This submission is presented on behalf of the Mackenzie Country Trust. Thank you for the opportunity to provide our comments on this important issue.

Background

The Mackenzie Trust

The Mackenzie Country Trust was established in 2016, following the Shared Vision Forum and the development of the Mackenzie Agreement. This agreement was signed by 22 parties who represented the diverse interests and stakeholders in the Mackenzie, and who participated in this collaborative forum over a period of 18 months. The process and agreement arose out of the concern of a number of stakeholders over the loss of ecological and landscape values in the Mackenzie Basin, during the period of development starting in the early 2000’s.

The land of interest to the Trust is the 269,000ha intermontane basin, within the Mackenzie Basin which is enclosed within the surrounding mountain ranges and below 900/800masl.

The Mackenzie Agreement included two significant goals of protecting 100,000ha of this area of the Mackenzie Basin for landscape, ecological and cultural values and allowing the development of 26,000ha of irrigated or intensified land within this area. The Trust recognizes that the land uses in the Mackenzie are diverse and that some level of integrated development needs to continue to ensure the sustainability of the existing land uses. In total The Mackenzie Agreement envisioned around 64,000ha or 24 per cent of the area being used for agricultural development and 37 per cent for protected lands.

The Trust’s interest in tenure review and the enduring stewardship of Crown pastoral land is therefore focused on the intermontane basin within Mackenzie Basin and upper Waitaki.

The nature of this intermontane basin

The Mackenzie Basin has some special ecological and landscape features which are driven principally by the climatic characteristics of the basin. It is home to a diverse and cryptic range of plants and animals which have adapted to life in this harsh environment.

This intermontane basin, which is the largest unmodified intermontane basin in New Zealand, lies east of the Southern Alps in the rain shadow area, a common place for a desert or semi-arid climate and landscape. On the eastern side of this intermontane basin the annual rainfall drops to 280mm (11”). Deserts are defined as areas with an average annual precipitation of less than 250mm (10”) per year, or as areas where more water is lost by evapotranspiration than falls as precipitation. So, parts of the basin are desert like and defined as semi-arid.

Subsequently, a key characteristic of these semi-arid ecosystems and landscapes is that they are fragile and in fine balance.
Protecting dryland ecosystems and landscapes

The role of tenure review in achieving the goal of protection

Tenure review while seen as the catalyst for the development of some pastoral lands in the Mackenzie has also protected significant areas of the intermontane basin since 1997, when the first tenure review was completed in the Basin1.

The tenure review tool was seen by the Trust as one way of achieving the goal of 100,000ha of protected lands within this intermontane region over the next decade.

At the time of the Shared Vision Forum, (2012-13), the area of protected lands2 within this area bounded by the 800m contour line was around 11,500ha, made up of about 20 separate blocks of land, but it only included three blocks larger than 1000ha3. Only one of these was the result of a tenure review outcome.4

As of 2019 the lands that now have protected status or have been retained by the Crown below 800masl within the intermontane basin total 24,000ha. This increase of approximately 12,500ha has more than doubled the protected lands below 800m in the basin, however six years on it is still a long way from 100,000ha.

Protecting land for the future

Protected areas in this intermontane landscape need to be of adequate size and have ecosystem connectivity in order to be sustainable, effective and resilient in a landscape of this size. Small areas mean a high edge to interior ratio, between the length of the boundary and the area being managed and the influences of the surrounding land use is magnified. Put simply, bigger is better for both landscape and ecological protection.

Tenure review status within the Mackenzie region

There are twelve properties within the Mackenzie region that remain in the tenure review process now5. Three of these are at the final substantive proposal phase and one of these contains land within the core intermontane area which is the focus of the Trust.

Of the other nine properties (that are at earlier phases of tenure review), three are within the mid basin area and all have significant inherent values of interest to the Trust and its goal of protecting these dryland intermontane lands. The other five straddle the edge of the 800/900m contour line but they also include areas with high landscape or ecological value.

If these twelve properties currently in the process proceed to completion, there will only be sixteen pastoral leases remaining which will be subject to future management as Crown pastoral leases within the wider Mackenzie Basin. Ten of these properties have land within the core intermontane area which is of prime interest to the Trust.

Therefore, with the proposed ceasing of any future tenure reviews the management of these ten properties within this area under any future CPLA is of immense interest to the

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1 Pukaki Downs in 1997 under the Land Act 1948.
2 This was made up of both public conservation land and land protected by covenant.
3 1000ha could be considered to be a minimum size for a resilient ecological units in this semi-arid landscape.
4 Pukaki Flats Conservation Area
5 LINZ tenure review status report
Trust as other than property purchase or voluntary covenanting the tools for managing the values that the Trust is focused on are very limited.

Section 1: Managing the implications of ending tenure review

Protecting inherent values after tenure review is ended

There are several mechanisms that Trust supports for protecting inherent values after tenure review ends:

- Ensuring a robust discretionary consent process, as suggested in the discussion document and commented on later in this submission.
- Ensuring District Plans have appropriate and consistent rules to protect inherent values across the region.
- Supporting provisions in Regional Plans which protect inherent values.
- Using voluntary protective mechanisms like covenants or management agreements.
- Partial or whole property purchase.

These mechanisms all have their own pros and cons, which are not elaborated on here. However, the most significant barrier to achieving a higher level of protection like a covenant is having the appropriate incentives in place, such as rent rebates, rates relief or other ongoing support to maintain the values.

Likewise, the purchase of areas for protection requires funding at market value prices. To be a viable and realistic option there needs to be an adequate public fund that can achieve these outcomes. Without a dedicated fund with realistic resources, the proposal to end tenure review leaves such purchases at the whim of government or requires private funding. The Trust would support the realistic resourcing of a dedicated high country fund, within the Nature Heritage Fund to enable the purchase of appropriate high country areas in the future.

Enhancing access if tenure review is removed

Tenure review has resulted in many legal access easements in the Mackenzie region, which have provided both access to public land gained as part of tenure review or land that had previously been land locked following previous pastoral land retirement processes. These easements have also provided recreational opportunities in their own right. While public access is not a primary interest of the Trust it does provide an opportunity for developing tourism which was one of the potential incentives and economic benefits of further land protection. It is the one aspect of tenure review which will seemingly be very difficult, to achieve without that process or some alternative incentives.

Section 2: Articulating outcomes for the stewardship of Crown pastoral land

Proposed outcomes for Crown pastoral land

The Trust supports the concept of the proposed outcomes as the focus of management of pastoral lease lands in the future. Such outcomes, once they are developed further will if

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6 For instance the Canterbury RPMS now has strong provisions for wilding tree management.
7 The Dusky Trail is an example of this type of opportunity.
implemented transparently and honestly result in better outcomes for these lands than what has historically been the case.

