

In Confidence

Office of the Minister for Land Information

Chair, Cabinet Economic Development Committee

## **NEW FEES FOR LINZ SURVEY AND TITLE SERVICES**

### **Proposal**

1. I seek agreement to change fees for Land Information New Zealand (LINZ) survey and title services by amending the relevant regulations.

### **Executive Summary**

2. Land Information New Zealand (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 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.
3. 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). The fees for survey and title services have remained the same since 1 July 2011.
4. In October 2018, Cabinet approved the Survey and Title Enhancement Programme to rebuild Landonline (CAB-18-MIN-0511 refers) and increase Landonline's availability, reliability, sustainability, and customer focus. Cabinet noted that the cost of the rebuild must be funded over 10 years through fees and directed LINZ to complete a survey and title fees review by early 2021.
5. The increasing costs relating to the rebuild of Landonline are partially offset by the current surplus in the Survey and Title memorandum account. This surplus can be reduced by running at a deficit for the next five years.
6. After accounting for increasing costs and the reduction of the memorandum account surplus, LINZ needs to recover \$83.1 million per annum on average over the five years from 1 July 2021.
7. Of the costs to be recovered, the main cost is the cost of maintaining the survey and title system and particularly the Landonline electronic platform (\$54.1 million per year). This system is highly integrated with no clear separation of use or benefit between title, survey and search activities. Title fees will meet most of the cost of maintaining the system (\$34.2 million) followed by search fees (\$17.8 million) and survey fees (\$2.2 million).
8. Recovering \$83.1 million per annum will require title fees to increase by 13 percent on average and survey fees to increase by 57 percent on average. The higher

increase for survey fees reflects the re-apportionment of costs between services, to ensure each fee better reflects the cost of that service.

9. The title fee increases will likely add about \$15 to \$40 to the conveyancing cost of buying or selling a house. The survey fee increases will add about \$500 to the cost of lodging survey data for a small subdivision. These cost increases are small compared to the costs of developing or purchasing property.
10. Cabinet agreed that LINZ should publicly consult from 4 March to 9 April 2021 on proposals for new fees (CAB-21-MIN-0034 refers). LINZ consulted on a preferred proposal to adjust each fee to reflect the costs of each service. The alternative option was to increase all fees by the same proportion, regardless of the costs of each service. Both options include some changes to fee descriptions.
11. LINZ received 19 submissions. The overall theme of the submission feedback was that a fee increase was justified given the length of time since the last fee increase, but some submissions sought further consideration of additional funding options and moderation of the survey fee increase.
12. Having carefully considered all feedback, I propose to implement all the proposals as consulted. The survey fee increases have already been moderated to minimise their contribution to the system costs and cannot be lowered further without taking them below their service costs. The case for other additional funding options needs to be tested further and will be considered as part of the next fee review.
13. Although not part of public consultation, I also propose to remove license fees, and merge two title fees to bring them into line with current practice where LINZ charges these two fees as a combined charge. Appendix 1 provides the full set of fee proposals.
14. I seek Cabinet's agreement to amend the Land Transfer Regulations 2018, Cadastral Survey (Fees) Regulations 2003, and Land Information New Zealand (Fees and Charges) Regulations 2003 to implement the proposals set out in Appendix 1.
15. I intend for the proposed changes to survey and title fees to be in force from Monday, 1 November 2021.

## **Background**

### *Fee-funded survey and title services*

16. Land Information New Zealand (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 official record of property boundaries. Landonline is the IT system that holds and maintains these official records via a number of services. The system underpins private property rights, in which New Zealand is ranked as one of the best in the world.
17. Survey and title services are funded by fees charged to the service users (mainly lawyers, conveyancers, and surveyors, who pass the fee costs on to their clients). In

line with Treasury and Auditor-General fee-setting guidance, the fees should be fair, efficient, effective, financially sustainable and transparent.

