

In Confidence

Office of the Minister for Land Information

Chair, Cabinet Economic Development Committee

CONSULTATION ON PROPOSED FEES FOR LINZ SURVEY AND TITLE SERVICES

Proposal

1. This paper seeks Cabinet authorisation to undertake public consultation on proposed fees for Land Information New Zealand (LINZ) survey and title services. This consultation would take place from the start of March to early April 2021.

Executive Summary

2. LINZ provides a range of statutorily-required services to maintain the land ownership register and cadastral survey records ('survey and title services'). 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).
3. The fees for survey and title services have remained the same since 1 July 2011.
4. In October 2018, Cabinet approved a programme business case to rebuild Landonline (CAB-18-MIN-0511 refers). As part of its decisions, Cabinet noted that the cost of the rebuild must be funded over ten years through fees and directed LINZ to complete a survey and title fees review by early 2021.
5. Allowing for the additional costs relating to the rebuild of Landonline, LINZ projects operating costs to increase from \$70.6 million in the year ending 30 June 2020 to an average of \$87.8 million per year for the five years from 1 July 2021. LINZ proposes recovering less than its costs – an average of \$83.1 million per year – in order to reduce the current Memorandum Account surplus to zero over five years.
6. 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 will reflect both the increase in costs to be recovered and the re-apportionment of costs between services, as identified through a cost modelling exercise. Table 1 provides a summary of the estimated fee impact on survey and title service users, drawn from the proposals in the consultation document. The consultation document is attached as Annex One to this paper.
7. I seek your approval for LINZ to commence public consultation on survey and title fee proposals by releasing the attached consultation document. This would allow public consultation to run from the start of March to early April 2021.
8. Following public consultation, I intend to present final fee proposals for Cabinet approval in May or June 2021, after the Budget moratorium period. This would allow new fee regulations to be drafted and new fees to be implemented by the end of September 2021.

9. Public consultation on the fee proposals may generate media interest. Although survey and title fees are only a very 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.

Background

Fee-funded survey and title services

10. LINZ provides a range of statutorily-required services to maintain the land ownership register and cadastral survey records. These services enable New Zealanders to own, transact, develop and invest in land and property with confidence.
11. The land register and cadastral survey records are held and administered electronically via a technology platform called Landonline.
12. 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).

Fee stability since 2011

13. The fees for survey and title services have remained the same since 1 July 2011. This has not generated any significant funding pressure for LINZ, and the Survey and Title Memorandum Account is in surplus. The main reasons are the continued high volume of transactions since 2011, and the deferral of significant investment in Landonline, the technology platform for New Zealand land transactions.

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

14. In October 2018, Cabinet approved a programme business case to rebuild Landonline (CAB-18-MIN-0511 refers). Landonline is 20 years old and was built on a platform that needs to be revitalised and made stable and secure for the long term. Benefits of the rebuild include increased system availability, reliability and sustainability, greater public access to property information through web-based search, and better linkage of property information across government.
15. 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. Cabinet will receive its next update on programme progress in March 2021.
16. As part of its October 2018 approval of the business case to rebuild Landonline, Cabinet noted that:
 - 16.1. LINZ's survey and title services such as title search, e-dealing for title transactions, and survey plan lodgement operate on a full cost-recovery basis
 - 16.2. the provisional estimate is that an additional \$13 to \$17 million of revenue per year will be required to cover STEP costs

- 16.3. the provisional estimate is in addition to any additional fee revenue required due to changes in demand and non-programme related expenditure, and excludes possible efficiency gains which would decrease costs, and result in a lower fee increase
- 16.4. current fee revenue was \$72 million (2016/17) and \$69 million (2017/18 provisional accounts).