While the discussion document is focused on the failure of tenure review to deliver its intended objectives, there have been many suboptimal outcomes with discretionary consent management in Mackenzie region in the past 30 years both prior to the CPLA Act and after its enactment. These failures have also resulted in significant losses of ecological and landscape values. These losses have included wetlands, endangered plant sites and glacial landscapes, both on a small and larger scale.

The proposal to use the term “natural capital” to describe the values that need to be managed and sustained does reflect the complexity of what is at stake. On review, its definition is very similar to “ecological sustainability”, so it does not really move the focus of what the outcomes should be to a new paradigm. It still seems centered on “the benefit to society”, rather than the inherent values that need to be focused on in managing the non-pastoral aspects of these lands. The term “capital” also has connotations of something that can be exploited.

We would suggest using a more appropriate term such as those used in the current CPLA and RMA like “significant inherent values” or “environmental values’ or “intrinsic values”.

The Crown as a shared steward of the land
The Trust agrees that the Crown cannot achieve its desired outcomes for this land on its own. The discussion paper highlights four groups of stakeholders who have an important part to play in the management of these lands. The statement appears to under value the role that District and Regional Councils and the Department of Conservation have in the managing these lands. In fact, they all have legal responsibilities and should be featuring as very significant stakeholders. For, instance the District Council and their District Plans are a significant tool for managing development and protection of these lands. The discretionary consent process needs to parallel the rules in these sorts of statutory documents, and provide a seamless consenting process.

Section 3: Ensuring decision making is accountable and transparent
Enhancing accountability
The Trust supports the proposal to improve the accountability of the CPLA system and the suggestion that there should be public consultation around the statement of performance expectations.

However, this statement needs to be provided in a form that can be understood by all of the stakeholders, (not framed in official and bureaucratic language), so that such public consultation can be meaningful.

Historically, one of the key aspects of the Commissioner of Crown Lands (CCL) role is to balance the advice about the effects of any proposed action under a discretionary consent against the environmental and heritage values at risk. In order to improve this accountability and the nature of any performance statement it is clear that the CCL needs to
seek and implement advice about these values from an appropriate source. If this new level of accountability is going to be effective in producing better outcomes, then this input needs to be also undertaken at this early phase as part of developing this performance statement.

Enhancing transparency
The Trust supports the proposal to enhance the transparency of the process, so that leaseholders and other interested parties understand the process, the decisions and the rationale for the decisions.

Section 4: Making decisions that give effect to the outcomes

Issues with the discretionary consent process
The Trust understands that historically there have been issues with the discretionary consent process (as outlined in the paper), which have resulted in decisions not really reflecting the advice provided to the CCL on the values at risk.

As noted in the discussion document, the Commissioner of Crown Lands (CCL), has a broad degree of discretion at the moment given the CCL only has to “take into account” the criteria set out in section 18 of the CPLA. As a result, some of the past decisions could be described as barely even considering the criteria and at worst disregarding them. This needs to change significantly, if this process is going to have any credibility in the future and ensure that the remaining “inherent values” are not degraded or lost.

Ensuring decisions on discretionary consents reflect proposed outcomes
The Trust supports the proposal that the CCL has to give effect to a set of outcomes in any discretionary consent decision. However, such decisions require some knowledge by the decision maker of both the pastoral and environmental values so that a balanced decision can be made based on the advice received from various parties. Understanding and interpreting such advice requires the decision maker to have a good knowledge of both the economic, pastoral and other environmental values.

Requiring the CCL to obtain expert advice and consult as necessary on discretionary consent decisions
The CCL needs to seek information on the impacts of the proposed activities from the appropriate expert and consider such information in terms of the desired outcomes so that a robust and defendable decision can be made.

However, wider confidence in the decision maker to make a balanced decision is just as important as the obtaining robust expert advice.

While, some discretionary consents are likely to be straightforward, others are much more complex and we suggest the CCL could refer the consent to a panel with appropriate representation to enable an appropriate level of review and a sound decision making. This would potentially be a more robust and more efficient process for complex decisions rather than undertaking involved and time consuming public consultation.

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8 Such as the Director-General of Conservation.
Section 5: Improving system information, performance and monitoring

Improving monitoring and reporting

The Trust supports the proposal to have more regular and comprehensive monitoring and inspection of pastoral leases, so that future management can be made based on sound and current information.

This would ideally require a more active day to day role in monitoring and managing these lands. Consideration should be given to resourcing this activity in a way that provides better continuity over time and improves the local relationships with both the leasees and other management agencies such as the Department of Conservation.

Julia Mackenzie
Chairperson
Mackenzie Country Trust

Submitter: The Mackenzie Country Trust
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Introduction
Mackenzie Guardians is an Incorporated Society, formed in 2009. The aims of the Society are to promote the protection of the natural/naturalistic wildlife, water, vegetation, heritage and landscape values of the Mackenzie Country. Mackenzie Guardians have been involved in several RMA, planning (including Mackenzie District Plan Change 13) and tenure review processes relating to the Mackenzie Basin.

Thank you for the opportunity to provide feedback on the Discussion Document (DD).

Consultation questions

Question 1: What are your views on how best to manage the implications of ending tenure review?

- How should areas of Crown pastoral land with inherent values worthy of protection be secured once tenure review is ended?

Mackenzie Guardians support the protection of inherent values. Because of past losses, inherent values on the remaining Crown pastoral land are even more important. There should be a higher benchmark set for protection, higher than the RMA. Checks and balances in the regulatory system will better achieve protection. Information on inherent values should be sought from DOC, checked and reviewed independently. LINZ should work with Regional and District Councils pre decision making in order to work consistently with council processes. Reasons for decisions should be transparent and available for public scrutiny.
• How should public access to Crown pastoral land be secured once tenure review is ended?

Public access could be achieved by negotiation like the process used to obtain access for the Te Araroa trail.

• Are there any other mechanisms that could be used to protect inherent values or secure access on Crown pastoral land?

Negotiated relinquishment of grazing rights for leasehold areas with vulnerable IVs.
Enduring protection agreements over leasehold land involving destocking (or very limited and monitored stocking) regimes, plus support for ecosystem recovery including pest control, might be incentivised. Relinquished grazing might be exchanged for agreed management to sustain indigenous attributes and undertake visitor business activity that maintains and enhances the IVs.

Question 2: Do you agree with the proposed outcomes?

• Do you agree with the use of “natural capital” rather than “ecological sustainability” in the proposed outcomes?

Mackenzie Guardians prefer the term “natural heritage” instead of “natural capital”. The definition of natural capital is too unclear and ambiguous to ensure natural landscapes, indigenous biodiversity, cultural and heritage values are secured and safeguarded.