#### *Fee stability since 2011 and memorandum account surplus*

18. The fees for survey and title services have remained the same since 1 July 2011. The Survey and Title memorandum account is in surplus (\$27.4 million at the end of the 2019/20 financial year and growing this year). The main reasons for the surplus are the high volume of transactions since 2011 (with continued strong property activity in the last year), and the deferral of significant investment in Landonline. LINZ will review fees again on the completion of the Landonline rebuild (estimated to be in 2023) and intends to maintain regular fee reviews thereafter to mitigate the risk of generating a high memorandum account surplus (or large deficit) in the future.

#### *Cabinet approval of Landonline rebuild programme in 2018 and direction to review fees*

19. In October 2018, Cabinet approved a programme business case to rebuild Landonline. The programme will provide a reliable, available and secure platform to:
  - 19.1. improve the agility and efficiency of the survey and title land information services
  - 19.2. enable improved end-to-end processing across the wider property system
  - 19.3. improve the accessibility and quality of property rights information.
20. The rebuild of Landonline, called the Survey and Title Enhancement Programme (STEP), is a five-year programme due to be completed in 2023, with an estimated capital cost of \$128.2 million. On 12 May 2021, the Cabinet Economic Development Committee reviewed the progress of the Landonline rebuild (DEV-21-MIN-0097 refers).
21. In approving STEP, Cabinet also agreed how the programme would be funded. It noted that survey and title services are fully cost-recovered with revenue of \$72 million in 2016/17, but STEP would lead to cost increases of \$13-\$17 million per year. It directed LINZ to review fees by early 2021 (the current review) and to do a second review when STEP is completed (CAB-18-MIN-0511 refers).
22. COVID-19 interrupted LINZ's work to have new fees in place by early 2021. LINZ now plans to have revised fees take effect on 1 November 2021.

#### **Fee drivers**

23. Future fees need to accommodate an overall cost increase resulting from investment in Landonline, ensure that each fee fairly reflects the costs of each service, and reflect the cost drivers and future demand for services.
24. Table 1 sets out how LINZ calculated the costs to be collected by fees.

Table 1 – Costs to be recovered

Cost item	Annual cost	Explanation
LINZ survey and title costs for 2019/20	\$70.6m	LINZ spent \$70.6 million providing survey and title services in the year ending 30 June 2020
Increase in costs	+\$17.2m	LINZ projects operating costs to increase by an average of \$17.2 million per year as a result of the rebuild of Landonline
<b>Total cost of survey and title services</b>	<b>\$87.8m</b>	Average per year for the five years from 1 July 2021
Reduce the cost by annual repayment of memorandum account surplus	-\$4.7m	<p>The balance of the Memorandum Account was \$27.4 million at the end of the 2019/20 financial year and has continued to increase in the current financial year. The Memorandum Account surplus is due to higher-than-expected volumes of transactions in previous years.</p> <p>LINZ aims to recover \$4.7 million less than costs per year over five years to reduce the current Memorandum Account. This reduction makes the average cost per year to fund survey and title services <b>\$83.1 million</b>.</p>
<b>Net costs to be recovered by fees</b>	<b>\$83.1m</b>	<p>The \$83.1 million in annual costs to be recovered is made up of two cost categories – system costs and processing costs.</p> <p>System costs (\$54.1 million per year) mainly relate to developing and maintaining the Landonline technology platform. Other system costs are the cost of regulating access to the platform to authorise property transfers and providing a broad spatial framework for the survey data.</p> <p>Processing costs (\$29.0 million per year) relate to LINZ staff time to process survey and title transactions, where the transactions are not already fully automated (as is the case with electronic searching and some title transactions).</p>

## Fee proposals

25. Based on LINZ's estimates of the costs of each survey and title service, recovering the higher future costs will require title fees to increase by 13 percent on average and survey fees to increase by 57 percent on average. The proposed fee changes reflect both the increase in costs to be recovered and the re-apportionment of costs between services, as identified through the cost modelling exercise. The proposals also include some changes to fee descriptions.
26. Under the proposals, title fees will continue to bring in the largest share of the revenue for the survey and title system. Title fees will generate an estimated \$49.2 million in revenue per year, compared to \$19.3 million from search fees and \$14.7 million from survey fees. The large share of title fee revenue reflects the high volume of land title transactions every year, compared to less frequent survey lodgement activity.

