Enduring stewardship of
Crown pastoral land

The Government welcomes your feedback on this consultation document.

For more information about the Government’s proposals read our Discussion Document.

Submissions close on Friday 12 April 2019

Making a submission

You can make a submission in three ways:

1. Use our online submission tool, available at www.linz.govt.nz/cplc

   **This is our preferred way to receive submissions.**

2. Complete this submission form and send to us by email or post.

3. Write your own submission and send to us by email or post.

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Submission form

The questions below are a guide only and all comments are welcome. You do not have to answer all the questions. To ensure others clearly understand your point of view, you should explain the reasons for your views and provide supporting evidence where appropriate.

Contact information

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Submission type*

☐ Individual

☐ NGO

☐ Local government

☐ Business / Industry

☐ Central government

☐ Iwi

☒ Other (please specify)

Regional Film Offices of New Zealand (RFONZ) and Film Otago Southland

* Questions marked with an asterisk are mandatory
The background and information below form the core of my submission. Where I thought applicable, I also responded to some of the questions outlined in the supplied submission form template, I would love the opportunity to further engage on this process and am happy to meet with your planning staff at your nearest convenience to provide further context and discuss opportunities to streamline the process.

Background on the Regional Film Offices of New Zealand (RFONZ) and Film Otago Southland (FOS)

The Regional Film Offices of New Zealand (RFONZ) is the peak body for New Zealand Regional Film Offices (RFOs), ensuring optimum coordination of its members’ activities and driving the development and growth of the New Zealand screen/film industry. RFONZ membership includes Screen Auckland, Bay of Plenty Film, Screen Taranaki, Screen Wellington, Film Dunedin, Canterbury Film Office and Film Otago Southland. I, the Executive Manager of Film Otago Southland, have been delegated by RFONZ to represent them for the purpose of this submission.

Film Otago Southland (FOS) was established to support and grow the film industry in the southern regions. The organisation aligns the goals of the film industry throughout Otago and Southland and is supported by Queenstown Lakes District Council, Invercargill City Council, Venture Southland, the Southern Institute of Technology, Central Otago District Council, Waitaki District Council and Dunedin City Council.

Film Otago Southland’s purpose is to coordinate promotion and advocacy for filming activities in Otago and Southland, and hence to grow the activity and economic benefit derived from filming in the area. By doing this it will also raise the profile of Otago, Southland, and New Zealand as world-class destinations for filming. This is ensured by ongoing engagement with all key stakeholders including LINZ Pastoral.

Activities within the scope of RFONZ and Film Otago Southland are comprised of filming activities that might require planned coordination across the area and employ local resources. These include:
- Feature films
- Television films
- Television programmes – fiction and non-fiction
- Television advertisements
- Stills productions
- New Media (digital, web based)
- Education opportunities
These include consideration of all supporting activities and employment and community engagement.

The basis of RFONZ and Film Otago Southland’s interest in the Enduring Stewardship of Crown Pastoral Lands relates to the exceptional locations that exist on them that are part of the wider South Island/NZ offering. We are a user group with an established historical use on LINZ Pastoral land. New Zealand’s film industry can count a significant part of its success in attracting international productions on its historic ability to access a variety and quality of locations.

The film industry in Southern New Zealand

The film industry is well established in the South Island. Several of New Zealand’s premiere feature film productions have been located here. Past productions include HILLARY, BEYOND THE EDGE, MOUNT COOK MAGIC IN 3-D, MISSION: IMPOSSIBLE – FALLOUT, THE HOBBIT trilogy, THE LORD OF THE RINGS trilogy, ALIEN: COVENANT, A WRINKLE IN TIME, PETE’S DRAGON, TOP OF THE LAKE, WOLVERINE, THE CHRONICLES OF NARNIA, THE LIGHT BETWEEN OCEANS, MR PIP, 10,000 BC, THE WORLD’S FASTEST INDIAN, WATER HORSE, VERTICAL LIMIT, IN MY FATHER’S DEN, 30 DAYS OF NIGHT, and WALKING WITH DINOSAURS.
There is also a strong industry based on television advertisements for both domestic and international markets. This work provides the core of employment for a large part of the industry. These productions are often of very short duration, averaging from one to two days.

**The value of access to LINZ Pastoral land for the film industry**

The film industry places a high priority on being able to access the incredible locations contained within our Pastoral Lease land - it is our A-game. Historically, the use of LINZ Pastoral land is extremely low in both quantity and duration and there is little if any evidence of issues caused as a result of this activity. Even though our cumulative use is very low, the ability to offer it up as a possible location is paramount to the success of the New Zealand film industry. In a competitive global market, access to Crown land might be the reason that a large production chooses New Zealand. Even if a large production chooses to film in a studio in NZ for 6 to 12 months or more, and only uses Crown land for a day or two, having access to these locations may have been a key driver in their decision to film in New Zealand over another country.

**Background of interaction between the film industry and LINZ Pastoral**

In the southern half of the South Island, the film industry is a locations-based industry. The timely and affordable access to these locations is crucial to our ongoing success.

A large percentage of the valuable locations in our region are on Crown land administered by either DOC or LINZ Pastoral, District Councils and to a lesser extent LINZ. Productions will often use the land for less than a day.

In the past few years, the film industry has developed a very positive relationship with the LINZ Pastoral team based in Christchurch and LINZ Pastoral Staff have been well represented in our quarterly Location Access Round Table meetings. The team has been responsive to the unique requirements and tight timeframes of the short term, temporary and one-off nature of the film industry. However, this is greatly hindered by the legislation they must work within, as the nature of short term one-off film work was not considered in the creation of the current legislation.

I would like to thank staff who interface with us on a regular basis - their support is appreciated.

**The current scenario**

The film industry has an established historic use on the Crown estate with a great track record. Our actual footprint/effects are temporary and extremely minor compared to other readily accepted pastoral activities that are at the discretion of the lessee.

Administrating short-term one-off projects in a similar way to ongoing or large-scale projects is an inefficient use of resources that is creating layers of unnecessary bureaucracy.

**Practical issues for consideration and the ongoing inefficiencies created by the current system.**

It is worth noting there are two types of pastoral lease holder. Those who:

- Interface with the film industry on a sporadic but ongoing basis. *These are generally in the Southern South Island.*
- Rarely or never engage with film.

There are also two types of production:

1. **Large-scale Commercial Filming** – usually triggering the need for a Resource Consent due to scale, duration, and/or potential ground disturbance. We support the proposed joined up approach as a way to properly manage large-scale projects of long duration.
2. **Short-Term One-off productions with no ground disturbance** – This is the most common type of production used by the film industry. Usually the duration is less than a week—often only a day, or, in some cases, a few hours.

On average, for short-term one-off permits, the application and approval process takes more time than the actual use of the land.

Here are a few examples of complexities and delays that sometimes occur during the application process. This has resulted in LINZ Pastoral effectively being the least accessible of all Crown lands due to the current process.

