

# TENURE REVIEW: A DETAILED GUIDE

CROWN PASTORAL LAND



# Introduction

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**This booklet provides a summary of the tenure review process for pastoral lessees.**

In this guide, you will find:

- information about the main stages of tenure review
- information on the roles of the main parties involved in tenure review
- explanations of technical terms
- explanations of the legal steps involved in tenure review and how they affect you as lessee.

Tenure review is a legal process so we recommend you seek independent legal advice throughout your review.

Additional information about tenure review is available on the LINZ website at [www.linz.govt.nz](http://www.linz.govt.nz)

# What is tenure review?

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**Tenure review is a voluntary process that provides an opportunity for you to gain freehold title to part of your leasehold land, and for some of the land to be restored to full Crown ownership, usually as conservation land managed by the Department of Conservation (DOC).**

Tenure review proposals (under the Crown Pastoral Land Act 1998) must sufficiently protect the 'significant inherent values' of the land. These include biodiversity, wetlands, waterways and landscapes, as well as historic, cultural, recreational, ecological and scientific values. Significant inherent values are normally protected by restoring the land concerned to full Crown ownership and control, or by creating covenants over the land to be freeholded. Tenure review proposals must also take into account public access.



# Outcomes

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**Each tenure review follows the same process but may have different results. A successful tenure review provides a balance of outcomes. Land that is capable of economic use is freeholded, 'significant inherent values' are protected, and public access and recreation opportunities are created.**

Usually, a substantive proposal will reserve some of the land from a particular lease for conservation with the rest to be freeholded.

How much land you receive as freehold and how much is restored to the Crown is determined after:

- consultation with you
- a DOC evaluation of the leasehold land to identify significant inherent values
- consultation with Fish & Game New Zealand (Fish & Game)
- analysis of public submissions received following advertising of a preliminary proposal agreed between you and the Crown
- consultation with iwi.

You are consulted throughout the review and all the documents produced, including the results of DOC's evaluation, are made available to you. The final decision on tenure review will only be implemented once you have accepted the final proposal.

# Roles

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## LINZ's role

The Commissioner of Crown Lands (the Commissioner), an independent statutory officer, administers Crown pastoral land under the Land Act 1948 and Crown Pastoral Land Act 1998.

LINZ manages the tenure review process under the Crown Pastoral Land Act 1998, on behalf of the Commissioner. We make sure the process is followed correctly and that the best information is available to all parties to ensure the right outcome.

## Role of LINZ's service provider

We may engage a service provider to undertake aspects of the review. The service provider will assist your LINZ Portfolio Manager to provide you with relevant information at times throughout the review. Service providers carry out tenure review functions to the standard required by LINZ.

Service providers **do not** make any of the decisions required for a tenure review. The Commissioner is the only person with the authority to make statutory decisions on a tenure review proposal under the Crown Pastoral Land Act 1998.

## Your role

Tenure review is voluntary for you as the lessee. It is also consultative and involves your input, as well as input from DOC, iwi, Fish & Game and the public.

It's important at an early stage to be aware that you may have legal obligations under the Overseas Investment Act 2005 and the Overseas Investment Regulations 2005. You should get advice as to whether these obligations apply to you.

You will also need to maintain good lease management and stewardship of the land, in accordance with your lease requirements, throughout the tenure review and its implementation phase.