## Public consultation

27. Following agreement from Cabinet on 1 March 2021 (CAB-21-MIN-0034 refers), LINZ publicly consulted from 4 March to 9 April 2021 on proposed new fees for LINZ survey and title services.
28. LINZ published a consultation document on its website and provided notices through a media release and LINZ's *Landwrap* newsletter to survey and title users. About 1,200 people visited the LINZ website to read about the fee proposals and 185 people downloaded the consultation document. LINZ held several stakeholder engagement meetings with representatives of legal and survey professional organisations in the lead-up to the consultation period and one further meeting during the consultation period (with service users who responded to an invitation to meet).
29. LINZ received 19 submissions, including submissions from the Property Law Committee of the Auckland District Law Society, the Property Law Section of the New Zealand Law Society, the Institute of Cadastral Surveying, and the Cadastral Stream Committee of Survey and Spatial New Zealand. The other submissions came from eight surveyors, three solicitors and conveyancers, three property information providers, and one landholder.
30. While submissions from legal and property information stakeholders indicated a general level of comfort with the proposals, the submissions from survey fee payers generally disagreed with the fee proposals.

### *Fairness across different service users*

31. The main concern from surveyor submissions was that it is not fair that many people are benefiting from the survey and title system without charge. For instance, individuals and businesses can freely access bulk survey and title data from the LINZ website, and the government uses this data for policy and planning purposes. There is also a broader benefit to New Zealanders in having a high-quality property system. Submissions from surveyors in particular called for government funding or broader charging arrangements to establish a fairer way of sharing costs among beneficiaries.
32. I acknowledge the point that broader funding arrangements could be perceived as improving fairness. However, any case for government funding will need to be weighed against other calls on government funding. I have asked LINZ officials to review options for broader funding arrangements as part of the next fees review, which is scheduled to occur close to the completion of the Landonline rebuild, estimated to be in 2023. However, I do not propose changing the system of survey and title fees as part of this current fee review.

### *Cost of housing and land development*

33. Several submissions argued that the fee increases will reduce housing affordability and will have a particularly hard impact on small developers. This objection needs to be put in a wider perspective. LINZ is modernising its Landonline platform, to make the system more secure and more effective for customers. The business case for

modernising Landonline (CAB-18-MIN-0511 refers) is that the benefits in terms of property system efficiencies exceed the costs (which are ultimately borne by fee payers). In this context, I see the fee increase as part of a broader programme to make the New Zealand property system more efficient and effective.

#### *Level of the fee increase*

34. The third main concern in submissions is that the survey fee increase should be more moderate. The difficulty in addressing this concern is that reducing the survey fee increase will put survey fees below their actual service costs. LINZ is working on ways to improve survey processing as part of the Landonline rebuild programme, including increased automation of survey data entry to increase data quality, system efficiency and customer experience. However, validating cadastral survey datasets will continue to require some level of manual intervention in the majority of instances to ensure the integrity of the cadastre, which underpins the land tenure systems. The level of manual intervention for survey transactions will always be greater than that for titles transactions and will therefore always come at a greater cost.

#### *Cross-benefits and the allocation of costs*

35. Some submissions consider that title fees should contribute to some of the cost of surveys, because title holders benefit from good survey information for their property. However, LINZ advises that this benefit to title holders has already been considered as part of the way system costs have been allocated across fees. The proposed title fees will already contribute an average of \$34.2 million per year to the \$54.1 million in system costs, compared to a \$2.2 million contribution from survey fees (and \$17.8 million from search fees). Allocating some of the survey processing costs to title fees would contradict the fee-setting principle of ensuring each fee payer fairly meets the cost of the services they receive.