• How should the Crown fulfil its obligations under the Treaty of Waitangi in respect to Crown pastoral land? How do you think Treaty of Waitangi principles should be applied to decision making?

Mackenzie Guardians support the involvement of iwi in Crown pastoral land decision making. The Crown’s management of this land should give effect to the principles of the Treaty of Waitangi.

• What are the qualities and features of Crown pastoral land that you value the most?

Natural landscapes, indigenous biodiversity, cultural and heritage values.
What does enduring stewardship mean to you? What is the role of the different groups that play a stewardship role?

Enduring stewardship means a long-term commitment by the Crown to protect Crown pastoral land for present and future generations. Mackenzie support the Crown remaining as long-term landowner and lessor of the land, and share stewardship with leaseholders, iwi and broader stakeholder groups. Mackenzie Guardians support the current collaboration with groups such as the Te Manahua Trust, the Mackenzie Trust and groups involved with wildings and pest control.

Mackenzie Guardians support the proposed changes to the current regulatory system in order to achieve desired outcomes effectively and to increase transparency and accountability of decision making.

Question 3: Do you agree that the Commissioner should be required to develop a regular Statement of Performance Expectations, approved by the Minister for Land Information?

What other mechanisms could be used to improve accountability?

Mackenzie Guardians believe changes need to be to the current arrangement to improve the Commissioner’s accountability. We agree the Minister for Land Information needs to be able to signal the Government’s priorities as an input to the Commissioner’s management of Crown pastoral land. We agree the Commissioner should be required to develop a regular Statement of Performance Expectations approved by the Minister for Land Information and released publicly. There should be public consultation as part of this process. There should be regular reporting with the Minister able to request additional information anytime.

Question 4: Do you agree that the CPLA should be amended so that it explicitly provides for the Commissioner to release additional guidance and standards to support officials and leaseholders to understand and comply with legislative requirements?

Mackenzie Guardians support amending the CPLA to explicitly provide guidance and standards to assist officials and leaseholders to understand and comply with legislative requirements. This guidance to be set after public consultation.
Question 5: Do you agree that the Commissioner should be required to give effect to the proposed outcomes in any discretionary consent decisions?

Yes, the Commissioner should be required to give effect to the proposed outcomes in any discretionary consent conditions. The discretionary consent process should be open and transparent, with DOC, iwi and other interested parties participating in the decision making. Mackenzie Guardians are concerned about the lack of any statutory requirement for monitoring the impacts of discretionary consent approvals. Older consents should be reviewed as to their appropriateness under a new regulatory system.

The Guardians support Proposal 4 which would require the Crown to give effect to a set of clear outcomes in any discretionary consent process. We support the introduction of an explicit hierarchy for decision making which prioritises natural heritage values.

Question 6: Do you agree that the Commissioner should be required to obtain expert advice and consult on discretionary consent decisions?

The Commissioner should be required to obtain expert advice and consult on discretionary consent conditions. LINZ needs to employ experts for this, and to take independent advice if it does not have the necessary expertise. LINZ needs to align with other agencies before making decisions on discretionary consents. More public participation in the discretionary consent process is required.

The natural landscape values are very important yet there is currently no professional landscape expertise in government to address this resource, or to ensure it is adequately addressed on the various leases.

- Do you think the Commissioner, an independent statutory officer, is the most appropriate decision maker for matters regarding Crown pastoral land?

Currently the Commissioner has too much discretion and flexibility regarding decision making on Crown pastoral land. Mackenzie Guardians request changes be made to the role of the Commissioner, to improve accountability and transparency, and ultimately to achieve the proposed desired outcomes for Crown pastoral leasehold land.

Question 7: Do you agree that the CPLA should be changed to allow for fees to be charged for all discretionary consents?

Yes, the processing of applications for all classes of discretionary consents should not be funded by the Crown. Costs should be charged to the applicants, as they are in RMA consent application processing.
Question 8: Do you agree that the Commissioner should be required to regularly report against a monitoring framework?

Mackenzie Guardians agree the Commissioner should be required to regularly report against a monitoring framework.

Any other comments?

Sustainable environment plans for individual or groups of leases would be appropriate to provide baseline data and ensure management then sustains and enhances the natural heritage attributes.

Mackenzie Guardians Inc.
12 April 2019
Tēnā koutou,

The New Zealand Archaeological Association (NZAA) would like to make a submission regarding the management of Crown Pastoral Land in the South Island. The NZAA has an interest in Crown pastoral Land, as the South Island’s high country and interior contains a number of unique and significant archaeological and heritage landscapes, relating to the under-studied Māori use of these landscapes and networks of trade and mobility, as well as the foundational role of these areas in New Zealand’s primary industries of farming, mining, and timber. These heritage and archaeological landscapes, and the sites that make up these landscapes are unique, precious, and irreplaceable and are among the inherent values of Crown pastoral land. These sites are susceptible to damage or degradation without deliberate protection. The NZAA supports the sentiments in the “Discussion Document: Enduring Stewardship of Crown Pastoral land” (Land Information New Zealand, 2019), that emphasise prioritising heritage and cultural values.

The NZAA would like to offer the following responses to the questions posed in “Discussion Document: Enduring Stewardship of Crown Pastoral land” (Land Information New Zealand, 2019). Generally, the NZAA supports a process that targets and works toward long-term outcomes, particularly in relation to protecting and maintaining cultural and historical heritage items.

Question 1.

With regards to the inherent values of archaeological and heritage sites, these can be protected by ensuring all Crown pastoral land is surveyed for these sites, that they are recorded in ArchSite (the digital version of the NZAA’s site recording scheme). Furthermore, landowners and other managers of Crown pastoral land should be made aware of the existence of these sites and their legal obligations under the Heritage New Zealand Pouhere Taonga Act 2014, specifically that sites and structures formed or constructed prior to 1900 are protected, and cannot be modified or destroyed without grant of an archaeological authority by Heritage New Zealand Pouhere Taonga (HNZPT, the Crown heritage agency). Another useful management tool with regards to heritage management is the 2004 Policy for Government Departments’ Management of Historic Heritage, which provides guidelines for managing and reporting on historic heritage.

Question 2.