- The current permit application requires the signature of the Lessee. Often the land has a manager in residence with whom the location scout for a film production will interface. However, the actual Lessee is often not available and the application cannot be lodged without their signature. The current process also requires the applicant to write their own permit (once approved) on which it is also necessary to get the signature of the Lessee - who may be unavailable.

- In the Rees Valley as a specific example, there is Freehold and DOC land that can be approved in a workable timeframe, often less than 24 to 48 hours. There is also LINZ Pastoral land. Some locations scouts no longer offer up the Rees Valley at all for fear that the creatives will chose a location on LINZ Pastoral land that they will be unable to deliver in time. This has resulted in loss of both product and revenue to the region.

- The film industry is often put in an awkward situation of explaining that while they can get approval to access a UNESCO World Heritage National Park in a reasonable time, but may not be able to get approval for a paddock that has cattle in it.

- The current format and charge structure has resulted in LINZ Pastoral land effectively being the most expensive Crown property in New Zealand. Valuers to date have failed to consider the cumulative costs of filming on LINZ Pastoral land that include:
  - Application fee
  - Labour costs to complete lengthy application
  - Labour costs to get sign off of the application by the lessee
  - Compensation to the lessee for interruption to farm services
  - LINZ Pastoral permit fees
  - Labour costs for the applicant to write the actual permit once approved.
  - Labour costs to get sign off on the permit from the lessee.

- LINZ Pastoral fees were based on DOC fees, but the DOC application process is significantly more efficient than the current LINZ Pastoral process. In addition, when on the DOC estate, there is not the extra cost of compensating the Lessee for interruption to farming activity.

- An application requires sign off by DOC. I am unaware of any case where the leaseholder has given approval for filming and DOC has not approved it. The Lessee is best placed to act as a steward. They will understand the exact location the production wants to film in, and are intimately aware of the seasonal considerations of flora and fauna that could be effected. To date, they have acted as a responsible gatekeeper/steward to protect both. Neither the LINZ Pastoral case manager (based in Christchurch) nor the DOC representative (not necessarily familiar with land outside of the DOC estate) will have intimate awareness of the current conditions of our intended location, but the Lessee will. Having two Crown entities remotely assessing the situation
creates unnecessary duplication and layers of bureaucracy with no demonstrable increase in stewardship.

**Our preferred solution with regard to short-term one-off permits**

We support this review and encourage LINZ Pastoral to continue engagement with RFONZ and FOS. Our goal is to find practicable solutions to ensure enduring stewardship of Crown Pastoral Land while enabling responsible operators and Lessees to engage efficiently.

Our preferred solution would be that **short-term one-off productions** become a recognized and allowable activity subject to approval by the Lessee as part of their pastoral lease. I expect this could be done by way of amending the current legislation and/or interpretation and/or the conditions of pastoral leases as part of this review.

We feel this would enable good stewardship as our activity is often less intrusive than actual grazing. In essence, our cameras consume the scenery, taking only pictures, leaving only footprints.

This could be based on firmly established and agreed upon criteria.

Examples of criteria could be:
1. Approval of Lessee
2. Of a Short duration
3. Ensuring the protection of flora and fauna
4. No significant ground disturbance

**Economic considerations**

We think this approach fits well with the objective to provide for non-pastoral activities that support economic resilience and foster the sustainability of communities. The likely compensation realised from filming activity to Lessee would be minimal when compared to the annual income derived as a result of farming activity. This approach would therefore still allow for the Crown to obtain a fair financial return when taken into context with the overall lease agreement.

The wider economic benefits will be that the film industry supports the (often remote) communities through the purchase of goods and services and job creation.

In the long term, this would help to preserve the viability of pastoral farming, which is dependent upon the health of the environment, helping to maintain the natural capital of Crown Pastoral land.
Question 1:

1a. What are your views on how significant natural values should be protected once tenure review is ended?

The film industry relies on the visual aspect of the natural values. We support the prioritization of maintaining our outstanding natural assets and enabling meaningful access to Crown Pastoral Land.

Question 2:

2a. Do you agree with the proposed outcomes?

☒ Yes ☐ No ☐ Unsure

Please comment

We support improvements to the processing of discretionary consent applications and the provision of appropriate non-pastoral activities that support economic resilience and foster the sustainability of communities. This fits well with the requirements of the film industry. Ideally, per my written proposal, we could eliminate the need for short-term one off-film permits. These are currently managed as a recreation permit with no consideration given as to whether it is an ongoing activity or of short-term duration causing no ground disturbance.

2b. Do you agree with the use of “natural capital” rather than “ecological sustainability” in the proposed outcomes?

☒ Yes ☐ No ☐ Unsure

Please comment

This fits in well with the ethos of the film industry.

2c. How do you think the Crown should 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?

Further and proactive engagement with Iwi.

2d. What are the qualities and features of Crown pastoral land that you value the most?

The film industry values the outstanding scenery that pastoral land represents as a truly renewable resource.
2e. What does enduring stewardship mean to you? What is the role of the different groups that play a stewardship role – the Crown, leaseholders, iwi, and other stakeholders? How can these groups most effectively work together?

It is twofold.

1. For larger film projects (generally triggering the need for a resource consent due to size, duration or possible ground disturbance) we support a joined-up approach in assessing these.

2. For short-term one-off film projects that create no ground disturbance, I believe the leaseholder is best placed to act as a steward. They will understand the exact location we will want to film and are intimately aware of the seasonal considerations of flora and fauna that could be effected. To date, they have acted as a responsible gatekeeper/steward to protect both. The current process of checking with one of a plethora of LINZ Pastoral case managers does not ensure effective stewardship. Neither does referring to DOC to approve the permit. I am unaware of any case where the leaseholder has given approval for filming and DOC refused it. Having two crown entities remotely assessing the situation creates unnecessary duplication and layers of bureaucracy with no demonstrable increase in stewardship to date.

Question 3:

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

☒ Yes ☐ No ☐ Unsure

3b. Do you agree that this proposal will help improve accountability for decision making in the Crown pastoral land regulatory system?

☒ Yes ☐ No ☐ Unsure

3c. N/A

3d. Do you think there are any problems with the proposed change?

It depends on how this is interpreted and enacted?
Question 4:

4a. 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?

☒ Yes ☐ No ☐ Unsure

4b. Do you agree that this proposal will help improve the transparency of decision making in the Crown pastoral land regulatory system?

☒ Yes ☐ No ☐ Unsure

4c. What other things do leaseholders, iwi, and stakeholders most need to have clarity about in order to better understand the Commissioner’s decision making?

Clear guidelines as to the difference management processes between short-term one-off activities with no ground disturbance and longer term, larger scale projects.

Question 5:

5a. Do you agree that the Commissioner should be required to give effect to the proposed outcomes in any discretionary consent decisions?

☐ Yes ☒ No ☐ Unsure

Please comment

This should not be required for short-term one-off film activity with no ground disturbance - this should be at the discretion of the leaseholder.

