

LINZG20709

Guideline for registration under the Crown Pastoral Land Act 1998

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TERMS AND DEFINITIONS

Term/Abbreviation	Definition
CCL	Commissioner of Crown Lands
CPLA	Crown Pastoral Land Act 1998
<i>Gazette</i>	New Zealand Gazette Te Kāhiti o Aotearoa , the official newspaper of the Government of New Zealand
Holder	as defined in section 2 of the CPLA
LTA	Land Transfer Act 2017
Record of Title	as defined in section 5 of the LTA
Register	as defined in section 5 of the LTA
RGL	Registrar-General of Land
SG	Surveyor-General

FOREWORD

Purpose of guideline

The preamble to the Crown Pastoral Land Act 1998 (CPLA) states that it is:

“An Act—

- (a) To establish a system for reviewing the tenure of Crown land held under certain perpetually renewable leases; and
- (b) To establish a system for determining how Crown land formerly held under pastoral occupation licence, and certain other Crown land, should be dealt with; and
- (c) Otherwise to provide for the administration of Crown pastoral land”.

This guideline provides guidance on the land title registration aspects of the tenure review process.

Rationale for guideline

Toitū Te Whenua LINZ is tasked with meeting the Government’s desired economic, social, and environmental outcomes in relation to its mandated subject areas. Accordingly, end outcomes, intermediate outcomes, objectives, and sub-objectives have been developed to clearly articulate the regulatory framework for each subject area.

A risk-based approach is then used to determine the optimum level of intervention. If there is a high risk of not achieving an objective or sub-objective, then, generally, a high level of intervention is required. Similarly, a low risk of not achieving an objective or sub-objective means a low level of intervention is necessary. The desired intervention is then developed to manage the identified risks and thereby achieve the relevant sub-objectives, objectives and, therefore, the outcome.

This guideline has been developed to mitigate the risk of not achieving the following end outcome and objectives:

End outcome	Objectives
Registered land owners or right holders have confidence that their rights are secure	<ul style="list-style-type: none">• Transactions are completely and accurately entered and maintained in the Register• Only legally valid (for registration) types of transactions are registered

Brief history of guideline

This guideline supersedes *RGL Guideline 17.0: Crown Pastoral Land Act 1998 Registration Guidelines*, published 21 November 2001.

References

This guideline should be read in conjunction with the [Crown Pastoral Land Act 1998](#).

1 INTRODUCTION AND SCOPE

The tenure review process is governed by the CPLA. At certain points during the tenure review process, documents must be presented for registration in the Register.

1.1 Scope and objectives

This guideline is limited in scope to the land title registration aspects of the tenure review process. It is designed to aid compliance with the requirements of the CPLA by providing guidance on:

- (a) what should be included in documentation presented to Toitū Te Whenua LINZ for registration under the CPLA, and
- (b) what the Register should show when CPLA documentation is registered.

1.2 Intended use of guideline

It is intended that this guideline be used by:

- (a) persons authorised to prepare documentation for registration under the CPLA, and
- (b) persons with delegated authority to undertake registration functions on behalf of the RGL under the LTA.

2 SECTION 61 OF THE CPLA: REGISTRATION OF A NOTICE OF ACCEPTANCE OF A SUBSTANTIVE PROPOSAL

2.1 Contents of a notice under section 61 of the CPLA

- (a) A notice that contains the following would ordinarily comply with the requirements set out in s 61(2) of the CPLA:
 - (i) the unique identifier/reference for the affected Record of Title or lease, and
 - (ii) if the proposal includes leasehold land outside the pastoral lease, an illustrative diagram of the land showing how the land is designated, i.e. freehold or Crown estate.

If such a diagram is included and the lease is specified in the notice, the validity of the notice is not affected by any misdescription of the land. (See s 61(3) of the CPLA for more information.)

- (b) Section 61(1) of the CPLA requires that the notice be signed by the Commissioner of Crown Lands (CCL) and that it contains a description of the proposal in general terms. A suitable lodgement form for a notice under s 61 of the CPLA is provided in Appendix A.

2.2 Form of a memorial on the Record of Title under section 61 of the CPLA

Section 61(2) of the CPLA requires the RGL to register each notice against the Record of Title for the subject land. Appendix B gives an example of a format for the memorial that records that registration.