If the phrase ‘natural capital’ is to be used, its definition needs to be clear and consistent. For example, in some parts of the document, ‘natural capital’ seems to include cultural and heritage values, but in others these values are listed separately. Natural capital should include cultural and heritage values, and these should be given the same significance as ecological values.
Archaeological and heritage sites should be among the features of Crown pastoral land that are valued, and considered in the long-term maintenance of Crown land. These sites are as unique to New Zealand as its native flora and fauna, but are irreplaceable, and cannot be rejuvenated once destroyed. These sites have the potential to reveal significant information about past lifeways and systems, and provide tangible connections to ways of life that have changed substantially. It is important that these sites are considered as part of a landscape when considering their value and processes for their maintenance. The NZAA tentatively supports the proposed outcomes of the discussion document, but their success will depend on the details and details of implementation.

The NZAA strongly believes that Treaty of Waitangi principles should be upheld in decision making with respect to Crown pastoral land.

Question 4.

The NZAA supports the release of additional guidance and standards when necessary. In terms of transparency, officials and leaseholders should be provided information about archaeological sites and their management, as well as their obligations under the Heritage New Zealand Pouhere Taonga Act 2014, would help to protect these sites.

Farm plans could be a useful way to enable long-term maintenance and protection of archaeological and heritage sites, provided that such plans include regular phases of review and reporting to ensure outcomes are being met.

Question 5.

The NZAA believes that archaeological and heritage values should be among the specific matters considered when deciding whether to approve an application. Previous archaeological surveys and assessments will act as important guides for how proposed activities will affect archaeological sites. If no survey has been conducted on a pastoral lease before, Heritage New Zealand Pouhere Taonga should be consulted to determine whether or not one is required. In many cases, it may be appropriate for consent applicants to provide assessments prepared by professional archaeologists relating to the effect of proposed activities on archaeological and heritage sites.

Question 6.

The commissioner should be required to consult with HNZPT whenever there is a possibility that an archaeological site might be affected by a proposed activity. Few archaeological sites have been recorded on Crown pastoral land that has not been through tenure review, as those areas generally have not otherwise been surveyed by an archaeologist. As such, HNZPT should be consulted in the first instance for advice on whether or not an archaeological survey of a pastoral lease is required. Furthermore, the advice of HNZPT and iwi should be sought regarding the protection and maintenance of archaeological and other heritage sites.

Question 8.
The NZAA supports the inclusion of regular reporting, and monitoring frameworks, particularly related to the maintenance and protection of archaeological and heritage sites, to ensure their protection, and to allow for rapid identification of any damage.

The NZAA appreciates the opportunity for comment.

Ngā mihi,

Submissions Officer
New Zealand Archaeological Association
PO Box 6337
Dunedin 9059
Enduring Stewardship of Crown Pastoral Land

SUBMISSION FROM THE NEW ZEALAND CONSERVATION AUTHORITY

Date 12 April 2019
To cplc@linz.govt.nz
From New Zealand Conservation Authority (Contact:)
Postal address PO Box 10420, Wellington 6143
Telephone
Email address nzca@doc.govt.nz

The Legislative Basis for the New Zealand Conservation Authority submission

1. The New Zealand Conservation Authority (the Authority) was established under the Conservation Act 1987, with members appointed by the Minister of Conservation. It is an independent statutory body with a range of functions, but primarily acts as an independent conservation advisor to the Minister and the Director-General of Conservation.

2. The Authority has a growing role as an objective advocate on matters of national significance and interest in the conservation arena and to provide high quality independent advice to the Department of Conservation (DOC) on its strategic direction and performance.

3. The Authority has a range of powers and functions, under the Conservation Act 1987, as well as under other conservation related legislation, such as the Reserves Act 1977 and National Parks Act 1980. Under the Conservation Act, Section 6C(2)(c), the Authority has the power to “advocate the interests of the Authority at any public forum or in any statutory planning process.”

4. Section 6B(1)(d) also states that one of the functions of the Authority is to “investigate any nature conservation or other conservation matters the Authority considers are of national importance, and to advise the Minister or the Director-General of Conservation, as appropriate.” The Authority sees the issue of managing pastoral lease land and ensuring the long-term protection of conservation and heritage values to be a conservation matter of national importance.

5. In addition, in 2007 the Authority developed a series of principles relating to the South Island High Country, to guide its views and input to issues, including tenure review, and these are appended.

6. Following the logic of the above powers and functions, the Authority have decided to submit on the LINZ consultation document – Enduring Stewardship of Crown Pastoral Land.
General Comments

7. **Pastoral Lease Land:** The Authority welcomes the Government announcement halting the tenure review process and advising that pastoral lease land will remain under Crown ownership in the long term. The new policy direction means that pastoral lease land will in future be more tightly managed for a range of sustainable land management purposes including nature conservation. This also provides clear policy direction for LINZ staff.

8. The Authority’s comments reflect on the end of the tenure review process, and lessons learned, and the proposed future management of pastoral leases.

End of Tenure Review Process

9. **The Authority supports the ending of the Tenure Review Process.**

Under this process there has been a substantial increase in the total area of land under a higher form of protection, such as conservation land or covenant. The Authority recognises, however, that often while the area of protected land has increased, with much of this being high altitude lands already well represented in the protected area system, this has often occurred with the loss of the most threatened indigenous ecosystems in the high country such as valley floor wetlands, tussocklands, shrublands and lake margins. These have been freeholded as part of this process and often soon after developed for agriculture with the total or partial loss of their natural values.

10. **Matagouri dominated shrublands on valley floors and foot slopes and short tussock grassland on similar sites of gentle terrain and their associated biota are a particularly disappointing loss in terms of both indigenous biodiversity and loss of natural landscape.**

The Authority notes the ease with which modern technology, primarily through the use of herbicides and subsequent direct drilling/oversowing has resulted in the transformation of large areas of low altitude native vegetated high country into pasture grasses and crops. Land Environments of NZ (LENZ) has quantified the scale of this loss of indigenous biodiversity and identified what are now the most threatened high-country ecosystems.

11. **The Authority acknowledges that some areas of low altitude high country have been protected through the tenure review process. The Authority also notes with concern, however, that some of the greatest successes in the protection of high country threatened indigenous biodiversity has occurred outside the tenure review process. This has occurred through the direct purchase of these valley floor and lower slopes area that under tenure review were often scheduled for freehold title.**

These areas were largely purchased through the Government’s Nature Heritage Fund (NHF), and the Authority has had a role to play in the protection process for these areas. We have been involved in supporting the process of giving specially protected conservation land status designation to a range of DOC managed stewardship lands including the Castle Hill Pastoral Lease (PL), Avoca PL, Benmore PL into Korowai-Torlesse and Craigieburn Conservation Parks (CPs), Clent Hills PL and Hakatere PL (into Hakatere CP), St James PL, The Poplars PL (into Lake Sumner CP), Birchwood PL (into Ahuriri CP), Michael Peak PL (into Oteake CP). This outcome points clearly to a failure of the tenure review process because it potentially would have given freehold status to what are many of the lowest altitude lands of the easiest physical access with the most threatened biodiversity values.
12. **Clearly the definition of Significant Inherent Values (SIV), and the tenure review negotiations conducted to protect these, failed to arrest the loss of many of the most threatened indigenous biodiversity and landscape values.**

There was a negotiation imbalance where, despite those values being well identified by DOC-led teams, the negotiations to protect these areas were usually conducted by third parties – LINZ or independent negotiators – with the result that many of the threatened areas were lost through the negotiations with pastoral lessees.

