 Report to Minister of Conservation

- (a) The operator must provide the summary and statements required by s 45 of the CPLA to the CCL for approval to provide to the Minister of Conservation.
- (b) The operator must prepare the summary and statements separately from and before any consultation is carried out on adopting the substantive proposal.

8 Substantive proposal

8.1 Consultation

- (a) The operator must ensure that the consultation by the CCL with the DGC and other parties under s 85 of the CPLA, and with the iwi authority under s 44 of the CPLA, has been completed before the CCL makes a decision on whether to adopt the substantive proposal.
- (b) The requirements for consultation during reviews under Part 3 of the CPLA are set out in Appendix B.
- (c) Appendix C sets out guidelines about the meaning of consultation as it relates to reviews under Part 3 of the CPLA.
- (d) The operator must ensure that all parties consulted are provided with all relevant information including a copy of:
 - (i) the draft substantive proposal,
 - (ii) all matters raised by the iwi authority under s 44 of the CPLA, and
 - (iii) all written submissions made by the public on the preliminary proposal under s 43 of the CPLA.

8.2 Report to Commissioner of Crown Lands

When seeking approval from the CCL to adopt the substantive proposal, the operator must provide the CCL with the information specified in Table 2 below.

Table 2: Information that must accompany substantive proposal

Information required
1. the proposed substantive proposal
2. a report on the substantive proposal, including: <ul style="list-style-type: none">(a) the information required by Appendix A, in its most up-to-date form, along with a comment on any updates to that information,(b) description of the proposed designations under s 86(5) of the CPLA, including the significant inherent values that will be protected as a result of the designation,(c) a plan of the proposed designations,(d) a statement about how the designations relate to the matters to be taken into account by the CCL under s 84 of the CPLA,(e) a statement about how the substantive proposal meets the objects of Part 3 of the CPLA,(f) confirmation that all uncompleted actions identified in the preliminary proposal have been resolved,(g) confirmation that financial and departmental resources are available to put the substantive proposal to the holder and implement it,(h) a statement identifying any provisions in the substantive proposal that are specific to the review,(i) a summary of the DGC's recommendations, from consultation under s 85 of the CPLA,(j) a summary of any recommendations from other parties, from consultation under s 85 of the CPLA, and(k) any other relevant information.
3. a copy of the report on consultation under Appendix B.2.3 (see paragraph 8.1)
4. evidence that all matters raised by the iwi authority consulted under ss 44 and 88 of the CPLA were considered during the consultation on adopting the substantive proposal
5. evidence that all written submissions raised by the public under ss 43 and 88 of the CPLA were considered during the consultation on adopting the substantive proposal
6. evidence that ss 45 and 88 of the CPLA have been complied with (see paragraph 7.2)
7. a copy of any consents obtained from the Minister of Conservation under s 91 of the CPLA
8. a copy of any other written consents that are required under ss 40 and 88 of the CPLA

8.3 Legal clearance

Before the substantive proposal is adopted, the operator must obtain written legal clearance that the substantive proposal documentation:

- (a) complies with all legal requirements, and
- (b) reflects the decision of the CCL to adopt the proposal under s 89 of the CPLA.

8.4 Advice to holder

The operator must advise the person who was the holder at the commencement of the review:

- (a) of the CCL's decision whether to adopt the substantive proposal, and
- (b) of the right to apply for a rehearing under s 17 of the Land Act 1948 and ss 89 and 100 of the CPLA.

8.5 Implementation

- (a) The operator must ensure that all actions required under the CPLA have been completed.
- (b) Once a substantive proposal for an occupation licence is adopted, the operator must obtain a valuation of all of the holder's improvements in accordance with s 95(3) of the CPLA.

Appendix A: General information requirements

The operator must provide the following information when the CCL is commencing a review of an unrenovable occupation licence or making a decision whether to undertake a review of unused Crown land, and update it as necessary during the process.

Table 3: General information required for reviews

Field number and description	Information required
1. Details of the land	<ul style="list-style-type: none"> (a) name of property (b) location (c) legal description (d) area of property (e) registered interests. List each current registered interest in the land, encumbrance and memorial on the licence including mortgages, easements, caveats, gazette notices and soil conservation encumbrances, and summarise the effects of these. (f) unregistered interests. List each current unregistered encumbrance or interest in the land, for example, unregistered mortgages or easements, and recreation permits, and summarise its effects.
2. Additional information, if the land is subject to unrenovable occupation licence	<ul style="list-style-type: none"> (a) name of the person who was the holder at the commencement of the review, if applicable (b) type of tenure (c) term of licence (d) annual rent (e) rental value (f) date of next rent review (g) computer interest register identifier (h) summary of licence, including: <ul style="list-style-type: none"> (i) Terms of licence. Include commencement date and limits on the number of stock. Note any difference between the registered licence and licence file records. List and summarise the terms of any variations and renewals of the licence, noting whether they are registered or not. (ii) Area adjustments. List any discrepancies in the area recorded in the licence arising from registered or unregistered documents affecting the total area of the licence.