17. Cabinet also:

- 17.1. directed LINZ to complete a survey and title third party fees review (title search fees, e-dealing fees for title transactions, and survey plan lodgement fees) by early 2021 to identify any fee increases that are required to recover operating costs, capital charge, and depreciation
 - 17.2. noted that LINZ will complete another survey and title third party fees review when STEP is completed
 - 17.3. noted that joint Ministers will be kept informed of the survey and title third party fees review, and provided with the opportunity to input into the process (CAB-18-MIN-0511 refers).
18. Revised fees were planned to be implemented in early 2021, as directed by Cabinet. However, the fees review was delayed due to Covid-19 and LINZ now plans to have revised fees implemented by the end of September 2021.

Survey and title service costs

- 19. LINZ spent \$70.6 million providing survey and title services in the year ending 30 June 2020. LINZ projects operating costs to increase to an average of \$87.8 million per year for the five years from 1 July 2021.
- 20. LINZ does not propose to recover the full costs over the next five years due to the current surplus in its Survey and Title Memorandum Account. The balance of the Memorandum Account was \$27.4 million at the end of the 2019/20 financial year. The Memorandum Account surplus is due to higher than expected volumes of transactions in previous years.
- 21. The amount LINZ is aiming to recover is reduced by \$4.7 million per year to reduce the current Memorandum Account surplus to zero over five years. Therefore, LINZ aims to recover an average of \$83.1 million per year over the next five years. The reduction of the Memorandum Account surplus is in accordance with Treasury and Auditor-General guidance on the operation of memorandum accounts.
- 22. The main cost increases relate to developing and maintaining the Landonline technology platform and associated 'system costs' (such as regulating access to the platform to authorise property transfers, and providing a broad spatial framework for the survey data). The system costs to be recovered total \$54.1 million per year.
- 23. The other main cost is 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). Processing costs to be recovered are \$29.0 million per year.

24. In addition, the fees for each service or product should reflect the underlying cost of providing that service or product. The cost modelling for the fees review has identified that for some services and products, the current fees no longer reflect the underlying costs. The fee proposals re-establish this fee/cost relationship.
25. The fee proposals are based on forecast survey and title operating costs, the forecast Memorandum Account balance at 30 June 2021, and the forecast volume of transactions based on information provided by the New Zealand Institute of Economic Research. In general, it has been difficult for LINZ to accurately predict transaction volumes in future years because volumes are driven by property market activity. These forecasts will be updated and proposed new fees will be amended before I seek Cabinet approval of the proposed new fees.

Fee change proposals

26. 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 will reflect both the increase in costs to be recovered and the re-apportionment of costs between services, as identified through the cost modelling exercise.
27. Table 1 provides a summary of the estimated fee impact on survey and title service users, resulting from the proposals in the consultation document. The full consultation document is attached as an annex to this Cabinet paper.
28. For New Zealanders, the fee proposals will affect the legal and surveying costs of buying and selling houses and developing property:
 - 28.1. **Impact on legal costs:** Solicitors and conveyancers pay LINZ search and title fees and pass the fee cost on to their clients through invoices for conveyancing services. The ultimate fee payer is therefore the person engaging a solicitor or conveyancer to buy or sell a property (or make some other change to their legal interests in land). 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 proposed in this consultation document will likely add about \$15 to \$40 to the conveyancing cost of buying or selling a house.
 - 28.2. **Impact on survey costs:** 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 LINZ proposes 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.

Table 1: Summary of estimated fee impact on survey and title service users (GST inclusive)