13. **Completion of tenure review on properties that are already in the process.**

The Authority notes the many years that tenure review has been underway. Some properties never entered tenure review and those properties will come under the new LINZ Pastoral Lease regime. Those properties where tenure review may have started but is uncompleted were: (a) very late entrants to the process; (b) properties where there is disagreement about the tenure review outcome that has stalled the process; or, (c) properties where there has been a change of lessee which automatically stops the tenure review process. Noting that under the tenure review process the lessee or the lessor can withdraw from the process at any time, NZCA is of the view that all uncompleted tenure review processes should immediately stop, and those properties should come under the new Crown pastoral lease management regime, unless LINZ is of the view that negotiations have progressed to such an advanced stage that they should be allowed to continue.

**Future Management of Pastoral Leases**

14. **Identification of Significant Inherent Values (SIV) including tangata whenua interests and European cultural history values.**

The Authority was impressed with the high quality of information gathered during the Crown assessments of SIV and the cultural assessment of pastoral leases in tenure review. Under our Treaty of Waitangi Section 4 Conservation Act responsibilities, the Authority views with interest and concern the identification and protection of any important values on pastoral lease land identified by iwi (see also Principles 3 & 4 in the attached document). We also see the SIV process as vital for the future management of pastoral lease and recommend that the assessments be fast tracked to provide a baseline for the future sustainable management of the 1.2 million hectares (4.6% of NZ) contained within the remaining Pastoral Leases. The cost of these assessments should be covered by the Crown. Where this information is used in assessing applications for discretionary consents, however, there is a strong case for some of those costs to be carried by the applicant for the consent, in the same way as those costs are carried under the RMA.

15. **Protection of SIVs on Pastoral Lease Land.**

It is not sufficient for identified SIVs to be simply not available for development should discretionary consents be sought for these areas. These values may be degraded by existing pastoral farming compliant with the provisions of the Pastoral Lease. As outlined in the discussion document there needs to be an active protection programme that seeks to protect those inherent values. Indigenous biodiversity and tangata whenua, cultural values and recreational access should be legally protected. Practical protection may involve also close liaison with lessees on such matters as stocking rates, wild animal control and weed control. The Authority recognises and supports Reserve Act and Conservation Act covenant provisions, as a means of protecting significant natural and cultural values. There should also be a threshold where the protection of significant values requires full crown ownership and that may involve compensation to lessees. Areas that immediately adjoin Conservation or National Parks (see 17 below) may be better protected as a Park addition.
16. **Protection of European Cultural high-country values.**
   The PL high country and large crown owned properties, such as Molesworth and St James, have very significant examples of the changing face of the high-country farming, and relics from the earliest pastoral farming in New Zealand. These values deserve special recognition and protection and we make this plea under the human and cultural history responsibilities of LINZ and the Authority.

17. **Pastoral lease Proximity to DOC managed lands including National Parks and Conservation Parks.**
   The Authority requests that special status and recognition be given by LINZ where PL land adjoins these Parks. Activities and discretionary consents issued on these pastoral leases can directly impact on indigenous biodiversity, landscape, tangata whenua and recreational values of the adjoining Park. Last year the Authority was directly involved in discussion with the Minister of Conservation about discretionary consents and unauthorised development on Mt White Pastoral Lease and Riversdale Reserve land immediately adjoining Arthur’s Pass National Park. This development has a direct impact on recreational use of some of the Park’s most popular tracks, on valley floor biodiversity next to the Park, and is in direct conflict with the policies of the operative Arthur’s Pass National Park Management Plan 2007 and the Canterbury Waitaha Conservation management Strategy 2016.

18. **Moratorium on Discretionary Consents until SIV and tangata whenua values have been assessed.**
   The discussion paper makes it clear that PL tenure entitles the lessee to exclusive occupancy and the pasturage on their PL properties. Lessees are not entitled to development rights, however, and must apply for a discretionary consent to exercise those rights, such as tree planting, pasture development, clearance of vegetation, commercial recreation or tourism ventures. Because the identification of SIV and tangata whenua values is so fundamental to sustainable management of those lands, there should be an immediate moratorium on the any further implementation of existing discretionary consents where these have not yet been completed and no new discretionary approvals should be issued. That will allow time for an open and participatory process to be established in the issuing of future consents and that these consents can be issued with a full understanding of the impact on SIVs and tangata whenua values.

19. **Firm disciplinary actions must be taken by LINZ/CCL if there is any evidence of SIVs/tangata whenua values being degraded or destroyed prior to discretionary consents being sought.**
   The Authority is aware that on some pastoral leases large scale aerial herbicide spraying has been used to pre-empt the identification and protection of natural values under the discretionary consents procedure. That must not be allowed to continue. This clearly points to the importance of an annual or biennial stocktake of these PL properties to determine how the values that they contain are being sustainably managed.

20. **Open process for Discretionary Consents.**
   The Authority is aware that under the previous Land Act that preceded the Crown Pastoral Lands Act, the Land Settlement Board had broad representation including recreation, Maori and conservation interests. Moreover, at a regional level there were Land Settlement Committees (LSC) also with such broad representation. The LSCs were able to scrutinise and make comment on discretionary consents sought for pastoral leases. That more open process has considerable merit compared to the existing process where these decisions have been matters conducted in ‘secrecy’
between the CCL/LINZ and the lessee. We are aware that even though the Department of Conservation’s advice might be sought on discretionary applications, DOC is usually just advised of the outcome and does not participate in the negotiation. That is most unfortunate because clearly in much of the high country, non-farming values exceed agricultural values and there must be an open process for weighing up the merits of each type of land use.

The Authority supports the recent establishment of a national high-country advisory committee to advise the Minister on the proposed changes to tenure review and the new directions, under the chairmanship of Mr Jerome Shephard of LINZ. However, because discretionary consents are often processed at a regional level there may be a strong case for regional high-country liaison groups to also review each application because this may be at a very local level.

21. **Costs of Pastoral Lease Discretionary Consents.**

The Authority is aware that the discussion document recognises that this is not the appropriate forum to debate the rental charged for leases. This matter has already been settled. However, there is a very strong case for applicants seeking discretionary consents to pay a substantial part of the costs of the assessments required as part of this process.