2.3 Notes regarding registration of a notice under section 61 of the CPLA

- (a) Only the CCL or a person acting under delegated authority may sign the notice.
- (b) A caveat or other stop on the Register does not prevent registration of the notice as the notice does not purport to deal with or affect any estate or interest in the land.
- (c) It is important to remember s 61(5) of the CPLA. This means that the notice should not be lodged for registration if another dealing acquiring an estate or an interest in the land, e.g. a *Gazette* notice acquiring land for roading, has been registered after the date of acceptance of the proposal and before the date of lodgement of the s 61 notice.

3 SECTION 64 OF THE CPLA: REGISTRATION OF THE SUBSTANTIVE PROPOSAL AND THE APPROVED PLAN

3.1 Contents of a lodgement form for the purposes of section 64 of the CPLA

- (a) Registration of the substantive proposal and approved plan will be permissible if those documents are lodged with the following information:
 - (i) the unique identifier/reference number for the affected Record of Title or lease,
 - (ii) references to the areas specified on the final plan and their designations, and
 - (iii) details of any lease, easement, or permit that is to continue or be granted or created.
- (b) All land affected by the proposal is recorded in the Register, e.g. unregistered *Gazette* notices for reserve or other land included in the proposal must be registered prior to lodgement of the proposal.
- (c) A suitable lodgement form for registration of the substantive proposal with the approved plan is provided in Appendix C.

3.2 Form of a memorial on the Record of Title under section 64 of the CPLA

Section 64 of the CPLA requires the RGL to register the substantive proposal and approved plan against the Register. Appendix B gives an example of a format for the memorial that records that registration.

3.3 Notes regarding registration of the substantive proposal and approved plan

- (a) Only one copy of the substantive proposal has to be lodged. This applies even where the land affected by a substantive proposal is split between two land registries.
- (b) Only the CCL or a person acting under delegated authority may sign the substantive proposal.
- (c) A photocopy of the original substantive proposal is sufficient for registration if it has been certified as a true copy by the CCL.
- (d) Section 63 of the CPLA requires that the Surveyor-General's (SG's) approval of the final plan is shown by a notice stating that the plan is approved for the purposes of the CPLA. The notice is signed and dated by or under delegation from the SG.
- (e) A caveat, notice of claim, or any other stop on the Register prevents the registration of the substantive proposal and approved plan, unless the substantive proposal and approved plan is lodged for registration with the consent of the caveator pursuant to s 145 of the LTA, or is otherwise consented to by the person with the benefit of the stop on the Register.
- (f) Any parts of the lease not restored to Crown ownership continue in force for the purposes of registration. This means that memorials on both the current and historic view of the Record of Title for the lease should be entered.
- (g) The registration of a substantive proposal and approved plan designating land does not constitute a subdivision for the purposes of the Resource Management Act 1991 (s 96 of the CPLA).
- (h) As part of the substantive proposal process, the Holder will have obtained the consent of any other person who has an interest in the land. There is no requirement for that consent to be registered, but it forms part of the Holder's notice of acceptance to the CCL.

4 SECTION 65 OF THE CPLA: EFFECT OF REGISTRATION OF APPROVED PLAN IN RELATION TO LAND DESIGNATED TO BE RESTORED TO CROWN OWNERSHIP

Section 65 of the CPLA provides that land designated to be restored to Crown ownership vests in the Crown when the final plan and the substantive proposal are registered. The land can vest subject to interests which have been created or granted under the substantive proposal.

4.1 Registration of interests created or granted under substantive proposal

- (a) A substantive proposal can create or grant a special lease, grazing permit, or easement agreed between the parties. If applicable, the documents necessary to register these will accompany the substantive proposal.

- (b) Any covenant registered for the purposes of s 27 of the Conservation Act 1987 and s 77 of the Reserves Act 1977 must be supported by the documentation required by those Acts.
- (c) Any easement over a conservation area registered for the purposes of s 17ZA of the Conservation Act 1987 must be supported by the documentation required by that section. Section 34 of the LTA does not apply to such an easement so it need not be signed correct for the purposes of that section.
- (d) Section 80 of the CPLA sets out certain cases where the CCL is deemed to be the owner of the land for the purposes of creating easements and covenants. This means that the CCL is authorised to execute those protection mechanisms as if the CCL were the owner of the designated land.