#### **Implementing fee proposals**

36. After considering the feedback from submissions, I am proposing to implement the fee proposals that were the subject of public consultation in March and April 2021.
37. Also, though not part of public consultation, I propose to make two further changes in order to simplify the fees framework and streamline the fee process for customers:
  - 37.1. Remove the one-off license fees for new customers. Licenses to manage the volume of users in the system are no longer required under the modern Landonline system. Permanent removal of the one-off license fees will improve the situation for new Landonline users by reducing the compliance and fee costs of accessing the system, while still maintaining strong processes for ensuring security of the system.
  - 37.2. Merge two title fees (for receiving an instrument, and for registering, noting or depositing that instrument) to bring them into line with current practice where LINZ charges these two fees as a combined charge. This merging of fees will improve efficiency without sacrificing fairness or introducing any risk of cross-subsidisation, because the fees are already incurred by the same customer at the same time.

38. I seek your approval to amend the Land Transfer Regulations 2018, Cadastral Survey (Fees) Regulations 2003, and Land Information New Zealand (Fees and Charges) Regulations 2003 to implement the proposals described above and set out in full in Appendix 1.

**Impact of the fee changes**

39. LINZ has prepared a full impact statement on the fee changes, which is attached as Appendix 2 to this paper. Table 2 notes some findings of this impact analysis.

*Table 2 – LINZ impact statement in brief*

<p><b>What attributes does a fees framework need?</b></p> <p>LINZ sought fees that were fair, efficient, effective, financially sustainable and transparent. These principles are sourced from Treasury guidance (Guidelines for Setting Charges in the Public Sector, April 2017) and Auditor-General guidance (Charging fees for public sector goods and services, June 2008).</p>
<p><b>What is the problem with current fees?</b></p> <p>Fees are insufficient to recover increased costs. Fees do not reflect the costs of providing the service. In addition, there is little transparency around the main cost drivers.</p>
<p><b>What is the proposal?</b></p> <p>The proposal is to increase fees to meet higher costs relating to the rebuilding of Landonline and ongoing enhancement. Title fees would increase by 13 percent on average and survey fees would increase by 57 percent on average.</p> <p>The proposed fee changes reflect both the increase in costs to be recovered and the re-apportionment of costs between services, as identified through LINZ’s review and modelling of costs.</p>
<p><b>How does the proposal rate against attributes of good fee settings?</b></p> <p>The impact analysis finds that the proposal rates well against five key principles:</p> <ul style="list-style-type: none"> <li>• Fair: Under the proposal, a person accessing a service pays the average unit cost of that service</li> <li>• Efficient: Fees are matched to unit costs, which is an efficient way of matching demand to supply</li> <li>• Effective: Alignment to unit costs puts an onus on LINZ to provide all services as effectively as possible, to meet user expectations</li> <li>• Sustainable: Total revenue meets predicted future costs</li> <li>• Transparent: Fees transparently reflect unit costs</li> </ul>
<p><b>Who pays the fees?</b></p> <p>In most cases, solicitors, conveyancers and surveyors pay the fees and pass the fee cost on to their clients through invoices for services. The ultimate fee payer is therefore generally a home buyer or a seller, someone changing their legal interests in land, or a land developer. These fees make up a small part of the overall cost of transferring property.</p>
<p><b>What is the impact of the fee changes on fee payers?</b></p> <p>The conveyancing cost to a person buying or selling a property tends to be from \$1500 to \$2500, depending on location and the complexity of the conveyance. The title fee increases will likely add</p>

about \$15 to \$40 to the conveyancing cost of buying or selling a house.

Surveyors pay LINZ survey fees and pass the fee cost on to their clients through invoices for survey services. The ultimate fee payer is the person engaging a surveyor. This person may be a homeowner seeking to subdivide their property or a property developer working on a large development project. The survey fee increases will add about \$500 to the cost of lodging survey data for a small subdivision (involving two primary parcels and three easements). The cost impact is higher for more complex survey projects.

#### **What do fee payers get in return?**

The value of survey and title services is that they facilitate the creation and exchange of title (or any other change to someone's ownership or interests in land, including boundary changes) as securely and efficiently as possible.

New Zealand operates a world-class property system (ranked second in the world on the World Bank's 'Registering Property' index) while maintaining fees that compare favourably with equivalent property systems in Australia.