Typical interactions with LINZ	Example situations	Current fees	Potential fees	% change
<i>Survey</i>				
Lodging survey data for a subdivision involving two primary parcels and three easements	Subdividing a residential property	\$764	\$1,230	61%
Subdivision with 10 primary parcels and 15 easements	A small residential development	\$1,852	\$2,750	48%
Subdivision with 100 primary parcels and 50 easements	A larger residential development	\$10,492	\$13,850	32%
Lodging a cadastral survey dataset (if the dataset includes additional survey information)	A survey for a new piece of land (plus parcel fee below)	\$492	\$850	73%
Lodging a cadastral survey dataset (without other survey information)	Changing some property boundaries (plus parcel fee below)	\$223	\$550	147%
Fee for each parcel in the cadastral survey dataset	A fee added to the two fees above	\$36, \$51, or \$82 ¹	\$60, \$75, or \$100 ¹	67%, 47%, and 22%
<i>Title</i>				
Fee for electronically lodging a title instrument (e.g., a mortgage) and registering, noting, or depositing that instrument	Buying an existing house	\$80	\$90	13%
Creating record of title	Buying a new build with no previous owner	\$135	\$145	7%
Depositing a survey plan in the land register	Changing some property boundaries	\$101	\$150	49%
<i>Searching register and cadastre</i>				
Copy of a title, instrument, or survey plan (electronic)	Checking the ownership of a property	\$5	\$6	20%
Copy of a title, instrument, or survey plan (manual)	Searching for older property information not in digital register	\$15	\$25	67%

Note 1: The parcel fee depends on the characteristics of the land parcel

29. LINZ also proposes some additional changes to fees and fee descriptions, as set out in Table 2 of the attached consultation document.

Request to consult the public on fee proposals

30. I seek your approval for LINZ to commence public consultation on survey and title fee proposals by releasing the attached consultation document. This would allow public consultation to run from the start of March to early April 2021.

Risks

31. Public consultation on the fee proposals may generate media interest. Although survey and title fees are only a very 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 consultation, and will include the Ministry of Housing and Urban Development in communications planning and any response to such enquiries.

Next steps

32. Following public consultation, I intend to present final fee proposals for Cabinet approval in May or June 2021, after the Budget moratorium period. This would allow new fee regulations to be drafted and new fees to be implemented in September 2021 (Table 2).

Table 2: Timeframe for the survey and title fees review

Dates	Actions
Mar to Apr 2021	Public consultation
Late May or Jun 2021	Cabinet consideration of fee levels (after Budget moratorium period ends)
Jun-Jul 2021	Fee regulation drafting
Aug 2021	Fee regulations to Cabinet and Executive Council for approval
Sep 2021	New fees in place

Financial Implications

33. 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 in 2023.

Legislative Implications

34. There are no proposals to amend primary legislation (the Land Transfer Act 2017 and the Cadastral Survey Act 2002) in the consultation document.

Median house prices across New Zealand increased by 19.8 percent from Oct 2019 to Oct 2020 (Real Estate Institute of NZ, 12 November 2020, <https://www.reinz.co.nz/residential-property-data-gallery>)

35. Subject to public consultation and Cabinet approval of new fees, I will instruct Parliamentary Counsel Office to draft amendments to the following fee regulations in order to give effect to the proposed fee changes:

35.1. Land Transfer Regulations 2018

35.2. Cadastral Survey (Fees) Regulations 2003

35.3. Land Information New Zealand (Fees and Charges) Regulations 2003.

Compliance

36. I consider the consultation document complies with:

36.1. the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993

36.2. the principles and guidelines set out in the Privacy Act 2020

36.3. relevant international standards and obligations.

37. LINZ will work with Te Arawhiti during the consultation process to ensure Treaty of Waitangi principles are considered and addressed.

Climate Implications of Policy Assessment

38. 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

39. There are no grounds for the Regulations Review Committee to draw the consultation document to the attention of the House under Standing Order 319.

Impact Analysis

40. The LINZ Regulatory Impact Panel (including representation from the Treasury's Regulatory Impact Analysis team) has reviewed and confirmed that the consultation document substitutes for a Regulatory Impact Statement. The consultation document is likely to lead to effective consultation and support the delivery of a quality Regulatory Impact Statement for Cabinet consideration as part of final fee approvals in May or June 2021.

Population Implications

41. There are no specific population implications to the public release of the survey and title fees consultation document.

