

Crown Pastoral Land Reform: Consultation document on draft Commissioner of Crown Lands Standard

4 July 2022



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Purpose

This consultation document sets out more detail on the Commissioner of Crown Land's draft Crown pastoral land standard, that Toitū Te Whenua Land Information New Zealand (Toitū Te Whenua LINZ) is carrying out consultation on.

Context

The Crown owns approximately 1.2 million hectares of Crown pastoral land that is leased for pastoral farming, making up five percent of New Zealand's total land area. These are usually perpetually renewed. This land encompasses some of New Zealand's most iconic landscapes and is a taonga for New Zealanders.

There has been public concern about the management of Crown pastoral land, including degradation of biodiversity and landscape values on current and former Crown pastoral land over time.

The Crown Pastoral Land Reform Act 2022 (Reform Act) amends the Crown Pastoral Land Act 1998 (the Act) and the Land Act 1948 to:

- implement an outcomes-based approach that considers adverse effects on inherent values (including cumulative effects) on Crown pastoral land, while providing for on-going pastoral farming;
- provide clearer, more transparent decision-making, stronger accountability, and more opportunity for public involvement;
- support evolving relationships between Māori and the Crown, while recognising the relationship of Māori with their ancestral lands; and
- end tenure review.

LINZ, on behalf of the Commissioner of Crown Lands (Commissioner), is responsible for the administration of Crown pastoral land.

The Crown Pastoral Land Reform Act introduces standard making powers to the Crown Pastoral Land Act 1998 (the Act). **Subsection 100S(1)** of the Act provides the Commissioner with the authority to issue standards and directives relating to the administration of pastoral land and its inherent values, including monitoring the land.

The Commissioner has identified that a Commissioner's Standard on easements, transfers and subleases affecting Crown pastoral land (the Draft Standard) would support the efficient and effective administration of Crown pastoral land by specifying:

- Minimum information requirements for easement, transfer and sublease applications.
- Information required from LINZ by the Commissioner.
- A negotiation process to ensure future access requests are not unreasonably refused.

How to provide feedback

LINZ welcomes your feedback on the draft Commissioner's Standard by 19 August 2022. The Draft Standard is published on the LINZ website and this document should be read alongside the draft:

[Draft Commissioner's Standard](#)

Your submission may respond to one or all of the proposed clauses in the Draft Standard.

The following is a list of questions to help in providing feedback on the Draft Standard. You do not need to answer these questions, they are meant as a guide.

1. Do you agree or disagree with the Draft Standard and why?
2. Should minimum information requirements for easement, transfer and sublease applications be set out in a Commissioner's Standard? If so, does the Draft Standard provide the appropriate level of information required?
3. Will the information required to be collected by Toitū Te Whenua LINZ, in the Draft Standard support the Commissioner to make an informed decision when considering whether public access requests were unreasonably refused?
4. Do you consider the "**negotiation process**" set out in **Schedule 2** of Draft Standard is an appropriate approach for ensuring future access requests are not unreasonably refused? Or would a less prescriptive approach be more effective?
5. Do you consider there to be anything missing from the Draft Standard and if so, what?

You can make a submission by:

- Completing the submission form:
[Submission form: Proposed regulations and standards](#)
- Emailing your submission as a PDF or Microsoft Word document to
CPLconsultation@linz.govt.nz
- Mailing your submission to:

Crown Pastoral Land Consultation
Land Information New Zealand
PO Box 5501
Wellington 6145
New Zealand

Contact for queries

Please direct any queries to: CPLconsultation@linz.govt.nz.

Use of information

The information provided in submissions will be used to inform the development of a Commissioner Standard. Submitters may be contacted directly if clarification of any matters in submissions is required.

LINZ will publish a summary of submissions

A summary of submissions will be published on the LINZ website at www.linz.govt.nz.

LINZ will consider you to have consented to the publishing of your submission by making a submission, unless you clearly specify otherwise in your submission.

All submissions are subject to the Official Information Act 1982. Please clearly identify any information that you wish to remain confidential and give reasons for your request. LINZ will take this into account when making an assessment about the release of submissions under the Official Information Act 1982.

If your submission contains confidential information, please indicate this on the front of the submission. Any confidential information should be clearly marked within the text. If you wish to provide a submission containing confidential information, please provide a separate version excluding the relevant information for publication on our website.

Private information

The Privacy Act 2020 establishes certain principles with respect to the collection, use and disclosure of information about individuals by various agencies. Any personal information you supply to LINZ in your submission will only be used for the purpose of assisting in the development of the Commissioner Standard. Please clearly indicate in the cover letter or email accompanying your submission if you do not wish your name, or any other personal information, to be included in any summary of submissions that LINZ may publish.

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Overview of Draft Standard

100S(1) - The Commissioner may set standards and issue directives in relation to the administration of pastoral land and its inherent values, including monitoring the state of the land.

Why is this standard required?

The Draft Standard is required to support the administration of Crown pastoral land when the Commissioner is assessing easement, transfer and sublease applications affecting Crown pastoral land. It sets out minimum information requirements and supports new public access considerations.

Minimum Information

Amendments made to Land Act relating to applications for easements over or under Crown pastoral land (**Section 60**) and the transfer or sublease of Crown pastoral land (**Section 89**) require the Commissioner to undertake new considerations which need certain information. The Draft Standard is intended to provide certainty and transparency to all parties on what relevant information may be required from both applicants and Toitū Te Whenua LINZ.