5b. Do you think that the proposed approach ensures that decision making will support the proposed outcomes for Crown pastoral land?

This should not be required for short-term one-off film activity with no ground disturbance - this should be at the discretion of the leaseholder.

5c. What other mechanisms could be used to ensure decision making supports the proposed outcomes?
For the purpose of a short-term one-off film activity with no ground disturbance, the leaseholder is best placed to provide proper stewardship of the situation.

5d. What specific matters should be considered when deciding whether to approve an application?

With regard to short term one-off film activity with no ground disturbance;

Does the leaseholder approve?

Have they considered any effect on flora and fauna?

Does it require significant soil disturbance?

What is the duration of the activity?
**Question 6:**

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

☐ Yes  ☒ No  ☐ Unsure

Please comment

With regard to short-term one-off film activity with no ground disturbance on a specific property, the **leaseholder is the resident expert** with a vested interest ensuring there are no negative effects.

6b. In what situations do you think the Commissioner should seek information from experts or the public on the impacts of proposed activities?

With regard to large-scale film permits, we support a collaborative approach.

6c. Do you think the Commissioner, an independent statutory officer, is the most appropriate decision maker for matters regarding Crown pastoral land? Is there a better decision making model? Please provide the reasons for your view.

With regard to short-term one-off film activity with no ground disturbance we feel involving the Commissioner is not an efficient use of resources and it creates unnecessary layers of bureaucracy.

The **leaseholder is the resident expert** with a vested interest ensuring there are no negative effects. Given it is already necessary to get their approval as part of the application this should be sufficient to ensure proper stewardship is achieved.
Question 7:

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

☐ Yes ☒ No ☐ Unsure

Please comment

The extra layers of unnecessary bureaucracy have created a need to look at cost recovery that would not need to happen if this were an allowable activity for the lessee.

The current format and charge structure has resulted in LINZ Pastoral land being the most expensive crown property in New Zealand. Valuers to date have failed to consider the cumulative costs of filming on LINZ Pastoral land that include a labour intensive application process, compensation to the lessee for interruption to farm services and LINZ Pastoral fees.

LINZ Pastoral fees were based on DOC fees, but when on the DOC estate, there is not the additional cost of compensating the lessee. The DOC application process is significantly more efficient than the current LINZ Pastoral process, requiring a large amount of labour (cost).

7b. How might charging application fees for all classes of discretionary consents impact on applicants? Please provide the reasons for your view.

For long term and large-scale consents, it makes sense that there is a user pays model.
Releasing submissions

We may choose to publish submissions from this consultation on the Land Information New Zealand website. We can remove your name from your submission if you want us to. Please let us know below.

(Required)

☒ You may publish my submission with my name on it.

☐ Please remove my name from my submission before you publish it.

Your submission will be subject to requests made under the Official Information Act (even if it hasn’t been published). If you want your personal details removed from your submission, please let us know below.

(Required)

☒ Include my personal details in responses to Official Information Act requests

☐ Remove my personal details from responses to Official Information Act requests

Note that the name, email, and submitter type fields are mandatory for you to make your submission.

When your submission is complete

If you are emailing your submission, send it to cplc@linz.govt.nz as a:

- PDF
- Microsoft Word document.

If you are posting your submission, send it to:

Crown pastoral land consultation
Land Information New Zealand
PO Box 5501
Wellington 6145
Q1

1a. What are your views on how significant natural values should be protected once tenure review is ended?
We are supportive of protective mechanisms such as covenants to protect inherent values or easements to secure access. Access is an important aspect of the process. We also support purchasing the leaseholder’s interest in the land so that it can be protected within the conservation estate.

1b. Are there any other mechanisms that could be used to protect significant natural values on Crown pastoral land?
Covenants with the agreement of the leaseholder and the Commissioner. Alternatively use the Land Act 1948 to purchase parts of pastoral leases (or whole leases) from leaseholders. Once purchased, the land can be added to the public conservation estate and be protected by DOC. Payment would be worked out on a case-by-case basis. The valuation of land under the tenure review process was clearly error ridden – numerous examples of on selling of newly freeholded land at astronomical increased prices. A different, more accurate, model is needed to determine the price to be payed to leaseholders. There needs to be serious consideration with respect to adequate resourcing. While DOC may be the obvious organisation it needs to be funded for the appropriate staffing levels and other demands to do the job properly. Reliance on voluntary support should not be an option, it can be in addition to adequate resourcing, but must not be relied on.

1c. Do you have any views on the proposed transitional arrangements for ending tenure review?
While contractual agreements with the 8 leaseholders that have accepted a substantive proposal by the Crown need to be honoured the sooner the tenure review process is ended the better. The shameful management by LINZ of the largely secretive process of tenure review over 20 years has resulted in New Zealanders losing iconic landscapes forever.

Q2

2a. Do you agree with the proposed outcomes? Yes
Please comment They are, mostly, excellent. We certainly support the intent of it.

2b. Do the proposed outcomes capture all the things the Crown should focus on? What’s missing?
Having crown land is excellent but it needs to be accessible by the general public and be available for different types of recreation. It is important to protect our indigenous biodiversity but not exclusively indigenous. Hunting and fishing is important recreation for many in these parts of the country.

2c. Do you agree with the use of “natural capital” rather than ”ecological sustainability” in the proposed outcomes? Yes
Please comment
“Natural capital” covers natural landscapes as well as ecology but we do not fully understand what it encompasses. Is it an intended measure of the value of the environment when there is possible comparison between different capitals? Is it a dollar thing? Could it be used to pit the
environment values against financial capital of an alternative use for the land? If it was then then we would not support the term.

2d. How do you think the Crown should fulfill 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?

Ngāi Tahu, and other affected iwi, need to be an integral part of all decision making.

2e. What are the qualities and features of Crown pastoral land that you value the most?

That the land belongs to all New Zealanders and that it will be there for generations to come. The landscapes are iconic and the biodiversity is often unique.

Previous administrations that allowed leasehold land to be made freehold, (usually at ridiculously inaccurate valuations), and the resulting loss of oversight on the land use have been little short of criminal. To have the dairy and the environmental damage that follows it in iconic landscapes and access denied by new, often foreign, owners will be a perpetual reminder of the failure of tenure review.

2f. What does enduring stewardship mean to you?

Pre tenure review the stakeholders managed things just fine. It was tenure review that precipitated tension and conflict. When there was easy money to be had by a few and the loss of a lot by the rest different interest groups evolved. The remaining crown leases need the commissioner to oversee them as was done before the blight of tenure review for generations to come.

It is important to specifically include recreational interests among stakeholders.

Q3

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

Please comment

Excellent concept. It is very important that the commissioner, (or commissioners), has a clear direction from government that the highest priority is given to environmental protection. Historically that has not been the case.

3b. Do you agree that this proposal will help improve accountability for decision making in the Crown pastoral land regulatory system? Yes

Please comment

For many years the New Zealand public were unaware that their land was being sold/gifted. The secrecy for the process allowed it to continue for as long as it did and the loss has been gutting. The Commissioner must work in a truly open and transparent environment.