The fee changes provide for sustainable financing of the rebuild of Landonline, resulting in service security, effectiveness, and efficiency.

#### **Risks**

40. There is a risk that the volume of future survey and title transactions may be higher or lower than LINZ has forecast (based on NZIER modelling). If activity volumes are higher than forecast LINZ can expect to generate a surplus, and if lower then a deficit will be generated. This risk is mitigated by the planned fee review when the Landonline rebuild is completed (expected to be 2023).
41. When it approved public consultation on fee proposals, Cabinet noted that the fee proposals may generate media interest (CAB-21-MIN-0034 refers). This possibility continues. Although survey and title fees are only a small proportion of land development and housing costs, housing prices have increased significantly in the last year and any additional costs, no matter how small, may be the subject of public comment. LINZ will address the potential for enquiries about housing cost impacts in its communications plan for the fee changes, and will include the Ministry of Housing and Urban Development in communications planning and any response to such enquiries.
42. Some groups from the survey sector did not agree with the fee proposals. LINZ will work with the survey sector as part of the fee changes and LINZ's broader survey work programme to reinforce the wider benefit of investing in the Landonline platform and stress the need to ensure fairness in the fees system by better aligning each fee to the costs of each service. Future Landonline improvements to increase the automation of survey data entry will also reduce system and transaction costs for surveys.

#### **Next steps**

43. If Cabinet approves the proposals in this paper, fee regulation amendments will be drafted in time for new fees to be implemented on 1 November 2021. This timing allows for LINZ customers to plan for the fee changes and advise clients in advance.

I will report to the Cabinet Legislation Committee in August 2021 to seek approval for the amended regulations.

### **Financial Implications**

44. LINZ estimates that the fee proposals would result in an increase of approximately \$16.9 million per year (26 percent) in third party revenue from fees and charges compared to fees revenue in 2019/20 (\$66.2 million). The next fee review begins after the rebuild of Landonline is completed or nearly completed, estimated in 2023.

### **Legislative Implications**

45. There are no proposals to amend primary legislation (the Land Transfer Act 2017 and the Cadastral Survey Act 2002) in this paper.
46. Subject to Cabinet approval of the recommendations in this paper, I will instruct Parliamentary Counsel Office to draft amendments to the following fee regulations in order to give effect to the proposed fee changes:
  - 46.1. Land Transfer Regulations 2018
  - 46.2. Cadastral Survey (Fees) Regulations 2003
  - 46.3. Land Information New Zealand (Fees and Charges) Regulations 2003.

### **Compliance**

47. I consider the fee proposals in this paper comply with:
  - 47.1. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993
  - 47.2. the principles and guidelines set out in the Privacy Act 2020
  - 47.3. relevant international standards and obligations.

### **Engagement with Māori**

48. As part of public consultation on fee proposals in March 2021, LINZ contacted the following Māori stakeholder organisations: Te Tumu Paeroa, the New Zealand Māori Council, and the Māori Women's Welfare League. They were advised of the proposals, offers made to meet them and were invited to make submissions, but no submissions were received.
49. LINZ also contacted Te Arawhiti, the Māori Land Court, and Te Puni Kōkiri as part of its consultation on this paper and had feedback from the Māori Land Court and Te Arawhiti. The Māori Land Court is supportive of the proposals in this paper. Te Arawhiti noted three main concerns:
  - 49.1. a level of engagement with Māori that took a targeted, rather than a wider Treaty Partnership approach;

- 49.2. the impact of the survey fee increases on the surveying of the many un-surveyed Māori land blocks; and
- 49.3. the impact of the survey fee increases on the surveying of the customary marine title area, as part of the process of recognising customary marine title.
50. LINZ has discussed with Te Arawhiti how to address its first concern as part of future work. For example, LINZ could consider a broader partnership approach with a key Māori stakeholder – such as Te Tumu Paeroa and the Federation of Māori Authorities – which is not topic-specific but seeks to identify priorities for ongoing engagement. LINZ supports this suggestion and is considering how it could be put into effect.
51. The concerns about survey fees for Māori land and customary marine areas are relevant to current policy settings that use a single cadastre and associated survey fees for all types of land tenure. The next survey and title fees review (in 2023/24) will be an opportunity to consider these settings more broadly. However, these issues are out of scope for the current fee proposals, which focus on changing fee levels to reflect increased future costs and the cost of each service.