22. **Pastoral Lease boundary definition and control of stock trespass**

The Authority is aware that there are a large number of cases where the boundary between Pastoral Leases and National Parks and Conservation Parks is not fenced. We have the statutory oversight for conservation management of these Parks. The Authority recognises that one of the important conservation outcomes from tenure review was that stock were removed from a number of high conservation value valleys where trespass into the Parks had been an ongoing problem, because of the inability to boundary fence the stock within the Pastoral Lease (Birchwood, Dingle, Waiau/St James, Poplars, Mt Arrowsmith). Under the revised management regimes for Pastoral Leases the Authority requests that efforts continue between LINZ and DOC to ensure that stock trespass is reduced by all practical means from Pastoral Lessee onto Parks and Conservation lands.

**Management Process for Pastoral Leases.**

23. The Authority is happy that LINZ, in consultation with its Minister and the High-Country Advisory Group, is developing policies and procedures to implement the provisions we have outlined in this response.

24. The Authority recognises that implementation may require legislative change to the CPLA. This should be given urgency.

25. If there is an opportunity to speak to its submission, the New Zealand Conservation Authority would welcome that.
NZCA South Island High Country Principles (2018)

NZCA South Island High Country Principles
Written 9 August 2007
Reviewed and amended 11 May 2018

These principles are proposed as a tool to guide the New Zealand Conservation Authority’s contribution and/or response to issues relating to the South Island high country.

The High Country of the South Island

Ki uta, ki tai

From the mountains to the sea

Definition
The South Island high country is an extensive inland area (6.7m ha), consisting of land, rivers and lakes located from mountain tops to low altitude valleys, comprising a broad range of indigenous vegetation of which tall tussock grassland is the most common. Since the mid-1800s the high country has been used for pastoral farming, and the natural vegetation cover has been modified through fire, grazing and the introduction of exotic species. The high country is and has been sparsely populated.

Preamble
The high country is a region of pre-eminently natural character of high intrinsic value. This natural character is important to the cultural identity and wellbeing of New Zealanders. It derives this character from its landscape, predominance of indigenous biota, natural processes, its traditional uses and the perceived lack of human impact. This Kaupapa seeks to maintain and restore the natural heritage characteristics of the high country.

Principles
Conservation
1. The foremost principle is the protection of the natural character and landscape values of the high country.
2. Implementation of the Biodiversity Strategy is a priority, especially the protection of under-represented habitats such as low-mid altitude ecosystems and altitudinal corridors and connectivity of habitats.

Tangata Whenua
3. High country management must provide for recognition of tangata whenua values, kaitiakitanga, and protection of taonga, wahi tapu and historic character.
4. Tangata whenua must have the opportunity to participate in decision-making.

Recreation and Access
4. Protection of public access to the mountains, lakes and rivers is a priority.
5. Public recreation in the high country should be encouraged provided that it does not compromise the conservation values.

6. Practical recreational access should be provided, especially non-motorised access to and along water bodies, and to public conservation lands.

7. High country management to include the provision of a network of parks and reserves. This includes areas set aside for the appreciation of natural quiet and grandeur of the high-country setting.

Integrated, informed and participative decision making

8. Decisions to be made in the context of the whole ecosystem, encompassing the range of environments, indigenous biodiversity, landforms and landscapes, water bodies and their margins.

9. High country management regimes to be ecologically sustainable, acknowledging the importance of ecosystems, including vegetation, soils and water, to the downstream environment and communities.

10. Decisions to be based on a comprehensive understanding of high-country processes, ecology and matauranga. A precautionary approach to be taken to high country management where decisions may result in irreversible change, and to take into account potential future effects of climate change.

11. The high country to be managed to protect its heritage values for all New Zealanders.

12. The public must have the opportunity to participate in decision-making.

13. A clear national policy should be developed to address competing values and uses.

14. Decisions on individual sites should not be made in isolation from their landscape context.

15. High country management to include environmental monitoring and review of policy mechanisms.

16. The management of flora and fauna, and pest control thereof, should be integrated with local communities.
ENDURING STEWARDSHIP OF CROWN PASTORAL LANDS

SUBMISSION TO LAND INFORMATION NEW ZEALAND

BY FISH AND GAME NEW ZEALAND

12 April 2019

INTRODUCTION

1. This submission is presented on behalf of the New Zealand Fish and Game Council, established pursuant to s26B of the Conservation Act 1987 to: ‘represent nationally the interests of anglers and hunters and provide co-ordination of the management, enhancement, and maintenance of sports fish and game.’

2. There are also twelve regional Fish and Game Councils (RFGCs) across New Zealand established pursuant to s26P of this Act, with the function to ‘manage, maintain, and enhance the sports fish and game resource in the recreational interests of anglers and hunters.’

3. Collectively these Councils are referred to as ‘Fish and Game New Zealand’ (F&GNZ) and have a direct statutory interest in the sports fish (primarily trout and salmon) and game bird (waterfowl and upland) resources of New Zealand. These include both indigenous and valued introduced species.

4. These Councils can trace their statutory origin back to the early 1860s. Throughout that time they have been, and remain, a significant and influential entity within the fishing and hunting sector in New Zealand, as advocates for river, lake and wetland habitat protection and for public access to the outdoors.

5. Crown Pastoral Lands are, therefore, a very significant category of land for Fish and Game interests. This is especially so in relation to critically important spawning and rearing sites for trout and salmon, where the adjoining land use can greatly influence salmonid fishery productivity.

6. Today F&GNZ’s interests are explicitly recognised in the Resource Management Act, the Walking Access Act and the Overseas Investment Act. Taken singularly or collectively these statutory roles establish that Fish and Game Councils, and RFGCs in particular, have a very substantive interest in the future administration and management of Crown Pastoral Lands.

Statutory managers of freshwater sports fish, game birds and their habitats

New Zealand Council
Level 2, The Dominion Building, 78 Victoria Street, Wellington 6011. P.O. Box 25-055, Wellington 6146, New Zealand. Telephone (04) 495 4767 Email nzcouncil@fishandgame.org.nz www.fishandgame.org.nz
7. Fish and Game Councils have jurisdiction for sports fish and game birds over lands of all tenure. This includes the Crown Conservation Estate and Crown Pastoral Lands.

8. The Department of Conservation is not authorised to represent Fish and Game interests. The significance of this in the context of this review is that all reference to the involvement of DOC in Crown Pastoral Land administration and management do not provide for consideration of, and provision for, the statutory interests of Fish and Game Councils. One outcome of this review will need to be the bracketing of F&GNZ alongside DOC in all procedures that involve sports fish and gamebird habitat, associated access for species management, and associated access for public enjoyment (including recreational sports fish angling and game bird hunting).