3c. What other mechanisms could be used to improve accountability?

The potential for environmental damage increases as land use intensifies. There will need to actively monitor land use, and access. Monitoring of compliance and with consequences for non-compliance being imposed and made public will contribute to accountability.

3d. Which mechanisms do you think would be most effective in improving accountability?

Transparency in all aspects of the processes is essential.

3e. Do you think there are any problems with the proposed change?

The commissioner, (or commissioners), must have environmental protection as first order priority.

Funding, or possible lack thereof, is a concern. The crown has put in huge money to the failed tenure review process. There will be a saving by not continuing with that madness but while that money can now be redirected into the post tenure review process more will need to be made available to purchase leaseholders interests for natural values or easements to secure access.
Q4

4a. 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? Yes

Please comment
The LINZ officials that were involved in tenure review need as much guidance as possible given thevaluations that they made under tenure review.

4b. Do you agree that this proposal will help improve the transparency of decision making in the Crown pastoral land regulatory system? Yes. New Zealanders expect transparency when it involves land that we collectively own.

4c. What other things do leaseholders, iwi, and stakeholders most need to have clarity about in order to better understand the Commissioner’s decision making?

4d. How should standards be used to help increase transparency? How should guidance be used?

4e. What other mechanisms could be used to improve transparency?
Public notification for significant proposed changes in a similar way to how regional councils publish consent applications for activities that require consents.

4f. Which mechanisms do you think would be most effective in improving transparency? It should not have been a surprise that LINZ’s regulatory review found that stakeholders see the decision making process on Crown pastoral land as opaque and unfair given that tenure review was carried out behind closed doors. The public need to have confidence that significant changes related to crown land is made public through mainstream media and open for consultation.

4g. Do you think there are any problems with the proposed change?
No providing the commissioner has a clear order of priority with environment being first order.

Q5

5a. Do you agree that the Commissioner should be required to give effect to the proposed outcomes in any discretionary consent decisions? Yes

Please comment
The commissioner, or alternative management regime, when using discretion in deciding an outcome much have, at all time, the environment, (in all its forms), as number one priority. If that is not cemented in by way of legislation history may be repeated when a production volume focused government is voted in.

5b. Do you think that the proposed approach ensures that decision making will support the proposed outcomes for Crown pastoral land? Yes alongside regional council conditions.

5c. What other mechanisms could be used to ensure decision making supports the proposed outcomes?

5d. What specific matters should be considered when deciding whether to approve an application?
The question that is paramount in considering an application must be: “Will it adversely affect the environment?”

We have reservations about the workability of “off-setting”.

Q6
6a. Do you agree that the Commissioner should be required to obtain expert advice and consult on discretionary consent decisions? Yes
Please comment
The commissioner will have a huge responsibility in deliberations of discretionary consent decisions and should seek expert advice on all significant matters
6b. In what situations do you think the Commissioner should seek information from experts or the public on the impacts of proposed activities? All but minor activities.
6c. Do you think the Commissioner, an independent statutory officer, is the most appropriate decision maker for matters regarding Crown pastoral land? Is there a better decision making model? Please provide the reasons for your view.
If not a single commissioner then a panel of three. (There will be some unelected ECAn commissioners available after democracy finally returns at the September elections for regional council).

Q7

7a. Do you agree that the CPLA should be changed to allow for fees to be charged for all discretionary consents? Yes
Please comment It is a service.
7b. How might charging application fees for all classes of discretionary consents impact on applicants? Please provide the reasons for your view.

Q8

8a. Do you agree that the Commissioner should be required to regularly report against a monitoring framework? Yes
Please comment It keeps activities in front of the public as well as maintaining a standard of performance.
8b. What other mechanisms could be used to ensure the outcomes of the Crown pastoral land regulatory system are better understood?
8c. What information do you think is most valuable to understand system performance?

Q9

9a. Do you have any feedback on the preliminary analysis in section 6?
9b. Are there any other comments you’d like to include in this submission?
The ending of tenure review is a red letter day for all but a few New Zealanders. We have lost much because of it and gained little.
We need to plan ahead, for future generations, to ensure that mistakes from the past are never repeated.
23 April 2019

Crown Pastoral Land Consultation
Land Information New Zealand
PO Box 5501
Wellington 6145

Email: CPLC@linz.govt.nz

Tēnā koutou,

RE: Discussion Document - Enduring Stewardship of Crown Pastoral Lease Lands

Te Rūnanga o Ngāi Tahu (Te Rūnanga) welcomes the opportunity to participate in consultation on the enduring stewardship of Crown pastoral land and appreciates the concerted effort Land Information New Zealand (LINZ) have made to ensure appropriate, meaningful consultation has occurred with Ngāi Tahu as mana whenua.

Te Rūnanga support the desire of the Crown to deliver a more appropriate balance of outcomes for pastoral lands through this review and are particularly supportive of the Crown’s decision to end the practice of freeholding Crown land through tenure review.

Te Rūnanga o Ngāi Tahu

Te Rūnanga is statutorily recognised as the representative tribal body of Ngāi Tahu whānui and works to advocate for and protect the rights and interests inherent to Ngāi Tahu as mana whenua. Te Rūnanga consists of eighteen Papatipu Rūnanga who uphold the mana whenua and mana moana of their rohe. Ngāi Tahu whānui comprises over 62,000 registered iwi members. The responsibilities of Te Rūnanga in relation to this kaupapa can be found in Appendix One.

The takiwā (region) of Ngāi Tahu in Te Waipounamu covers the largest geographical area of any tribal authority, see Appendix Three.

As acknowledged by LINZ, the majority of what is described as high country, and the associated pastoral lease lands, are found within the Ngāi Tahu takiwā.

Te Rūnanga recognise that several leases fall within the takiwā of other iwi and acknowledge their interests in of those lands.
Notwithstanding its statutory status as the representative voice of Ngāi Tahu whānui for all purposes, Te Rūnanga accepts and respects the right of individuals and Papatipu Rūnanga to make their own responses in relation to this matter.

**Te Tiriti o Waitangi**

Te Tiriti o Waitangi (the Treaty) provides for the enduring relationship of mana whenua with the lands, waters and taonga, including mahinga kai resources, in their takiwā. Te Rūnanga expect that the Crown will honour the Treaty and the principles upon which it is founded, including the rangatiratanga status of Ngāi Tahu whānui over its takiwā.

Te Rūnanga note that while LINZ are the lead agency for this kaupapa, the Department of Conservation (the Department) have played a role in the management of Crown land recovered from pastoral leases through the tenure review process. Section 4 of the Conservation Act 1987 provides an obligation on the Department to give effect to the principles of the Treaty in all its actions (which is expanded on below).

Te Rūnanga expect LINZ, the Department and all other agencies of central and local government to engage with Ngāi Tahu directly, as the Crown’s Treaty Partner, on policy and management of biological diversity, ecosystems, and natural resources within the Ngāi Tahu takiwā.

