

In Confidence

Office of the Minister for Land Information (Hon Damien O'Connor)
Cabinet Legislation Committee

DRAFT FEES AMENDMENT REGULATIONS FOR LINZ SURVEY AND TITLE SERVICES

Proposal

- 1 I seek authorisation to submit the following regulations to the Executive Council:
 - 1.1 Land Information New Zealand (Fees and Charges) Amendment Regulations 2021;
 - 1.2 Land Transfer Amendment Regulations 2021; and
 - 1.3 Cadastral Survey (Fees) Amendment Regulations 2021.
- 2 The regulations will change fees for Toitū Te Whenua Land Information New Zealand (LINZ) survey and title services.

Executive Summary

- 3 LINZ is the government's regulator of survey and title information and provides the only way to legally register ownership of land.
- 4 LINZ survey and title services are funded by fees charged to the service users (mainly solicitors, conveyancers, and surveyors, who pass the fee costs on to their clients). These fees have remained the same since 1 July 2011.
- 5 On 14 June 2021, Cabinet confirmed decisions on changes to survey and title fees [CAB-21-MIN-0218]. Title fees are to increase by 13 percent on average and survey fees by 57 percent on average. The fee increases enable LINZ to recover increasing costs relating to the rebuild of the Landonline technology platform that facilitates transfer of property rights.
- 6 I have since made a minor wording change to the annual fee for providing a digital certificate to authenticate Landonline users.
- 7 The proposed regulations are attached to this paper and implement Cabinet's survey and title fee decisions.
- 8 I am proposing a commencement date of Tuesday 1 February 2022 for the fee increases.

New fees for survey and title services

New Zealand survey and title services are world-class

- 9 LINZ is the government's regulator of survey and title information and provides the only way to legally register ownership of land. It maintains the public land register and the official record of property boundaries. Landonline is the IT system that holds and maintains these official records. The system underpins private property rights, in which New Zealand is ranked as one of the best in the world.
- 10 LINZ survey and title services are funded by fees charged to the service users (mainly solicitors, conveyancers, and surveyors, who pass the fee costs on to their clients). Each year LINZ processes around 500,000 land title documents, 10,000 cadastral survey data sets and 3.5 million survey and title searches.

Fees review process

- 11 The fees for survey and title services have remained the same since 1 July 2011.
- 12 LINZ faces increasing costs related to the Survey and Title Enhancement Programme. This Programme aims to rebuild Landonline and increase Landonline's availability, reliability, sustainability, and customer focus [CAB-18-MIN-0511 refers].
- 13 To meet increasing costs, LINZ needs to recover \$83.1 million per year on average over the five years from 1 July 2021 (an increase of approximately 26 percent compared to revenue in 2019/20).
- 14 LINZ consulted the public on fees proposals between 4 March and 9 April 2021. After considering all feedback, I took fee proposals to Cabinet in June 2021.

Fee structure and new regulations

- 15 On 14 June 2021, Cabinet [CAB-21-MIN-0218 refers] confirmed proposals to:
 - 15.1 increase the electronic search fee from \$5 to \$6 and the manual search fee from \$15 to \$25;
 - 15.2 increase title fees by 13 percent on average;
 - 15.3 increase survey fees by 57 percent on average;
 - 15.4 remove some redundant fees, merge two fees, and update the description of other fees to address service developments and minor problems with the wording of current fees.
- 16 Cabinet agreed to amend the Land Transfer Regulations 2018, the Cadastral Survey (Fees) Regulations 2003, and the Land Information New Zealand

(Fees and Charges) Regulations 2003 to implement the fee proposals [CAB-21-MIN-0218 refers].

- 17 The proposed amendment regulations are attached to this paper and implement Cabinet's survey and title fee decisions.

Minor and technical change

- 18 Since Cabinet confirmed the fee proposals in June, I have made a minor wording change to the annual fee for authenticating Landonline users (changing the word "renewal" to "subscription" to better reflect the nature of the service).

Timing and 28-day rule

- 19 I am proposing a commencement date of Tuesday 1 February 2022 for the fee increases, which is three months later than the commencement date of 1 November 2021 noted in the earlier report to Cabinet Economic Development Committee [CAB-21-MIN-0218 refers].
- 20 A delayed commencement will ensure that the new fees and billing system are fully tested and property transfers proceed with no disruption for customers. Landonline is a highly automated, high-volume system and its fees settings have not been changed for 10 years, so testing is key. LINZ also wishes to avoid any fees invoicing issues in December, which is a peak period for survey and title activity. LINZ has established, as part of the implementation planning for the new fees, that these testing and invoicing risks are significant but avoidable with a later commencement date.
- 21 The main cost of delaying the commencement of fee increases from 1 November 2021 to 1 February 2022 is lost revenue. The lost revenue from delaying the fee increase is about \$3.4 million. However, this lost revenue is offset by the higher than forecast survey and title fees revenue gathered in the 2020/21 financial year, due to higher than forecast property activity. As a result, LINZ does not consider that a later fee increase date creates any financial risk.
- 22 The only exception to this date change is the removal of license fees and the wording change for the digital certificate fee, which will still take effect from 1 November 2021. Both are customer improvements that do not require the extensive system changes that must occur for the fee increases.
- 23 The following table sets out the timing for the commencement of the regulations.