SPECIAL FEATURES OF NEW ZEALAND LAW RELATING TO SPORTS FISH AND GAME BIRDS

9. Under New Zealand law wildlife, freshwater fisheries and natural water do not attach to land title. They are deemed to be ‘owned’ by the Crown and, by inference, the people of New Zealand. They are, therefore, part of the public estate ‘owned by everyone in general and no-one in particular.’

10. This state of affairs is doubly relevant in this instance where the land too is owned by the Crown, with lessees only guaranteed the right to the pasturage.

11. The law in New Zealand also explicitly prohibits the sale of sports fish angling and gamebird hunting rights – a statutory reflection of a desire by early British colonists to preclude the regime of sports fish and game ownership that still applies to recreational freshwater angling and hunting in the UK today.

12. This unique situation has been gradually eroded through the ‘creeping privatisation’ of New Zealand, arguably none more so than is typified by what has happened to Crown Pastoral Lands since their inception. This review is intended to be an opportunity to restore some semblance of the fundamental status of CPLs, with requirements and procedures to recognise and provide for a full range of public interest values and desired outcomes reflecting its wider use and enjoyment.

13. A matter that F&GNZ is particularly concerned about is the use of the Trespass Act by land occupiers to control access to sports fish and game birds, in effect granting to themselves de-facto private property rights over a Crown owned resource for private and commercial use – referred to as ‘exclusive capture’. Any commercial tourism activities using sports fish or game birds on CPLs should be authorised by RFGCs in a similar manner to DOC concessions.
THIS REVIEW

14. The stated values and objectives of this review around establishing a new set of ‘high-level outcomes’ for CPLs within the Crown Pastoral Lands Act represent a glaring omission by not including ‘access for public enjoyment and outdoor recreation’. Outdoor recreation, including for fishing and hunting, is widely recognised as the route to conservation appreciation, and this review of CPLs represents an important opportunity to foster this for present and future generations.

RECOMMENDATION ONE:

Include ‘public access for conservation appreciation and outdoor recreation’ in the new set of outcomes for Crown Pastoral Lands to be included within the Crown Pastoral Lands Act.

15. With regard to biodiversity the discussion document refers only to indigenous species. However, the actual biodiversity of CPLs includes many valued introduced species, both as the primary elements of farming operations and of outdoor recreation interests.

16. While Fish and Game can understand and supports the wish of the Minister in her Conservation portfolio role to introduce greater recognition of indigenous biodiversity this same Conservation portfolio interest also needs to recognise the statutory interests of those species that are the responsibility in law of Fish and Game Councils.

RECOMMENDATION TWO:

Broaden the proposed ‘indigenous biodiversity’ outcome to include ‘valued introduced species’ that fall within the jurisdiction of Fish and Game Councils – namely sports fish and game birds.

17. The discussion paper extensively discusses past and proposed future decision-making processes regarding CPLs, particularly within the role of the Commissioner of Crown Lands. There appears no question that these have been inadequately managed in the past and that a far more accountable and reviewable process is required.

18. Of note is that the only external statutory agency that has been linked into these processes is DOC. However, as noted in paragraph 7, DOC does not have jurisdiction for species and activities that are the legal responsibility of Fish & Game Councils. The councils have a legitimate and justifiable interest and expectation with regard to CPL processes that relate to their interests.

RECOMMENDATION THREE:

Statutory managers of freshwater sports fish, game birds and their habitats
Formally recognise Fish and Game Councils in relevant documentation as a statutory entity alongside DOC in CPL decision making processes, including discretionary consents in particular, that have any relation to Fish and Game’s statutory interests, both in terms of habitat protection and recreational access for holders of sports fishing or gamebird hunting licence holders.

19. Much is made by some of the assumed rights that flow from the leaseholders ‘quiet enjoyment’ of the leased land. However, the assumed legal strength of this view relies on a New Zealand High County judgement that in turn relied on a sequence of two minority judgements from Australia! The law is by no means definitive when it relies on minority judgements from another jurisdiction.

RECOMMENDATION FOUR:

The concept of ‘exclusive possession’, in so far as it relates to the right of leaseholders to exclude recreationists, should be reviewed and defined in relation to permitting conditional access for outdoor recreation on Crown Pastoral Lands.

Martin Taylor
Chief Executive
New Zealand Fish and Game Council
12 April 2019
New Zealand Game Animal Council - Submission on the discussion document:

Enduring Stewardship of Crown Pastoral land

The Game Animal Council (GAC), established under the Game Animal Council Act 2013, is a statutory agency with responsibilities for, *inter alia*, representing game animal hunters, and advising on and managing aspects of game animal hunting. Game animals are feral pigs, chamois, tahr, and all species of deer.

1.0 Background

Deer, Tahr, Chamois and feral pigs have had a long association with Crown Pastoral Land (CPL). For example, prior to the tenure review process approximately 38% of the Himalayan tahr population was located on CPL/Private land at the time the Himalayan Tahr Control Plan came into force. Game animals have undergone a transformation from unwanted animals to be culled to a valuable asset that are now farmed and hunted as significant income earners for some CPL Lessees. To quote one lessee:

“I make more money out of the so-called pests than I do out of the rest of my stock put together”

This increase in the value of deer, tahr and chamois has influenced attitudes of CPL lessees to allowing access for recreational hunting. Free access for recreational hunters has reduced over time as the development of the guided hunting industry has enabled CPL lessees to charge fees for hunting. (with the appropriate consents/permissions)

2.0 Ending Tenure Review

Leaseholders of Crown pastoral land have exclusive possession of the land within their lease, providing them with the ability to deny public access (like any private landowner), and to trespass persons who cross their land without permission.

On one hand, the previous tenure review process provided benefits for hunters by turning leasehold land into public conservation land which resulted in access for hunting purposes and also created access ways through CPL to this new and also to existing public conservation land. On the other hand, hunting interests were poorly represented in this process and this meant that some of the access ways created were unusable by hunters due the carriage of firearms being excluded from those access provisions. Correcting this now is proving problematic
The cessation of tenure review puts an end to more land coming back into public conservation land and being made available for hunting purposes. It is important therefore, that whatever shape the final management regime for CPL takes, hunting access ways to public conservation land should be established and they need to be in a form suitable for hunters carrying firearms and accompanied by dogs (where dogs are permitted on the land the access is provided for). Access provisions should be made certain and enduring through the use of legal instruments such as easements. Where access is provided it should be the crown’s responsibility to manage any negative effects that the access has on farming operations on that land. The cost of creating and maintaining access should be borne by the crown.