4.2 Crown may order a Record of Title

- (a) The Crown has the power to order a Record of Title for the land that has been vested in Her Majesty the Queen for the purposes of s 60F of the Conservation Act 1987 or s 116 of the Reserves Act 1977. These Acts require the Minister of Conservation, or a delegate of the Minister, to sign the application for the Record of Title. The standard of survey definition must be adequate to support the issue of an ordinary title. An exception is for land classified as a reserve under s 116 of the Reserves Act 1977, in which case a limited title may be issued.
- (b) The CPLA does not provide for a Record of Title under the LTA to be created upon registration of an approved plan. However, a Record of Title may be created for a notice containing a classification or reclassification of the land which has been published in the *Gazette* and registered in a Land Registry Office.

4.3 Form of a memorial on the Record of Title under section 65 of the CPLA

The RGL is required to enter a memorial specifying the effect of the vesting on the relevant Record of Title. Appendix B gives some examples of formats for the memorial.

5 SECTION 69 OF THE CPLA: REGISTRATION OF FREEHOLD DISPOSAL TO HOLDER

- (a) Once the approved final plan has been registered, s 69(1) of the CPLA requires the CCL to dispose of the land designated for freehold disposal to the Holder.
- (b) Section 69(2) of the CPLA states that the existing lease or licence continues in force until a Record of Title or a new registered lease is issued for the land concerned and is then deemed to have been surrendered.
- (c) When the Record of Title is issued or a new lease registered, the surrender should be noted on the Record of Title for the lease or licence.

5.1 Form of a memorial on the Record of Title under section 69(2) of the CPLA

The RGL is required to enter a memorial specifying the effect of the surrender on the relevant Record of Title. Appendix B gives an example of a format for the memorial that records that registration.

5.2 Notes on freehold disposal to the Holder

- (a) A Record of Title is issued to the Holder specified in the substantive proposal when the CCL lodges for registration a certificate pursuant to s 116 of the Land Act 1948. The certificate will be made subject to:
 - (i) s 11 of the Crown Minerals Act 1991,
 - (ii) any existing easements/covenants, and
 - (iii) any new easements required under the substantive proposal.
- (b) Before a Record of Title is issued, any interests not protected by virtue of s 114 of the Land Act 1948 will be discharged. Where any such protected interests are to remain on the Record of Title, it will be necessary to obtain the consent of the persons with the benefit of such interests to the creation of any new easements and covenants to be registered against the Record of Title required under the substantive proposal.
- (c) Any new easements required under the substantive proposal will be lodged in the same dealing.
- (d) After all the interests set out in the certificate under s 116 of the Land Act 1948 are registered, the Record of Title is available for registration of other documents, e.g. mortgages and caveats from those persons who discharged or withdrew them from the pastoral lease.

5.3 Land not designated for freehold disposal to Holder

Section 69(3) of the CPLA provides for the disposal of designated land to any person other than the Holder. In this scenario, the surrender of the lease or licence should be noted on the Record of Title on registration of the approved plan.

6 PART 3 OF THE CPLA: REVIEWS OF OTHER CROWN LAND

- (a) Part 3 of the CPLA makes provision for reviews of other Crown Land.
- (b) The registration requirements apply to a substantive proposal under Part 3 of the CPLA as if it were a substantive proposal under Part 2 of the CPLA (s 90 of the CPLA).
- (c) See Part 3 of the CPLA for more information about reviews of other Crown Land.

7 SECTION 97 OF THE CPLA: SUSTAINABLE MANAGEMENT COVENANTS

7.1 Content of an application for registration of a sustainable management covenant under section 97 of the CPLA

- (a) Registration of a sustainable management covenant under s 97 of the CPLA will be permissible if the application for registration contains the following information:
 - (i) the unique identifier/reference number for the Record of Title or lease;
 - (ii) details of the covenant, and
 - (iii) a reference to s 97 of the CPLA.
- (b) The CCL or a delegate of the CCL is able to sign the notice.