Some of the information requirements in the Draft Standard are carried over from existing [LINZ Standard LINZS45002](#) and are included so all information requirements are published in one location.

Public Access Considerations

New **subsection 89(2C) of the Land Act** empowers the Commissioner to issue a standard under **section 100S of the CPLA** to give effect to new public access considerations.

The Draft Standard is intended to support the identification and assessment of refused requests for public access when determining whether to consent to the transfer or sublease of pastoral land under **section 89 of the Land Act**. This is to help determine whether those refusals were unreasonable (**subsection 89(2a)**) and provide certainty and transparency on how any negotiation conditions will be imposed and implemented whenever the Commissioner chooses to exercise their power to do so (**subsection 89(2B)**).

Consultation and Publication

- Consultation with iwi, lessees and the Director General of Conservation is required under new **subsection 100S(3)(a) of the CPLA** before the Commissioner publishes any Standard.

- The Draft Commissioner’s Standard must be published on Toitū Te Whenua LINZ’s website for the public to provide feedback, as required under new **subsection 100S(3)(a) of the CPLA** before the Commissioner finalises any standard.

Outline of Draft Standard

The following information is intended to help outline what each clause in the Draft Standard relates to. The Draft Standard should be read alongside this information.

Easement Applications

The draft Commissioner’s Standard proposes a **Subpart 1 – Easements over or under Crown pastoral land** to set out what information is required by the Commissioner to make a decision on an easement application under **section 60 of the Land Act**. This subpart is broken down into three clauses.

Clause	Description
6 – Easement Applications	<p>This clause sets out the minimum relevant information that should be provided to the Commissioner to enable them to make a decision on an easement application over or under Crown pastoral land.</p> <p>To give effect to new subsection 60(5) of the Land Act, this clause also sets out information to help determine if the easement:</p> <ul style="list-style-type: none"> • is reasonably necessary for achieving the outcomes of the applicant; and • achieves the outcomes set out in new section 4 of the CPLA. <p>The other information requirements set out in clause 6 (applicant’s details, proposed easement, written agreements etc.) have come from the existing requirements in LINZS45002. This will keep all information requirements published in a single location for ease of access and transparency for all parties.</p>
7 – Applications that lack required information	<p>This clause sets out when the Commissioner will pause consideration of an easement application while they await further information. They may request additional information in writing and pause consideration of the application until that information is provided within a set timeframe. This makes it transparent that decisions are only made when all relevant information requested is provided.</p>

Clause	Description
	This would apply to requests from applicants, Toitū Te Whenua LINZ, or other party that information has been requested from by the Commissioner.
8 – Consideration of Easement Applications	<p>This clause sets out what information the Commissioner will seek from Toitū Te Whenua LINZ while considering an easement application. This is based off existing requirements in LINZS45002. This will keep all information requirements for easement applications published in a single location for ease of access and transparency for all parties.</p> <p>This clause also includes a notice to be sent to affected lessees by Toitū Te Whenua LINZ in Schedule 1 of the Standard. This is to ensure that lessees are well informed of any easement application received which affects their lease or licence.</p>

Transfer and Sublease Applications

The draft Commissioner’s Standard proposes a **Subpart 2 – Transfers and subleases of Crown pastoral land** to set out what information is required by the Commissioner to make a decision on a transfer or sublease application under **section 89 of the Land Act**. This subpart is broken down into three sections:

Clause	Description
10 – Transfer and sublease applications	<p>This clause sets out the minimum relevant information that should be provided to the Commissioner to enable them to make a decision on any application to transfer or sublease Crown pastoral land.</p> <p>To give effect to new subsection 89(2A) of the Land Act, this clause sets out information needed by the Commissioner to help them determine whether any requests for public access have been unreasonably refused. This includes information on the views of interested parties provided to the Commissioner by Toitū Te Whenua LINZ before they decide whether the refusal was unreasonable.</p> <p>The other information requirements set out in clause 10 (applicant’s details, proposed easement, written agreements etc.) are based off existing requirements in LINZS45002. This will keep all information requirements published in a single location for ease of access and transparency for all parties.</p>

Clause	Description
<p>11 – Applications that lack required information</p>	<p>This clause sets out when the Commissioner will pause consideration of a transfer or sublease application while they await further information. They may request additional information in writing and pause consideration of the application until that information is provided within a set timeframe. This makes it transparent that decisions are only made when all relevant information requested is provided.</p> <p>This would apply to requests from applicants, Toitū Te Whenua LINZ, or other party that information has been requested from by the Commissioner.</p>
<p>12 – Requests for public access</p>	<p>This clause sets out a negotiation consent condition and approach in Schedule 2 of the Standard to follow for resolving public access request disputes and give effect to new subsection 89(2B) of the Land Act. This would help ensure the process is transparent for all parties and consistent across the Crown pastoral estate. It would only come into effect if the Commissioner imposed a condition of consent and only come into force when the transfer or subleases is.</p> <p>Where a sublease is granted, both the sublessee and the lessee or licensee would be involved in the negotiation process.</p> <p>It also set outs criteria that any claims of unreasonable refusal of public access must be supported by evidence and that any disagreements over the evidence are resolved.</p>