Consultation

Consultation with stakeholder groups

42. LINZ has discussed the fee proposals in confidence with representatives of the Auckland District Law Society, the New Zealand Law Society, Survey and Spatial New Zealand, the Institute of Cadastral Surveying, the Real Estate Institute of New Zealand, two local authorities involved in the Landonline rebuild (Tauranga City Council and Marlborough District Council), and users of Landonline search services. These discussions indicated a general understanding of the rationale for the proposals. Other than discussions about the increases in fees, the most common comment was the need for government funding to contribute to the costs of developing and maintaining Landonline, to recognise the public benefit of a stable and secure land register.

Agency consultation

43. The following departments were consulted, with feedback taken into consideration in the development of this paper and the attached consultation document: 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; Te Puni Kōkiri, Te Arawhiti; Kāinga Ora - Homes and Communities; Waka Kotahi - New Zealand Transport Agency; and the Ministry for the Environment. The Department of Prime Minister and Cabinet was informed.
44. Waka Kotahi notes the proposed fee increases will represent an added cost to the delivery of the Government's transport infrastructure projects.
45. LINZ will work with Te Arawhiti to ensure appropriate consideration of Treaty of Waitangi principles and to develop an appropriate Māori engagement strategy.

Communications

46. If Cabinet approves the release of the consultation document, I propose that public consultation will be for six weeks, beginning at the start of March and remaining open until early April, with a one-week extension on request by submitters. LINZ will announce the consultation in a media release and as part of regular communications to LINZ customers and stakeholders. These communications will direct people to the consultation document and any additional communications material on the LINZ website. The discussion document seeks feedback via written and email submissions.
47. Public meetings are not planned. LINZ will hold videoconference consultations with key conveyancing and survey professional organisations and other stakeholders to identify issues and gather feedback.

Proactive Release

48. I propose that LINZ publish this Cabinet paper on its website, subject to redactions as appropriate under the Official Information Act 1982, shortly after the consultation document is published on the LINZ website.

Recommendations

49. I recommend that the Cabinet Economic Development Committee:

1. **note** that Land Information New Zealand provides statutorily-required services to maintain the land ownership register and cadastral survey records ('survey and title services'), and these services are funded by fees charged to the service users
2. **note** that in October 2018, Cabinet:
 - 2.1. approved a programme business case to rebuild Landonline
 - 2.2. noted that the cost of the rebuild must be funded over ten years through fees
 - 2.3. directed LINZ to complete a survey and title fees review by early 2021 (CAB-18-MIN-0511 refers)
3. **note** that, allowing for the additional costs relating to the rebuild of Landonline, LINZ projects operating costs to increase from \$70.6 million in the year ending 30 June 2020 to an average of \$87.8 million per year for the five years from 1 July 2021
4. **note** that the cost to recover is an average of \$83.1 million per year over the next five years, taking into account the need to reduce the current Memorandum Account surplus to zero over five years
5. **note** that recovering these costs will require title fees to increase by 13 percent on average and survey fees to increase by 57 percent on average, reflecting both the increase in costs to be recovered and the re-apportionment of costs between services
6. **note** the summary in Table 1 of the estimated fee impact on survey and title service users
7. **note** the public consultation document attached as Annex One, on the proposed new fees to recover the costs of LINZ survey and title services
8. **note** that public consultation on the fee proposals may generate media interest in light of public concern about the rising cost of house purchases and land development
9. **agree** to the release of the survey and title fees public consultation document at the start of March 2021
10. **authorise** the Minister for Land Information to make minor amendments to the public consultation document
11. **note** that the Minister for Land Information will report back to Cabinet seeking approval for final fee decisions following the consultation period
12. **note** that LINZ will complete another survey and title third party fees review when the Survey and Title Enhancement Programme is completed in 2023.

Authorised for lodgement

Hon Damien O'Connor

Minister for Land Information

Annex One: Consultation document - Proposed New Fees for Land Information New Zealand Survey and Title Services