**The Ngāi Tahu Settlement**

Te Rūnanga has a further interest in the management of Crown pastoral lands by virtue of the Ngāi Tahu Claims Settlement Act 1998 (Settlement Act). This is reflected in the Crown’s apology, as contained at sections 5 and 6 of the Settlement Act and the recognition of the importance of mahinga kai and taonga species to Ngāi Tahu at Part 12 of the Settlement Act.

The Crown’s apology to Ngāi Tahu is attached at Appendix Two. The apology guides the relationship of Te Rūnanga with the Crown post-Settlement and provides the basis of the expectation of Te Rūnanga that the rights, interests and values of Ngāi Tahu are recognised in the management of Crown land.

The Settlement Act also provides mechanisms of Tōpuni, Statutory Adviser, Deeds of Recognition, nohoanga sites and protocols. These are intended to recognise the Treaty principles of partnership, active participation in decision-making, active protection of the rights and interests of Ngāi Tahu and rangatiratanga.

Indigenous species are also recognised as taonga species to Ngāi Tahu as recognised in sections 287 to 296 of the Settlement Act. These sections specify how the special relationships with taonga species are to be recognised in practice and in accordance with the law. In particular, section 293 of the Settlement Act provides the circumstances that the Minister of Conservation must advise or consult with Ngāi Tahu on any plans, policies or documents and policy decisions concerning the protection, management or conservation of taonga species.
Ngāi Tahu Interest in Management of the High Country

Any approach to management of pastoral lease lands must demonstrate an understanding of the historical and contemporary values mana whenua have in the landscape.

Ngāi Tahu has a rich history of spiritual and practical connection with the high country. The significance of mountain landscapes in Māori creation stories and belief systems are well known, and the high country was important for the seasonal mahinga kai opportunities available. The alps and passes were important for traditional navigation, and pathways from coast to coast and end to end of the takiwā were frequently travelled by our scattered yet strongly interconnected iwi.

To date, Ngāi Tahu have had limited opportunity to access, identify and express our values on Crown Pastoral Lease Land.

Te Rūnanga acknowledges that whilst flawed, the tenure review process did provide an opportunity for mana whenua to conduct cultural values assessments. Any alternative mechanism that replaces tenure review must enable Ngāi Tahu with the ability to access sites of significance and to identify values to inform and guide future land management.

Taonga Species

Many species found in the high country are taonga species to Ngāi Tahu. One of the outcomes of the Settlement Act was the inclusion of taonga species due to the special relationships Ngāi Tahu has with these plants, birds, fish and animals.

There are several key sections of the Settlement Act that specify how the special relationships with taonga species are to be recognised in practice and in accordance with the law. These relationships are based in whakapapa and reflect a long history of interaction, management and use.

The result of building an enduring partnership is that Ngāi Tahu are recognised as an active participant in the management of taonga species on Crown lands. Active protection of taonga species by Crown agencies must include the kaitiakitanga role of Ngāi Tahu, recognising rangatiratanga and mātauranga (as described in the Department’s Threatened Species Strategy). Providing the opportunity for Ngāi Tahu and the Crown to establish a strong partnership model, enables Ngāi Tahu to fulfil our ancestral responsibilities to these species, places of significance and landscapes.

Ngāi Tai Ki Tāmaki Tribal Trust v Minister of Conservation

As referred to above, Te Rūnanga expects LINZ to develop and implement the amendments to the Crown Pastoral Lease Act 1998 (CPLA) and Land Act 1948 (Land Act) in partnership with Ngāi Tahu and apply the Treaty principles in all its decision making. This notion is supported by the recent decision of the Supreme Court in Ngāi Tai ki Tāmaki Tribal Trust v Minister of Conservation (the Judgment).
The principles of law outlined in the Judgment as to how the Department must apply section 4 of the Conservation Act and the principles of the Treaty, also apply to LINZ. The Judgment sets a high precedent as to how the Crown must apply the principles of the Treaty in all its decision making.

The current legislation provides that the Commissioner must take into account the principles of the Treaty when acting in any tenure review (see section 25 of the CPLA) and reviewing Crown land (see section 84 of the CPLA). In addition, the Commissioner has duty to consult with and consider the views of iwi when developing a substantive proposal (see sections 44 and 47 of the CPLA, for example). Unfortunately, these provisions solely relate to tenure review as there are no similar provisions in either the CPLA and Land Act in respect of pastoral leases generally and discretionary consents.

As outlined in the Discussion Document, the CPLA was intended to facilitate parts of the leased land to be purchased by the leaseholder and the remaining land to be restored to the Crown for conservation purposes. That is the process of tenure review and was then seen as the most effective way to protect important or valuable land, whilst freeing up the land for economic use by the leaseholder.

However, for those reasons already outlined by LINZ, the tenure review process has had limited effect, leaving 171 Crown pastoral leases currently in operation. The provisions outlined have therefore had much less consideration and implementation than what was originally intended for. Rather, the land has remained occupied by the leaseholder and greater discretionary consents have been granted of which iwi have had no input (and have had a greater focus on the viability of farming activity rather than the environmental effects such activities may have or mana whenua aspirations).

It is imperative that any amendment to the CPLA and Land Act, or the creation of a new Act, includes a provision that requires the Act to be administered as to give effect to the Treaty principles, that is, the Treaty principles must apply to all processes, including the granting of discretionary consents and implementing ‘protective mechanisms’ such as covenants and easements.

Te Rūnanga notes that the Minister and Director-General of Conservation are bound to apply the Treaty principles in their activities under the CPLA and Land Act, given their powers and functions are established through the Conservation Act (and therefore section 4 of the Conservation Act 1987 applies). The Queen Elizabeth the Second National Trust Act 1977 is also listed as an enactment of which the Department is responsible for the administration of. Section 4 of the Conservation Act therefore applies to the Queen Elizabeth the Second National Trust. LINZ, as a Treaty partner, must support the Department of Conservation and the QEII National Trust in meeting their obligations under section 4 of the Conservation Act.

To bring the CPLA and Land Act in line with the Conservation Act and the recent Supreme Court Judgment, the amendments must include a provision that requires the CPLA and Land Act to give effect to the principles of the Treaty.
Recommendations:

- The amendments to the CPLA and Land Act must include a provision that requires the Acts to give effect to the principles of the Treaty of Waitangi;
- LINZ must apply the principles of the Treaty in all its decision making;
- LINZ must support the Department of Conservation and the QEII National Trust in meeting their obligations under section 4 of the Conservation Act.

Development of Contemporary Management of Crown Pastoral Lease Land

It is imperative that meaningful partnerships are maintained between the Crown and Ngāi Tahu to support effective and appropriate management of natural and cultural values within the Ngāi Tahu takiwā.