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Confirmation by Cabinet and Executive Council consideration; approval sought from the Governor-General	27 September 2021
Notice in the New Zealand Gazette	30 September 2021
Regulations commence	1 November 2021 for license fees removal and change to digital certificate fee wording 1 February 2022 for remaining fee changes

Compliance

- 24 The regulations comply with:
- 24.1 the principles of the Treaty of Waitangi (see, also, paragraph 27);
 - 24.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - 24.3 the principles and guidelines set out in the Privacy Act 2020;
 - 24.4 relevant international standards and obligations;
 - 24.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.
- 25 The regulations also meet the requirements for fee regulations in section 229 of the Land Transfer Act 2017 and section 48 of the Cadastral Survey Act 2002. Generally, the requirement is that fees only be set to pay for activities performed by LINZ, the Registrar-General of Land or the Surveyor-General, under the Land Transfer Act 2017 and Cadastral Survey Act 2002.

Engagement with Māori

- 26 As part of public consultation on fee proposals in March 2021, LINZ contacted Te Tumu Paeroa, the New Zealand Māori Council, and the Māori Women's Welfare League. These organisations were advised of the proposals, had offers made to meet them and were invited to make submissions. No submissions were received.
- 27 LINZ also discussed the fee proposals with Te Arawhiti and the Māori Land Court. As a result of feedback from Te Arawhiti:
- 27.1 LINZ is considering a shift for its future consultation with Māori. This would be a broader partnership approach with key Māori groups that prioritises ongoing engagement and early consultation on key topics;
 - 27.2 future reviews will consider the impact of survey fees on compliance costs for Māori freehold land title orders and customary marine title recognition orders.

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Regulations Review Committee

- 28 There are no grounds for the Regulations Review Committee to draw the proposed fee structure to the attention of the House under Standing Order 327.

Certification by Parliamentary Counsel

- 29 The proposed regulations have been certified by the Parliamentary Counsel Office as being suitable for submission to Cabinet.

Impact Analysis

- 30 A Regulatory Impact Statement “New fees for Land Information New Zealand Survey and Title Services” was submitted at the time that Cabinet approval was sought of the policy on the new fee structure [DEV-21-MIN-0127]. The quality review panel considered that the Impact Statement met the Quality Assurance criteria.

Publicity

- 31 LINZ notified its customers of the fee changes shortly after Cabinet’s approval of fee proposals in June 2021. If Cabinet approves the regulations, LINZ will send updates to its customers to advise of the date when the regulations come into effect. LINZ will also provide customers with advice and support on the practicalities of the fee changes, through the LINZ website and call centre.

Proactive release

- 32 I propose to publish this Cabinet paper on the LINZ website, subject to redactions as appropriate under the Official Information Act 1982.

Consultation

- 33 The following departments were consulted, with feedback taken into consideration in the development of this paper: The Treasury; Department of Internal Affairs; Te Kawa Mataaho - Public Service Commission; Te Tūāpapa Kura Kāinga - Ministry of Housing and Urban Development; Ministry of Justice (including the Māori Land Court); Te Puni Kōkiri; Te Arawhiti; Kāinga Ora - Homes and Communities; Waka Kotahi - New Zealand Transport Agency; Ministry of Business, Innovation and Employment; Ministry for the Environment; and the Department of Prime Minister and Cabinet.
- 34 There has been no public consultation on the draft regulations. Public consultation took place via the Consultation Document produced in February 2021, with 19 submissions received from stakeholders. The final proposal has taken stakeholder feedback into account. The regulations are drawn from the detailed proposals stated in the Consultation Document.

Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 **note** that on 14 June 2021, Cabinet confirmed decisions on new fees for Toitū Te Whenua Land Information New Zealand (LINZ) survey and title services [CAB-21-MIN-0218];
- 2 **note** that Cabinet delegated authority to the Minister for Land Information to make decisions on any further minor or technical issues required to implement the new survey and title fees;
- 3 **note** that the Minister for Land Information has made a minor wording change to the annual fee for authenticating Landonline users;
- 4 **note** that the following regulations will give effect to the decisions referred to in recommendations 1, 2 and 3 above:
 - 4.1 Land Information New Zealand (Fees and Charges) Amendment Regulations 2021;
 - 4.2 Land Transfer Amendment Regulations 2021; and
 - 4.3 Cadastral Survey (Fees) Amendment Regulations 2021.
- 5 **authorise** the submission to the Executive Council of the regulations referred to in recommendation 4;
- 6 **note** that the regulations come into force on 1 November 2021 for the license fees removal and digital certificate wording change, and 1 February 2022 for remaining fee changes.

Authorised for lodgement

Hon Damien O'Connor
Minister for Land Information

**Attachment 1 – Land Information New Zealand (Fees and Charges)
Amendment Regulations 2021**

Attachment 2 – Land Transfer Amendment Regulations 2021

Attachment 3 – Cadastral Survey (Fees) Amendment Regulations 2021

PROACTIVE RELEASE