# Invitation to undertake tenure review

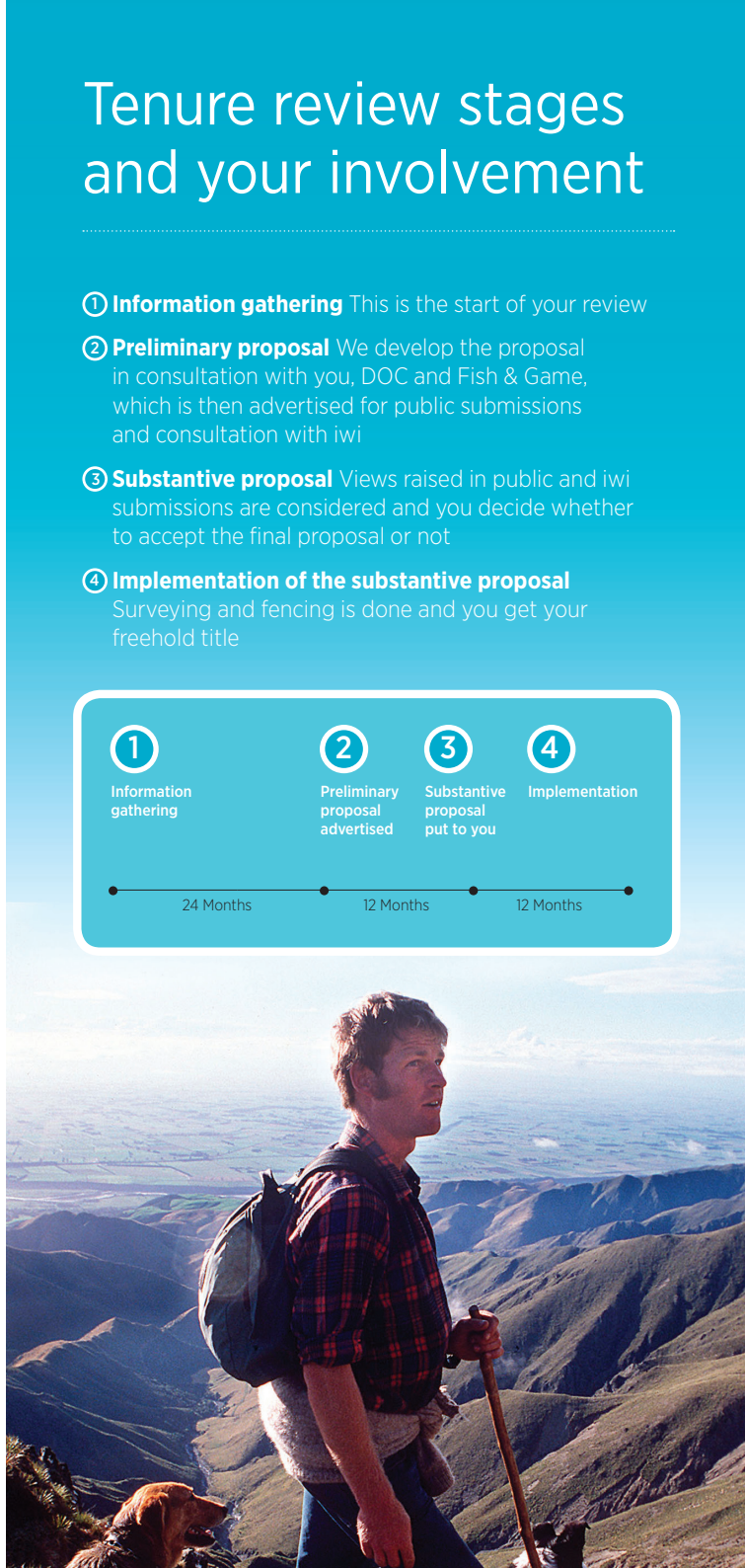
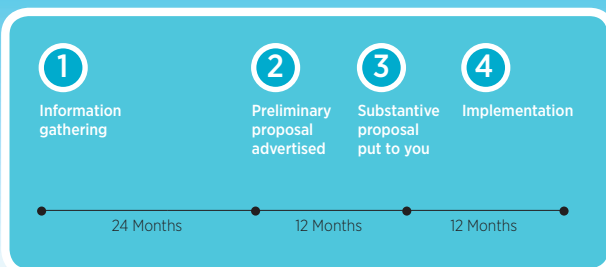
**If you wish to undertake tenure review you should contact your LINZ Portfolio Manager, who will give you a copy of an invitation form and any relevant information.**

We consult the Director-General of Conservation as part of the process of accepting your invitation, and we also look at including neighbouring land in your review. We will then advise you of the Commissioner's decision on whether a tenure review will be undertaken.