Te Rūnanga must be engaged in the development of the management framework for Crown pastoral land. Te Rūnanga envisions a framework which supports a strong mana to mana relationship between the Kaiwhakahaere and Minister, as well as a relationship between the Commissioner and Te Rūnanga and at the operational level, mana whenua, leaseholders and applicants. Those flax roots relationships, between mana whenua, leaseholders and other applicants are extremely important, and it is the responsibility of both Treaty partners to foster a framework that allows them to function and flourish.

Whilst Te Rūnanga and mana whenua have demonstrated effective relationships at the operational level in tenure review processes to date, currently the relationships at the Ministerial and Commissioner levels are weak.

Recommendations:

- The management framework for Crown pastoral land must be developed in partnership with Te Rūnanga;
- The framework must support the following relationships:
  - Kaiwhakahaere and Minister;
  - Te Rūnanga and Commissioner;
  - Mana whenua and leaseholders and applicants.

Current Pastoral Lease in Tenure Review Process

Te Rūnanga acknowledges there are 34 leases that are currently in the tenure review process. Te Rūnanga understands that the current legislative process must continue until there are amendments to the CPLA and Land Act. Te Rūnanga also understands that any substantive proposals that have been accepted by a leaseholder before any legislative amendment will also continue. Te Rūnanga supports and respects individual and collective property rights.

However, Te Rūnanga stresses the importance that it must be engaged in these current processes. Te Rūnanga must be fully informed so that it can review the particular property and assess its cultural values to Ngāi Tahu and mana whenua and
take steps to protect the same. Reflecting on the reasons for ending tenure review is helpful to illustrate how imperative it is that Ngāi Tahu is fully engaged in the creation of any future proposals.

Similarly, Te Rūnanga and mana whenua must also be engaged in the process of the Commissioner prioritising those pastoral leases that are currently in tenure review. By way of example, particular land may have greater cultural and/or conservation values and therefore greater resources may need to be allocated. Iwi can only assess such cultural values. The inherent conservation and cultural values of such land must be protected during this process.

Recommendations:

- Te Rūnanga and mana whenua must be engaged and advised on the leases that are currently in the tenure review process;
- Te Rūnanga and mana whenua must be engaged in the process of the Commissioner prioritising the pastoral leases in tenure review.

Protective Mechanisms

Te Rūnanga supports the use of protective mechanisms on Crown pastoral land. Te Rūnanga must, however, be engaged in the creation of and agreement with leaseholders on those protective mechanisms. Other than iwi involvement in providing a Cultural Values Report to LINZ and being “consulted” on a substantive proposal, there is no legislative requirement for LINZ and/or the Commissioner to engage iwi in the implementation of any covenant or easement on Crown pastoral land.

Any protective mechanisms implemented must support iwi and mana whenua needs and aspirations for that land, whether it be for example, for conservation purposes, access to mahinga kai, or the active protection of taonga species. Not only must iwi and mana whenua be engaged in assessing protective mechanisms for others on Crown pastoral land, but a framework and mechanism must be created that provides protective mechanisms for Ngāi Tahu to access, protect and use land, in line with Ngāi Tahu values.

Similarly, Te Rūnanga must be engaged in any purchase of Crown pastoral land. To date, iwi have only been consulted on a substantive proposal. There is no mechanism which provides for the engagement of iwi on the purchase of land or leases. As a Treaty partner, iwi must be engaged in these processes.

Recommendations:

- Te Rūnanga supports the use of protective mechanisms, however iwi must be engaged on the creation and implementation of same;
- Any protective mechanisms must support iwi and mana whenua needs and aspirations; and
- Iwi must be engaged on the purchase of any Crown pastoral land (whether by the Crown or others).
Outcomes

Te Rūnanga supports the inclusion of a new set of outcomes within the amended Act, or new Act, that not only ensures land is managed to protect natural, cultural and heritage values, but that it is also managed as to give effect to the Treaty.

In addition to including a specific Treaty provision within the Act the outcomes must include that in managing the land, the Crown must give effect to the Treaty principles. Te Rūnanga expects that it will be engaged, as partner, by LINZ to develop this outcome and how it will be affected through the management framework.

Recommendations:

- The outcomes within the CPLA and Land Act must provide that the management of the land must give effect to the Treaty principles;
- Iwi must be engaged as a Treaty partner to develop the outcomes.

Statement of Performance

Te Rūnanga supports the establishment of a Statement of Performance. Te Rūnanga expects to be involved in the development of that Statement of Performance at the Commissioner and at Ministerial level. Te Rūnanga must be engaged at the drafting stage of the Statement of Performance as a Treaty partner, as opposed to stakeholder or during the public consultation stage.

Te Rūnanga supports the proposition that the Statement of Performance set out the priorities for addressing issues on pastoral land and how the Commissioner proposes to exercise their statutory responsibilities (including how this would help achieve the proposed outcomes). The Statement of Performance must also include how the Commissioner proposes to meet the principles of the Treaty and the priorities of iwi and mana whenua.

Recommendations:

- Te Rūnanga must be engaged in drafting the Statement of Performance;
- The Statement of Performance must include how the Commissioner will meet the principles of the Treaty and the priorities of mana whenua.

Farm Management Plans and Guidelines, Standards or Policies

Te Rūnanga supports the principle behind the proposal to require leaseholders to complete farm management plans. However, Te Rūnanga are concerned whether a farm management plan would sufficiently protect conservation and cultural values on the land. Te Rūnanga would prefer a farm environmental management plan that also includes how the leaseholder will meet iwi needs and aspirations in the management of the land.
Te Rūnanga desires strong relationships with leaseholders. There have been good examples, at the flaxroots level, where the Department, mana whenua and farmers have had successful relationships that meet all parties' needs. LINZ and the Commissioner have a responsibility to facilitate these relationships.

Te Rūnanga supports the proposal that the Commissioner ought to release guidance and standards to assist officials, leaseholders and applicants to understand and comply with the legislative requirements, including the Statement of Performance as outlined above. Along with those matters listed in the Discussion Document, the standards, guidelines or policies must include how leaseholders/applicants are expected to and propose to meet iwi and mana whenua priorities. Te Rūnanga expects that it would therefore be engaged as a Treaty partner in the creation and implementation of such guidance, standards or polices.

Te Rūnanga proposes the creation of an ‘Iwi Management Plan’ or guidance which outlines the expectations, aspirations and Ngāi Tahu values in Crown pastoral land. The creation of this document may be reflected in the statute or not. This point warrants further consideration by Te Rūnanga and LINZ in partnership. An Iwi Management Plan ought to:

a) Guide leaseholders as to how they must manage the land (and possibly what is to be included in farm environmental management plan);

b) Guide applicants for discretionary consents and what may or may not be approved; and

c) Guide the Commissioner on what values and outcomes need to be taken into account when considering whether leaseholders are acting in accordance with the statutory outcomes, determining farm environmental management plans and determining applications for discretionary consents.

Once the idea of an Iwi Management Plan has been further considered by the Treaty partners then the detail of what’s contained in the ‘Iwi Management Plan’ must be driven by mana whenua.