3.0 Management of Game Animals on Crown Pastoral Land

The Game Animal Council has no direct mandate over private land however:

(1) The Council has the following functions in relation to game animals that can apply to CPL:

(a) to advise and make recommendations to the Minister;

(b) to provide information and education to the hunting sector;

(c) to promote safety initiatives for the hunting sector, including firearms safety;

(d) to advise private landowners on hunting;

(e) to develop, on its own initiative or at the direction of the Minister, voluntary codes of practice for hunting;

(f) to raise awareness of the views of the hunting sector;

(g) to liaise with hunters, hunting organisations, representatives of tangata whenua, local authorities, landowners, the New Zealand Conservation Authority, conservation boards, and the Department of Conservation to improve hunting opportunities;

(h) to operate voluntary certification schemes for professional hunting guides and game estates;

(i) to promote minimum standards and codes of conduct for certified hunting guides and game estates;

(j) to investigate complaints and take disciplinary action in relation to certified hunting guides and game estates;

The Game Animal Council acknowledges that lessees of Crown pastoral land have exclusive possession of the land within their lease and they may choose to have game animals or not. The GAC does have an advisory role if requested and also wants to work with lessees to improve hunting opportunities where possible.

One of the key functions of the GAC is the establishment of Herds of Special Interest. These herds require that a herd management plan be made. At least two of the herds currently
under consideration by hunters will have CPL adjacent to them and it is likely that the animals that make up that herd will use both public conservation land and CPL. It will be difficult to manage such a herd without managing the herd in its entirety and in particular cross boundary issues.

The GAC favours farm plans as the way to enable the long-term stewardship of Crown pastoral land, providing an accessible framework by which leaseholders can consider how cross-boundary issues are managed (such as landscape scale management of game animals). Farm plans will also provide certainty of availability by securing any consents or permissions up front and identifying any conditions imposed as part of those permissions. This will allow long-term plans to be made for managing game animals and provide transparency of roles, responsibilities and monitoring of the proposed management regime.

Such plans would allow integration with any herd management plans compiled pursuant to the establishment of herds of special interest.

The Game Animal Council is aware that permissions for using game animals as an income stream on CPL attract a fee and percentage payment to the Crown. As the statutory agency that has some responsibility for these operations, it is more appropriate that this revenue should come to the GAC.

4.0 Role of the Game Animal Council Post Tenure Review

The Game Animal Council has considerable expertise on game animal management and hunting both amongst Council members and within the wider hunting sector. The GAC offers its expertise and advice to the Commissioner on any aspects of access across CPL, policy formulation, consents for managing game animals or other hunting related matters.

The GAC is available to discuss or clarify any aspects of this submission.

Yours sincerely, on behalf of the Game Animal Council
11 April 2019

Crown Pastoral Land Consultation
Land Information New Zealand
Wellington

By email: CPLC@linz.govt.nz

Enduring stewardship of Crown pastoral land – consultation


1. **Crown pastoral land management – proposed changes**

1.1 The discussion document sets out proposals for changes to the management of Crown pastoral land, including the decision to end tenure review.

1.2 The main objective is to ensure stronger Crown protection of the ecological, biodiversity and landscape values of Crown pastoral land. The discussion document identifies that with the proposal to end tenure review, the Crown’s stewardship role and the regulatory system for Crown pastoral land will need to be strengthened.¹ Feedback is sought on how best to manage the implications of ending tenure review and to ensure better decision-making.²

1.3 The New Zealand Law Society has no comment to make on government policy decisions in relation to Crown pastoral land management but has identified a concern that the proposals may result in unnecessary (and inefficient) regulatory duplication.

2. **Regulatory duplication**

2.1 It appears from the discussion document that it is proposed to have a dual regulatory regime for consents for Crown pastoral land, under the Crown Pastoral Land Act (CPLA) and the Resource Management Act (RMA). As discussed below, it is not clear to the Law Society that the potential for unnecessary duplication of and inconsistency with the existing RMA regime has been adequately explored.

3. **The proposals**

3.1 The proposed changes focus on ensuring the regulatory system will more effectively deliver on the desired outcomes and increase the transparency and accountability of decision-making:

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¹ Discussion Document, foreword at p4.
² Note 1, at p22 (question 1).
• Proposal four would require the Commissioner to give effect to the outcomes in all decisions about discretionary consents under the CPLA. This would introduce an explicit hierarchy for decision-making, prioritising natural capital and heritage and cultural values.\(^3\)

• Proposal five would require the Commissioner to engage with affected parties and obtain expert advice as necessary to ensure there is adequate evidence on which to base decisions.\(^4\)

3.2 The discussion document acknowledges in passing that proposal four “may also increase current issues of alignment between the Crown Pastoral Land Act and the Resource Management Act,”\(^5\) since a person applying for a consent under the CPLA still requires relevant permissions under the RMA in order to undertake the proposed activity.\(^6\) The discussion document goes on to say only that –

“LINZ’s regulatory review found that the governing legislation for Crown pastoral land does not align well with the RMA. There are ways in which the regimes could work better together. For example, at the process level, this could be achieved through tools such as farm plans (as previously discussed in Section 3.2), and by improved agency alignment across central and local government such as the Mackenzie Basin agency alignment work (as outlined in Section 1.5).

Implementation of any proposed changes to the discretionary consents process would need to take into account the need for alignment with RMA processes.”

4. **Justification for the dual regimes**

4.1 It is not clear why a dual regulatory regime for consents under both the CPLA and RMA is needed in relation to Crown pastoral land. The RMA applies to all land use regardless of how it is owned, and the discussion document does not explain why the effects of the use of Crown pastoral land cannot be managed under the RMA alone.

4.2 If there are regulatory gaps that need to be addressed, it would have been helpful for the discussion document to have examined the mechanisms currently available in the RMA – such as a National Policy Statement for Hill Country Activities, for example – that might be used to provide a higher standard of environmental protection (if that is identified as a policy priority) both for Crown pastoral land and for hill country land in private ownership. Providing direction though the appropriate mechanisms in the RMA, rather than establishing a new consent process for pastoral lessees, might ensure that the objectives in managing Crown pastoral land are achieved without unnecessary duplication or inconsistency with the existing RMA regime. The conclusion might be that activities can be managed under the RMA without the need to amend the CPLA.

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3 Ibid, at p36. For details, see the table at pp45-46.
5 Ibid, p38.
6 Ibid. See Crown Pastoral Land Act 1998, s 17
We hope these brief comments are helpful, and if further discussion would assist please do not hesitate to contact the convener of the Law Society’s Environmental Law Committee, [redacted], via Law Society Law Reform Advisor [redacted].

Yours faithfully

Tiana Epati
President