**Please note** that your pastoral lease remains in full force during a tenure review, and you must meet your obligations as a lessee until the process is complete and a freehold title has been issued.

# Tenure review stages and your involvement

- ① **Information gathering** This is the start of your review
- ② **Preliminary proposal** We develop the proposal in consultation with you, DOC and Fish & Game, which is then advertised for public submissions and consultation with iwi
- ③ **Substantive proposal** Views raised in public and iwi submissions are considered and you decide whether to accept the final proposal or not
- ④ **Implementation of the substantive proposal** Surveying and fencing is done and you get your freehold title

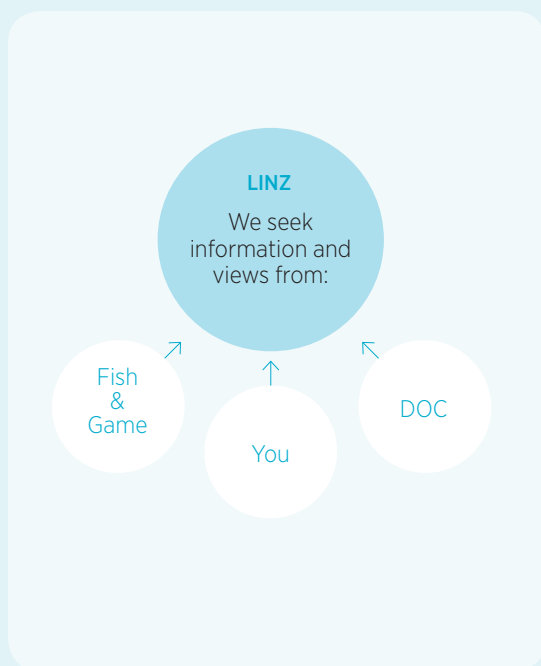


## 1 Information gathering

At the outset of the tenure review it is important for LINZ to obtain all relevant information associated with the land being reviewed.

## 2 Preliminary proposal

Information and views are sought from you as lessee, DOC and Fish & Game. DOC evaluates your leasehold land and writes a report outlining conservation values ('significant inherent values') on the land.



All feedback and other information is used to produce a preliminary proposal for the land. This proposal will generally divide the land into freehold and conservation sections and show public access routes. These proposed sections are called 'designations'.

Once the Commissioner is satisfied that the preliminary proposal is complete, it will be put to you for consideration.

**Plan:** In the preliminary proposal you will see:

- which sections of the lease could go back to the Crown
- which sections could be owned by you
- which sections of the Crown land you could be allowed to use with special permission
- proposed public access routes.

**Payments:** Tenure review requires an exchange of payments. A notice will be provided to you with the preliminary proposal. This notice will record the current market values of the pastoral lease held by you and the land proposed to be freehold to you.

The difference between these figures is the amount you could expect to pay or receive from the Crown. This can be referred to as an 'equality of exchange'. This notice will not be publicly advertised.

**Public submissions:** Once the preliminary proposal has been put to you by the Commissioner, you acknowledge it and it is advertised for public submissions in local newspapers and on LINZ's website. The local iwi authority is also consulted at this time.

### 3 Substantive proposal

We consider all of the public and iwi submissions and how they might affect the preliminary proposal for your leasehold land. The Commissioner will advise the Minister of Conservation on the extent to which these submissions are accepted. Copies of all public submissions and the Commissioner's analysis are posted on our website.

We then consult with DOC to develop a substantive proposal incorporating any changes resulting from submissions. We will work through any proposed changes with you. We also seek agreement from the Minister of Conservation to any special conditions or concessions attached to the land granted under the Conservation Act 1987 or Reserves Act 1977.

We seek the approval of the Minister for Land Information to fund the substantive proposal and then we seek approval from the Commissioner to put the substantive proposal to you. If we get these approvals, the substantive proposal will be sent to you, along with a notice updating the amounts to be paid.

You then decide whether to accept the substantive proposal.