Field number and description	Information required
3. File search	<p>Record:</p> <ul style="list-style-type: none"> (a) file references, (b) folio numbers, and (c) date of relevant folios. <p>Identify any:</p> <ul style="list-style-type: none"> (a) folios relating to uncompleted actions, (b) agreements with other parties, (c) surrender agreements, (d) unauthorised occupations, or (e) other matter that may relate to an uncompleted action, potential liability, or any other matter that may affect the ability of the CCL to undertake a review.
4. Information on the administration of the land being reviewed	Provide any information on the administration of the land being reviewed that may affect the conduct of the review process.
5. Economic uses	<ul style="list-style-type: none"> (a) State existing type of operation, eg breeding, finishing, or store. (b) Briefly describe stocking or grazing system, especially on areas where inherent values are likely to be high. (c) State current carrying capacity of the whole enterprise; stock units and production. Apportion between the occupation licence and freehold land, if applicable. (d) Comment on potential for other economic uses.
6. Government programmes and studies	List any current and historic government programmes or studies that apply to the land. Examples include soil and water conservation plans, and rabbit and land management plans.
7. Public access and recreation uses	Identify any current uses or informal arrangements for public access and recreation uses.
8. Land status	Report on the land status, in accordance with <i>LINZS45000: Standard to determine authority to act and record Crown land</i> .

Field number and description	Information required
9. Review of topographic and cadastral data	Identify such features as: (a) telecommunications facilities, (b) historic places, (c) discrepancies between fenced and legal boundaries, and (d) formed and unformed legal roads and any deviations.
10. Neighbouring Crown and conservation land	Identify all neighbouring Crown and conservation land.
11. Uncompleted actions or potential liabilities	List all statutory, legal, contractual, or administrative actions by the CCL, lessee, or any other party, identified as uncompleted from the file search and land status investigation, and any other matters that could affect the ability of the CCL to complete a review.

Appendix B: Requirements to fulfil consultation under section 85(3)(b) and (c) of the Crown Pastoral Land Act 1998

B.1 Statutory framework

When deciding on the method of consultation, whom to consult, and the timing of the consultation, the CCL is obliged to meet the requirements of the CPLA.

B.2 Consultation

B.2.1 Before

Before beginning consultation on devising a preliminary proposal under s 85(3)(b) of the CPLA, and adopting a substantive proposal under s 85(3)(c) of the CPLA, the operator must provide to the CCL:

- (a) a list of those parties who should be consulted,
- (b) what each party will be consulted on, and
- (c) copies of the information to be released to the parties to be consulted.

B.2.2 During

During consultation, the operator must:

- (a) ensure that each person has the proper authority to represent the party being consulted;
- (b) provide relevant information about the tenure review to the parties being consulted and:
 - (i) advise them of what stage the tenure review process is at, eg 'preliminary proposal', or 'substantive proposal',
 - (ii) advise them of what they are being consulted on,
 - (iii) request their input, and
 - (iv) advise that all matters raised that are able to be considered under the CPLA will be taken into account by the CCL, who may wish to consult further under the CPLA;
- (c) provide the parties being consulted with reasonable time to respond; and
- (d) keep a full record of all responses, including who they are from and when they were made.

B.2.3 After

After consultation, the operator must:

- (a) analyse the responses, including:
 - (i) determining if each response can be considered under the CPLA, and provide reasons, and
 - (ii) evaluating each response that can be considered under the CPLA against the objects of Part 3 of that Act; and
- (b) report to the CCL on the outcome of the consultation, providing copies of all written submissions and reports of other responses received during the consultation.

Appendix C: Guide to consultation

C.1 General

- (a) When consulting during a review under Part 3 of the CPLA as required by s 85 of the CPLA, consultation must be undertaken properly and recorded. The records of consultation provide evidence that the proper process was followed.
- (b) Proper consultation is important for robust results. From the viewpoint of the CCL, correct consultation makes decision-making easier, and establishes good practice.
- (c) There are many comments in case law about what constitutes good consultation. The operator should be familiar with the latest case law in this area.

C.2 Consultation methods

Consultation may be carried out by means of:

- (a) inviting written submissions,
- (b) holding discussions with the DGC or other persons to be consulted and hearing what they have to say.

C.3 How to consult properly

To consult properly, the operator should:

- (a) keep an open mind on the outcome. This means that the proposal must be consulted on before it is finalised, the operator should be prepared to alter the proposal, and the result should not be nor appear to be determined prior to the consultation;
- (b) ensure that parties to be consulted have all the relevant information. This means that the information provided should be at the correct level of detail for those being consulted, enabling them to make an informed response;
- (c) provide those being consulted with adequate time to respond. The time given and any extensions provided should be recorded;
- (d) seek the opinion of all persons consulted;
- (e) provide feedback to all participants in the consultation, both during the consultation process and after the decision has been made;
- (f) keep full and accurate records of the consultation. The records of meetings should show:
 - (i) who was present and their interest,
 - (ii) the time and location of the meeting,
 - (iii) the issues raised and any responses,
 - (iv) which options were considered,
 - (v) any areas of consensus,

- (vi) what actions are outstanding, and
- (vii) summary notes of the meeting which should:
 - (A) be confirmed as accurate by all participants, and
 - (B) provide someone who was not present at any of the discussions with a full understanding of what was discussed.