7.2 Form of a memorial on the Record of Title under section 97 of the CPLA

Section 97(3) of the CPLA requires the RGL to register the sustainable management covenant against the Register. Appendix B gives an example of a format for the memorial that records that registration.

8 ORDER OF REGISTRATION

Tenure review documentation may be lodged in the following order, although not necessarily at the same time:

- (a) Notice of acceptance
- (b) Substantive proposal and approved plan
- (c) Discharge of mortgage (if required)
- (d) Certificate under s 116 of the Land Act 1948 (where applicable)
- (e) Order for new certificate of title (where applicable)
- (f) Lease (where applicable)
- (g) Easements, covenants and concessions (as per the requirements of the parties)
- (h) Mortgage (where applicable).

Appendix A: Notice of acceptance of substantive proposal

This form is approved by the Commissioner of Crown Lands and the Registrar-General of Land

NOTICE OF ACCEPTANCE OF SUBSTANTIVE PROPOSAL

Section 61 of the Crown Pastoral Land Act 1998

Land Registration District

BARCODE

Record of Title (unique identifier) All/Part Area/Description of Part

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Holder

Surname(s) must be underlined

Grantee

Commissioner of Crown Lands

Estate or interest affected

Leasehold

NOTICE

The Commissioner of Crown Lands gives notice under section 61 of the Crown Pastoral Land Act 1998 (the Act) that [*insert name*] as the lessee(s) under the Lease on the [] day of [] 200[] accepted, in accordance with section 60 of the Act, a substantive proposal relating to the land in the above Record(s) of Title (the Land).

The substantive proposal provides for the following designations in respect of the Land:

(a) [] hectares (approximately) to be designated as land to be restored to full Crown ownership and control under section [*section number, e.g. 35(2)(a)(i)*] of the Act as [*e.g. conservation area*] as outlined in [*a colour*] on the plan attached as Schedule 1 to this notice.

(b) [] hectares (approximately, as outlined in [*a colour*] on the plan attached as Schedule 1 to this notice) to be designated as land to be disposed of by freehold disposal to the Holder under section 35(3) of the Act, subject to:

- Part IVA of the Conservation Act 1987, and
- section 11 of the Crown Minerals Act 1991.

Dated this day of 200

Attestation

Signature of Commissioner of Crown Lands

Signed in my presence by Commissioner of Crown Lands

Signature of Witness:

Witness name:

Occupation:

Address:

Annexure Schedule

Continuation of notice

NOTICE OF ACCEPTANCE OF SUBSTANTIVE PROPOSAL

Section 61 of the Crown Pastoral Land Act 1998

Dated:

Effect of notice

Every person who, after this notice has been registered, acquires an estate or interest in the land against whose instrument of title it has been registered is bound by the acceptance of the proposal to which it relates to the same extent as the person who accepted the proposal; and the Act has effect accordingly.

All signing parties and either their witnesses or solicitors must sign or initial in this box

Appendix B: Formats for memorials under the CPLA

Entries on the Register should accurately reflect the effect and intent of the CPLA transaction. The following are suggested formats for CPLA memorials.

Section 61 of the CPLA: Notice of acceptance of substantive proposal

Upon registration, a memorial of the notice of acceptance of substantive proposal must be entered in the relevant Record of Title. An appropriate format is set out below.

“[registration number] Notice of acceptance of proposal under section 61 of the Crown Pastoral Land Act 1998 – date/time”

Section 64 of the CPLA: Substantive proposal and final approved plan

Upon registration, a memorial of the substantive proposal and approved plan must be entered in the relevant Record of Title. An appropriate format is set out below.

“[registration number] Substantive proposal and approved plan registered pursuant to section 64 of the Crown Pastoral Land Act 1998 - date/time”

Section 65(1)(e) of the CPLA: Interests discharged or extinguished pursuant to section 65(1)(e)

Where applicable, a memorial should also be entered specifying any interests discharged or extinguished pursuant to s 65(1)(e) of the CPLA. Appropriate formats are set out below.