Recommendations:

- Te Rūnanga supports the principle of farm management plans but prefers a farm environmental management plan that also includes how the leaseholder will meet iwi needs and aspirations in the management of the land.

- Te Rūnanga supports the proposal that the Commissioner ought to release guidance and standards;

- The standards, guidelines or polices must include how leaseholders/applicants are expected to and propose to meet iwi and mana whenua priorities;

- Iwi must be engaged in the creation and implementation of such guidance, standards or policies;
Te Rūnanga proposes the creation of an ‘Iwi Management Plan’. This needs to be further considered by the Treaty partners and the details of what is included in the ‘Iwi Management Plan’ must be driven by mana whenua.

Discretionary Consents

Under current legislation, iwi do not have to be consulted nor engaged in the process of determining discretionary consents. Any ‘discretionary consent’ is solely determined by the Commissioner with no requirement that any decision made must give effect to any clear priority. Whilst the Commissioner must take into account the matters set out in section 18 of the CPLA, there is no requirement for the Commissioner to consider the views or priorities of mana whenua. This does not reflect the principles of the Treaty.

Te Rūnanga requires the Commissioner to give effect to the principles of the Treaty when determining any application for a discretionary consent. This ought to be affected by:

a) Including a provision in the amended Act (or new Act) that requires same to be interpreted and administered to give effect to the Treaty principles, as outlined above;

b) Including an outcome that the Crown must manage the land in accordance with the Treaty principles, as outlined above, and requiring the Commissioner to give effect to the outcomes in any decisions on discretionary consents, as currently proposed by LINZ; and

c) Engaging iwi with the creation of the Statement of the Performance and including the needs, aspirations and values of iwi within the Statement of Performance.

Te Rūnanga supports the principle behind the proposal requiring the Commissioner to obtain expert advice and consult on discretionary consents. Te Rūnanga expects that the Commissioner would obtain the expert advice of iwi and mana whenua where their cultural values, needs or aspirations may be affected.

Recommendations:

- The Commissioner must give effect to the principles of the Treaty when determining any discretionary consent application;

- Te Rūnanga expects the Commissioner to obtain advice from iwi and mana whenua where their cultural values, needs and aspirations may be affected.

Monitoring Framework

Te Rūnanga agrees with the proposal that the Commissioner ought to regularly update and release a monitoring framework and release regular reporting against that framework.
As outlined in the Discussion Document, there has been a lack of information gathered on the effects of discretionary consents and tenure review on the environment. Unless the tenure review process has been evoked, the Department has been unable to complete any reviews of land for their conservation value (and will not be able to do so under current legislation). Similarly, iwi have not had access to land to review any cultural values, including mahinga kai, wāhi tapu, wāhi taonga sites and taonga species.

Any monitoring framework must include how the needs and aspirations of iwi are met. Iwi must be engaged in the design, development and updating of any monitoring framework.

Recommendations:

- Te Rūnanga supports the requirement that the Commissioner regularly update and release a monitoring framework and report against that framework;
- The monitoring framework and reporting must include how the needs of iwi and mana whenua are being met;
- Iwi and mana whenua must be engaged in the development of the monitoring framework.

Conclusion

As expressed above, Te Rūnanga commend LINZ on the manner in which this process has been conducted to date. This response is one step in what we anticipate will be a constructive and collaborative journey. Te Rūnanga is committed to working alongside our Treaty partner to develop a management model that delivers positive outcomes for Ngāi Tahu values, Crown Pastoral Lease Lands, and reflects and strengthens our partnership.

If you have any questions or require further clarification, please do not hesitate to contact me on [Phone number].

Nāku noa, nā

Rebecca Clements
GENERAL MANAGER (ACTING), STRATEGY AND INFLUENCE

Encl.  Appendix One: Te Rūnanga o Ngāi Tahu
Appendix Two: Text of Crown Apology
Appendix Three: Ngāi Tahu takiwā
This response is made on behalf of Te Rūnanga o Ngāi Tahu (Te Rūnanga). Te Rūnanga is statutorily recognised as the representative tribal body of Ngāi Tahu Whānui and was established as a body corporate on 24th April 1996 under section 6 of Te Rūnanga o Ngāi Tahu Act 1996 (the Act). Te Rūnanga note for the Department the following relevant provisions of our constitutional documents:

Section 3 of the Act States:

“This Act binds the Crown and every person (including any body politic or corporate) whose rights are affected by any provisions of this Act.”

Section 15(1) of the Act states:

“Te Rūnanga o Ngāi Tahu shall be recognised for all purposes as the representative of Ngāi Tahu Whānui.”

The Charter of Te Rūnanga o Ngāi Tahu constitutes Te Rūnanga as the kaitiaki of the tribal interest.

Te Rūnanga respectfully requests that the Department accord this response the status and weight due to the tribal collective, Ngāi Tahu Whānui, currently comprising over 55,000 members, registered in accordance with section 8 of the Act.

Notwithstanding its statutory status as the representative voice of Ngāi Tahu Whānui “for all purposes”, Te Rūnanga accepts and respects the right of individuals and Papatipu Rūnanga to make their own responses in relation to this matter.

TREATY RELATIONSHIP

Te Rūnanga o Ngāi Tahu have an expectation that the Crown will honour Te Tiriti o Waitangi (the Treaty) and the principles upon which the Treaty is founded.

The management of the environment and resources within the takiwā of Ngāi Tahu Whānui, including the natural environment, for which Ngāi Tahu Whānui have kaitiaki responsibilities and over which Ngāi Tahu Whānui maintain rangatiratanga status, must take into account the principles of the Treaty of Waitangi.

KAITIAKITANGA

In keeping with the kaitiaki responsibilities of Ngāi Tahu whānui, Te Rūnanga has an interest in ensuring sustainable management of natural resources, protecting taonga species and mahinga kai resources for future generations.
Ngāi Tahu whānui are both users of natural resources, and stewards of those resources. At all times, Te Rūnanga is guided by the tribal whakataukī: “mō tātou, ā, mō kā uri ā muri ake nei” (for us and our descendants after us).

**WHANAUNGATANGA**

- Te Rūnanga has a responsibility to promote the wellbeing of Ngāi Tahu whānui and ensure that the management of Ngāi Tahu assets and the wider management of natural resources supports the development of iwi members.
APPENDIX TWO: TEXT OF CROWN APOLOGY

The following is text of the Crown apology contained in the Ngāi Tahu Claims Settlement Act 1998.