#### Extra notes

**Your actions:** You have three months from when you receive the substantive proposal to decide whether or not to accept it. If you want to go ahead, you need to check that anyone else with an interest in the land (for example your bank, the regional council etc) agrees to you accepting the proposal. You need them to sign the appropriate section of the proposal to prove that they have consented.

Once you have all the appropriate consents, you can sign the proposal yourself and send it back to LINZ. You need to be aware that once you've done that, there will be an irrevocable and binding contract between you and LINZ. If you do not gather **all** of the appropriate consents and return the form within this three month timeframe, you will be deemed to have rejected the proposal.

**If you turn the proposal down:** Let us know if you decide that you do not want to accept the substantive proposal. As explained above, if we do not receive notification from you within the three month timeframe, you will be deemed to have rejected the proposal.

We recommend you seek your own, independent legal advice when considering the substantive proposal.

## 4 Implementation

**Summary:** The timeframe for implementing substantive proposals depends on the completion of a number of steps including surveying and fencing the land. Given the large areas of land involved and seasonal weather factors, it can take up to 12 months to complete this process.

At the end of the process you get your freehold title and land is restored to the Crown. Depending on the terms of settlement, you may be required to pay, or will be paid by, the Crown.

You have to pick up all your own costs for legal or other professional advice during tenure review. We strongly recommend that you seek independent advice.

**Substantive proposal becomes public:** If you accept the substantive proposal we check that you have obtained all of the appropriate consents. We then register a notice on every leasehold or other title to which the substantive proposal relates in Landonline – LINZ's digital title and survey plan system. That notice will show the area of freehold land to be owned by you and the area that will be restored to the Crown.

**Surveying and fencing of land:** The next step is for LINZ's Surveyor-General to decide whether any of the land needs to be surveyed. Once any required survey is completed, the Surveyor-General needs to be satisfied that the proposed boundaries of the land shown on the plan included in the proposal – both the freehold and Crown parts – match the defined boundaries shown on the final plan. We then seek approval from the Surveyor-General of the final plan.

**Getting your title:** LINZ updates the final legal documents and obtains signatures for any rights of way and grazing concessions. Once your payment for your freehold land has been received, we will issue your freehold title.

**Settlement notes:** Settlement day is a specified number of working days after the day the final plan and proposal are registered. You must pay for your freehold land by 3pm on the day of settlement, by bank cheque.

# Supporting information

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## Timeframes

The timeframe for tenure review varies, with some reviews taking four years, and others taking longer. It all depends on a number of factors ranging from the time it takes for consultation between parties to the weather conditions needed for survey and fencing. Discussion of timeframes will take place at each stage of your review.

Please be aware that we require a level of commitment from you as the lessee to complete the tenure review and that any agreed timeframes for responses will be met.

## Covenants

Covenants are one of the tools that can be applied to land that is freehold through tenure review. They may be appropriate to protect conservation values, for example, or to address land degradation. Whether a covenant is appropriate will depend on the tenure review in question, and is considered on a case-by-case basis.

## Transfer of lease

Please note that tenure review is personal to you, the lessee. This means that the tenure review comes to an end if you transfer the lease to another party. Any further tenure review of the lease can only be initiated on the invitation of the new lessee.

This means you cannot sell your lease on the basis that it is 'in tenure review'.

## Marginal strips

When we dispose of any land, marginal strips may be created along the edges of certain waterbodies under the Conservation Act 1987. The Crown is the owner of these strips, which are administered by DOC.

This process is not part of the tenure review process and marginal strips will not be identified on designation plans or in the proposals put to you. As part of the implementation phase described above, we undertake a separate assessment for the land to be freeholded and will advise you if and where marginal strips will be created.

## Your rights and our rights

Tenure review is voluntary for you and the Commissioner. You can decide to withdraw from tenure review at any stage. The Commissioner may also discontinue or withdraw from a tenure review – either temporarily or permanently – at any time, including where the Commissioner considers that there will be insufficient funds to complete the review.