In respect of a mortgage or charge:

“Pursuant to section 65(1)(e) of the Crown Pastoral Land Act 1998 Mortgage/Charge No. [] is discharged as to the land shown [] on the approved plan registered under No. [] - date/time”

In respect of a lease:

“Pursuant to section 65(1)(e) of the Crown Pastoral Land Act 1998 the within lease is extinguished as to the land shown [] on the approved plan registered under No. [] – date/time”

Section 65 of the CPLA: Land vested in the Crown

A memorial specifying the effect of the vesting should be entered on the relevant Record of Title. The appropriate format is set out below.

Pursuant to section 65(1)(e) of the Crown Pastoral Land Act 1998 the within lease is extinguished as to section [] shown on approved plan registered under No. [] and pursuant to section 65(1) (a)(i) of the Crown Pastoral Land Act vested in Her Majesty the Queen as [status] – date/time”

Section 65 of the CPLA: Land vested in the Crown subject to special lease, permit or easement

A memorial specifying the effect of the vesting should be entered on the relevant Record of Title. The appropriate format is set out below.

“Pursuant to section 65 of the Crown Pastoral Land Act 1998 the land shown [] on the approved plan registered under No. [] is vested in the Crown as [specify status and/or purpose here] subject to [specify any special lease, permit or easement to which the land is subject here] and with the benefit of [specify details of any appurtenant easement here] as provided in the substantive proposal registered under No. [] – date/time”

Section 69(2) of the CPLA: Freehold transfer to Holder and lease/licence surrendered

A memorial specifying the effect of the surrender should be entered on the relevant Record of Title. An appropriate format is set out below.

“Pursuant to section 69(2) of the Crown Pastoral Land Act 1998 the within Lease/Licence is surrendered and this Record of Title is cancelled. See Record of Title [] - date/time”

Section 97 of the CPLA: Sustainable management covenant

Upon receipt of an application for a sustainable management covenant, a memorial must be entered on the relevant Record of Title. An appropriate format is set out below.

“[registration number] Sustainable management covenant under section 97 of the Crown Pastoral Land Act 1998 - date/time”

Appendix C: Application for registration of substantive proposal with final plan

This form is approved by the Commissioner of Crown Lands and the Registrar-General of Land

APPLICATION FOR REGISTRATION OF SUBSTANTIVE PROPOSAL WITH FINAL PLAN

Section 64 of the Crown Pastoral Land Act 1998

Land Registration District

BARCODE

Record of Title (unique identifier) All/Part Area/Description of Part

Record of Title (unique identifier)	All/Part	Area/Description of Part

Holder Surname(s) must be underlined

Grantee

Attached hereto are the:

- 1) substantive proposal, and
- 2) final plan

Final Plan Number

Designations of the Reviewed Land

Designation	Parcel(s) of Land
<p>Schedule One Land (Conservation Area)</p> <p>The parcels of land designated in Schedule One are vested as Crown land as a conservation area together with the benefit of the right of way marked [e.g. Y, Z and SO 123456] upon registration of this application pursuant to section 65 of the Crown Pastoral Land Act 1998, and free of all mortgages, charges, claims, estates and interests not provided for in the substantive proposal pursuant to section 65(1)(e) of the Crown Pastoral Land Act 1998</p>	<p>Section(s):</p> <p>Total Area:</p>
<p>Schedule Two Land [insert designation]</p> <p>The parcels of land designated in Schedule Two are vested as Crown land as:</p>	<p>Section(s):</p> <p>Total Area:</p>
<p>Schedule Three Land (Freehold disposal)</p> <p>The parcels of land designated in Schedule Three for freehold disposal will be disposed of to the Holder pursuant to section 116 of the Land Act 1948 subject to Part IVA of the Conservation Act 1987</p>	<p>Section(s):</p> <p>Total Area:</p>

Annexure Schedule

APPLICATION FOR REGISTRATION OF SUBSTANTIVE PROPOSAL WITH FINAL PLAN

Section 64 of the Crown Pastoral Land Act 1998

Final Plan number

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Proposed Easements			
Nature	Servient Tenement		Grantee
	Section number	Shown	

Dated this	day of	200
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Attestation

<p>_____</p> <p>pursuant to a delegation from the Commissioner of Crown Lands under section 41 of the State Sector Act 1988</p>	<p>Signed in my presence by _____</p> <p>Signature of Witness:</p> <p>Witness name:</p> <p>Occupation:</p> <p>Address:</p>
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