

# Navigating the Consenting Process

This is a simplified overview of the consenting process for Crown pastoral land following amendments made by the **Crown Pastoral Land Reform Act 2022**. It shows where the proposed **regulations** and draft **standards** being consulted on would interact with and support the consenting process.

More detailed guidance and policies will be released once regulations and standards have been finalised and *Gazetted*.

## Step One - Prepare

The first step is to check new **Schedule 1AB** to see whether an activity is permitted, prohibited or requires consent. This replaces the list in the [1999 Minor Activity Letter](#) which has now been revoked. No application is needed for any permitted activities.

**Information Required** – If consent is needed, applicants will need to provide the relevant information required by **regulations** or the **Commissioner's Standard** depending on the activity. Many of these come from current [LINZS45002](#) and LINZ will provide an application form to guide applicants through these requirements.

**Sufficient Information** – Before the Commissioner considers an application, they will decide whether it includes enough information to assess it as required by new [section 9](#). The **Chief Executive's Standard** sets out the criteria the Commissioner will use to decide whether the information is sufficient or further information is required.

## Step Two - Submit

The second step is to submit the application to the Commissioner. This will continue to be done through the Portfolio Manager assigned to the lease or licence. The Commissioner will then review the application to see whether it includes *Sufficient Information* by using the **Chief Executive's Standard**.

**If sufficient information** – If the Commissioner is satisfied that they have enough information to enable them to assess the application, they will send a notice of decision accepting the application under new [section 9\(1\)](#).

- Progress to **Step Three**

**If insufficient information** – If the Commissioner is not satisfied that they have enough information from the applicant, then they may either decline to consider the application or request further information under new [section 9\(2\)](#). When the Commissioner requests further information, they will do so in writing and set out a timeframe for the applicant to provide the information as required by the **Chief Executive's Standard**. If the requested information is not provided in time, the Commissioner may decline the application.

- Aggrieved parties can request a *rehearing* under [section 17 of the Land Act](#).

## Step Three – Consult & Report

The third step is to consider the application by gathering information and advice from iwi, experts such as service providers, and other relevant parties. LINZ will undertake this process on behalf of the Commissioner. The Portfolio Manager will make a recommendation to the Commissioner setting out all the information and advice gathered.

**Gathering Information** - The Portfolio Manager will gather information on the following topics required to assess the application against the CPLA and secondary legislation:

| Subject                            | CPLA Section                         | Secondary Legislation      |
|------------------------------------|--------------------------------------|----------------------------|
| Identify Inherent Values           | <a href="#">Section 10(4)(a)(i)</a>  | Chief Executive's Standard |
| Assess Level of Effects            | <a href="#">Section 10(4)(a)(ii)</a> | Regulations                |
| Assess Reasonable Alternatives     | <a href="#">Section 10(4)(a)(ii)</a> | Chief Executive's Standard |
| Potential Considerations           | <a href="#">Sections 10(4)((b-g)</a> | -                          |
| No more than minor adverse effects | <a href="#">Sections 11 and 12</a>   | Chief Executive's Standard |

**Advice & Consultation** – During this time the Commissioner will also seek any additional advice they think is necessary and undertake consultation as required. New [section 10\(3\)](#) continues the requirement for the Commissioner to consult the Director-General of Conservation. New [section 5\(1\)](#) also creates new opportunities for iwi to include their perspective into the Commissioner's decision-making.

**Requirements on LINZ** – The **Commissioner's Standard** will require LINZ to arrange additional information:

- Easements - independent valuation report to help determine lessee's compensation under existing [section 60\(1\) of the Land Act](#).
- Transfers & Subleases - a summary of the views of different parties to help determine whether any past requests for public access were *unreasonably refused* under new [section 89\(2A\) of the Land Act](#).

## Step Four – Decide

The fourth step is for the Commissioner to make their decision on whether or not to grant the application under new [section 10\(2\)](#). During this stage the Commissioner will review the Portfolio Manager's recommendation on the application, the different views gathered and consider whether the application satisfies the decision-making criteria under [sections 11 \(Discretionary Activities\) and 12 \(Commercial Recreation Permits\)](#).

Where an application fails to meet the discretionary activity criteria because it has *more than minor effects* after actions have been taken to avoid, remedy or mitigate the effects, then the Commissioner will consider whether the application satisfies new [Schedule](#)

**1ABA** which sets out the conditions where an activity with more than minor effects can be granted consent.

**If Granted (wholly or in part)** – The applicant will receive a notice of decision outlining that their application has been granted (wholly or in part) and setting out any conditions of consent that the Commissioner has decided to impose.

**If Declined** – The applicant will receive a notice of decision outlining that their application has been declined and the reasons for this decision.

- Aggrieved parties can request a **rehearing** under **section 17 of the Land Act**.

## Step Five – Publish

The fifth step is for the Commissioner to publish a summary of their decision on the application under new **section 22D(1)(a)**. This will be done on the LINZ website and will set out the lease or licence name, the applicants name, the activity type consented to, whether it was granted in full, granted in part or decline, and any conditions imposed.

Where a decision is the subject of a **rehearing**, then it will not be published until that rehearing has concluded. Any decision made during a **rehearing** will also be published under new **section 22D(1)(b)**.

## Ongoing – Monitor

Once the consenting process has concluded and an application is granted, then LINZ will continue to monitor that consent and its conditions on behalf of the Commissioner. This is currently undertaken by Portfolio Managers on behalf of the Commissioner.

New **section 22B** makes monitoring for compliance a requirement on the Commissioner. Where non-compliance is identified, then the Commissioner and the Chief Executive have several responses available to them.

More information on the below responses will be made available on this in the coming months, but **regulations** currently be consulted on do relate to some of these.

| Response                | CPLA Sections                   | Secondary Legislation |
|-------------------------|---------------------------------|-----------------------|
| Written Notice          | <u>Section 100A(2)</u>          | -                     |
| Enforceable Undertaking | <u>Sections 100B &amp; 100C</u> | Regulations           |
| Cost Recovery           | <u>Section 100A(1)</u>          | -                     |
| Court Order             | <u>Section 100N</u>             | -                     |
| Infringement            | <u>Sections 100D to 100M</u>    | Regulations           |

# The Consenting Process