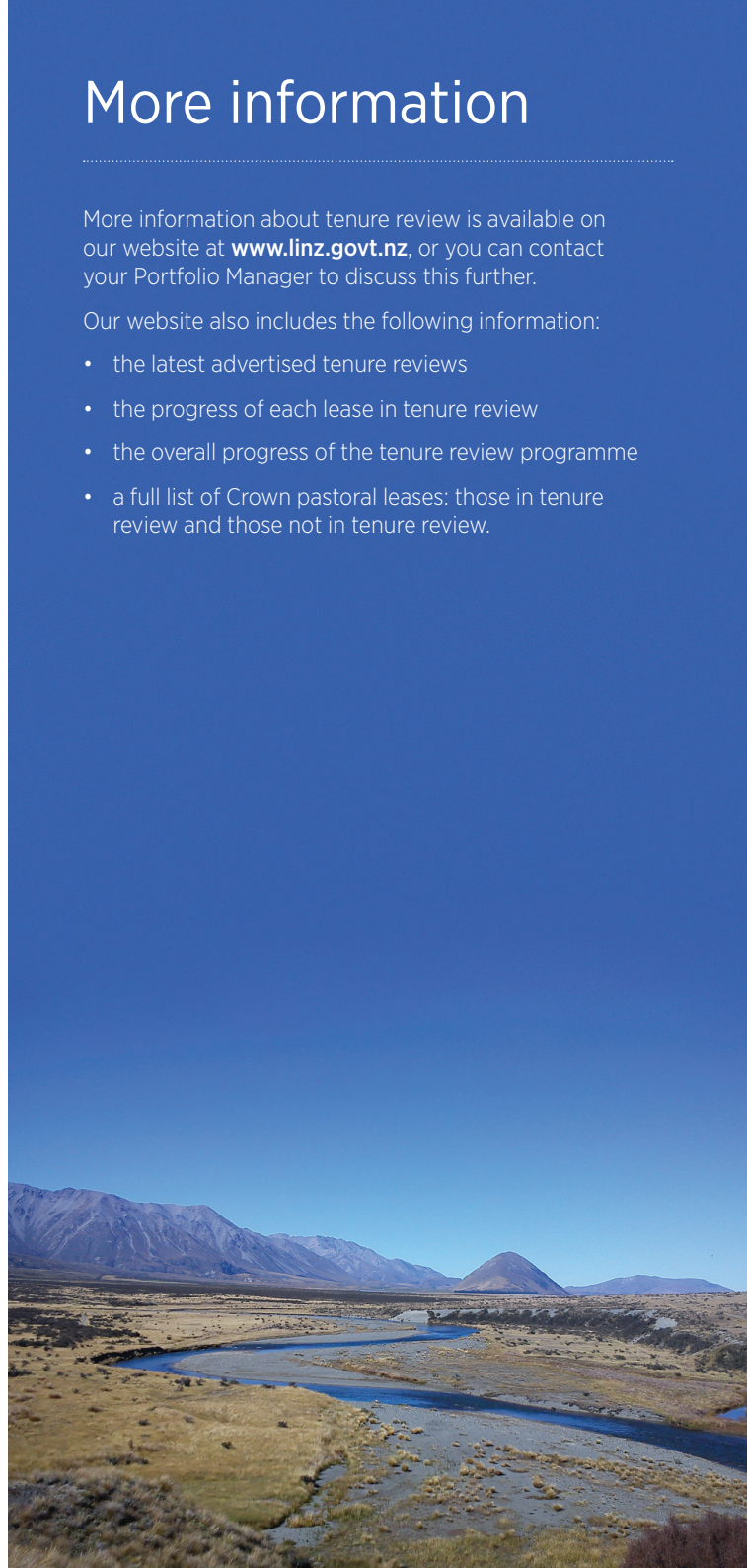
# More information

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More information about tenure review is available on our website at [www.linz.govt.nz](http://www.linz.govt.nz), or you can contact your Portfolio Manager to discuss this further.

Our website also includes the following information:

- the latest advertised tenure reviews
- the progress of each lease in tenure review
- the overall progress of the tenure review programme
- a full list of Crown pastoral leases: those in tenure review and those not in tenure review.



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