### **Climate Implications of Policy Assessment**

52. The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal as the threshold for significance is not met.

### **Regulations Review Committee**

53. There are no grounds for the Regulations Review Committee to draw the fee changes to the attention of the House under Standing Order 319.

### **Impact Analysis**

54. A Quality Assurance Panel comprising of representatives from LINZ and Treasury's Regulatory Impact Analysis Team has reviewed the Regulatory Impact Statement "New fees for Land Information New Zealand Survey and Title Services" produced by Land Information New Zealand and dated 6 May 2021. The review panel considers that it **meets** the Quality Assurance criteria.
55. The Regulatory Impact Statement provides a comprehensive overview of the different costs incurred by LINZ to maintain and develop the survey and title system. A clear justification has been made for how these costs should be recovered and a solid case made that increasing fees will improve the system's transparency and fairness.
56. Public consultation took place via the Discussion Document produced in February 2021, with a number of submissions received from stakeholders. The final proposal has taken stakeholder feedback into account.

### **Population Implications**

57. There are no specific population implications to the fee proposals.

## Consultation

58. 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.

## Communications

59. If Cabinet approves the recommendations in this paper, LINZ will provide advance notice to its customers of the fee changes to come into effect once regulations are made, and the timeframe for this. Surveyors, solicitors and conveyancers have been clear that this is of significant value in explaining the rationale for the fee changes to their clients. These communications will also indicate that the next fee review will take place close to the completion of STEP and consider broader funding and fee settings.

## Proactive Release

60. I propose that LINZ publish this Cabinet paper on its website, subject to redactions as appropriate under the Official Information Act 1982, in accordance with Cabinet policy on proactive releases.

## Recommendations

The Minister for Land Information recommends that the Committee:

1. **note** that, following agreement from Cabinet on 1 March 2021 [CAB-21-MIN-0034], Land Information New Zealand (LINZ) publicly consulted from 4 March to 9 April 2021 on proposed new fees for LINZ survey and title services;
2. **note** that of the 19 submissions received on the fee proposals, legal and property information stakeholders indicated a general level of comfort with the proposals while survey submitters generally disagreed with the proposals;
3. **note** that the Minister for Land Information has considered the consultation feedback and proposes to implement all the proposals as consulted, along with the following additional changes:
  - 3.1. remove license fees;
  - 3.2. merge two title fees to bring them into line with current practice where LINZ charges these two fees as a combined charge;
4. **note** that the broad effect of the proposals (as set out in full in Appendix 1) is to:

- 4.1. increase the electronic search fee from \$5 to \$6 and the manual search fee from \$15 to \$25;
- 4.2. increase title fees by 13 percent on average;
- 4.3. increase survey fees by 57 percent on average;
- 4.4. 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;
5. **note** that for the proposed changes to survey and title fees to be in force on 1 November 2021, the agreed regulations must be gazetted no later than 4 October 2021;
6. **note** that LINZ will complete another survey and title third party fees review when the Survey and Title Enhancement Programme is completed in 2023;
7. **agree** to amend the Land Transfer Regulations 2018, Cadastral Survey (Fees) Regulations 2003, and Land Information New Zealand (Fees and Charges) Regulations 2003 to implement the proposals in Appendix 1;
8. **invite** the Minister for Land Information to issue drafting instructions to the Parliamentary Counsel Office to give effect to these recommendations;
9. **authorise** the Minister for Land Information to make decisions on any further minor or technical issues required to implement the proposals as set out in these recommendations.

Authorised for lodgement  
Hon Damien O'Connor  
Minister for Land Information

**Appendix 1 – Table of new fees for LINZ survey and title services**

**Appendix 2 – LINZ Impact Statement – New fees for LINZ survey and title services**