Part One – Apology by the Crown to Ngāi Tahu

Section 6 Text in English

The text of the apology in English is as follows:

- The Crown recognises the protracted labours of the Ngāi Tahu ancestors in pursuit of their claims for redress and compensation against the Crown for nearly 150 years, as alluded to in the Ngāi Tahu proverb ‘He mahi kai takata, he mahi kai hoaka’ (‘It is work that consumes people, as greenstone consumes sandstone’). The Ngāi Tahu understanding of the Crown's responsibilities conveyed to Queen Victoria by Matiaha Tiramorehu in a petition in 1857, guided the Ngāi Tahu ancestors. Tiramorehu wrote:

  “This was the command thy love laid upon these Governors … that the law be made one, that the commandments be made one, that the nation be made one, that the white skin be made just equal with the dark skin, and to lay down the love of thy graciousness to the Māori that they dwell happily … and remember the power of thy name.”

- The Crown hereby acknowledges the work of the Ngāi Tahu ancestors and makes this apology to them and to their descendants.

- The Crown acknowledges that it acted unconscionably and in repeated breach of the principles of the Treaty of Waitangi in its dealings with Ngāi Tahu in the purchases of Ngāi Tahu land. The Crown further acknowledges that in relation to the deeds of purchase it has failed in most material respects to honour its obligations to Ngāi Tahu as its Treaty partner, while it also failed to set aside adequate lands for Ngāi Tahu's use, and to provide adequate economic and social resources for Ngāi Tahu.

- The Crown acknowledges that, in breach of Article Two of the Treaty, it failed to preserve and protect Ngāi Tahu's use and ownership of such of their land and valued possessions as they wished to retain.

- The Crown recognises that it has failed to act towards Ngāi Tahu reasonably and with the utmost good faith in a manner consistent with the honour of the Crown. That failure is referred to in the Ngāi Tahu saying ‘Te Hapa o Niu Tireni!’ (‘The unfulfilled promise of New Zealand’). The Crown further recognises that its failure always to act in good faith deprived Ngāi Tahu of the opportunity to develop and kept the tribe for several generations in a state of poverty, a state referred to in the proverb ‘Te mate o te iwi’ (‘The malaise of the tribe’).
The Crown recognises that Ngāi Tahu has been consistently loyal to the Crown, and that the tribe has honoured its obligations and responsibilities under the Treaty of Waitangi and duties as citizens of the nation, especially, but not exclusively, in their active service in all of the major conflicts up to the present time to which New Zealand has sent troops. The Crown pays tribute to Ngāi Tahu's loyalty and to the contribution made by the tribe to the nation.

The Crown expresses its profound regret and apologises unreservedly to all members of Ngāi Tahu Whānui for the suffering and hardship caused to Ngāi Tahu, and for the harmful effects which resulted to the welfare, economy and development of Ngāi Tahu as a tribe. The Crown acknowledges that such suffering, hardship and harmful effects resulted from its failures to honour its obligations to Ngāi Tahu under the deeds of purchase whereby it acquired Ngāi Tahu lands, to set aside adequate lands for the tribe's use, to allow reasonable access to traditional sources of food, to protect Ngāi Tahu's rights to pounamu and such other valued possessions as the tribe wished to retain, or to remedy effectually Ngāi Tahu's grievances.

The Crown apologises to Ngāi Tahu for its past failures to acknowledge Ngāi Tahu rangatiratanga and mana over the South Island lands within its boundaries, and, in fulfilment of its Treaty obligations, the Crown recognises Ngāi Tahu as the tangata whenua of, and as holding rangatiratanga within, the Takiwā of Ngāi Tahu Whānui.

Accordingly, the Crown seeks on behalf of all New Zealanders to atone for these acknowledged injustices, so far as that is now possible, and, with the historical grievances finally settled as to matters set out in the Deed of Settlement signed on 21 November 1997, to begin the process of healing and to enter a new age of co-operation with Ngāi Tahu."
APPENDIX THREE: NGĀI TAHU TAKIWĀ

Indicative boundary only refer to Ngāi Tahu Claims Settlement Act 1998 for full description.
10 April 2019

To Whom It May Concern

SUBMISSION – ENDURING STEWARDSHIP OF CROWN PASTORAL LAND

The New Zealand Merino sector is a critically important part of the New Zealand primary sector, where wool returns are at prices of up to 20 times that being achieved for New Zealand strong wool. The sector is acknowledged for its environmental, animal welfare and social responsibility practices.

New Zealand Merino wool is now being recognised by world leading brands such as Icebreaker, SmartWool, Allbirds and Loro Piana, and the positioning of New Zealand Merino products is playing an important role in the overall New Zealand story. New Zealand high country farmers, many of whom operate under pastoral leases, are an integral part of the New Zealand Merino sector.

The New Zealand Merino Company Limited (NZM) is an integrated sales, marketing and innovation company for New Zealand wool, initially started in 1996 as an industry good body before becoming a fully commercial company in 2001. NZM was established as a break away from the New Zealand Wool Board by New Zealand Merino growers who wanted to see their wool branded, differentiated and positioned in top end global markets.

NZM’s mission to realise the true value of New Zealand fine wool through being a market shaper rather than a price taker, and through taking a leadership position in the New Zealand primary sector.

NZM seeks to:

- Work with New Zealand’s best fine wool producers to produce fit-for-market fibre;
- Work with the leading value chains and global brands, underpinned by deep consumer empathy insights;
- Be recognised as the category leader across a range of categories;
- Be the ‘go to’ organisation for thought leadership across value chains and successful implementation;
- Be synonymous with ethical production, outstanding talent, and value chain leadership;
- Have in market ‘experience’ platforms in USA, Europe, UK, Japan and China; and
- Add value to all our stakeholders.

In short NZM works with the very best growers and the very best market value chain players and uses this as a platform for market shaping reform.

Key to NZM’s value proposition is the ZQ brand which provides accreditation to growers and assurance to the market in terms of environmental, animal welfare, social responsibility and production practices that underpin how the wool has been grown. Transparency around these requirements are now being demanded by brand partners and consumers in the market.

As noted above many of NZM’s fine wool suppliers are on pastoral leases such as Mt Nicolas and Lake Heron. These are iconic inter-generational properties that are key suppliers to NZM and that are used extensively to promote NZM’s growers’ fibre to the world based on their ZQ accreditation. These

THE NEW ZEALAND MERINO COMPANY LIMITED

Level 2, 123 Victoria Street, PO Box 25-160, Christchurch, New Zealand, Phone +64-3-335-0911, Fax +64-3-335-0912, www.nzmerino.co.nz
properties also generate very significant direct economic benefits for the merino sheep and wool industry.

Increasingly part of NZM’s promotion of New Zealand fine wool recognises the stewardship of those properties through the ZQ standards that the market demands. This market oversight is fundamental to NZM’s value proposition and our ability to position our fibre as ‘ethical’ wool.

To enable NZM to continue to meet its brand partners requirements and to continue to generate significant economic benefits for the merino industry and broader New Zealand primary sector it is critical that those suppliers on pastoral lessees have security of tenure and the flexibility to continue to operate their properties as they do now. Additionally it is critical that they have the security and confidence to continue to invest in them for the future.

We therefore ask you to consider seriously the implications for the broader New Zealand Merino industry and its global reputation as you go through your process of considering the ongoing stewardship of Crown pastoral land.

Yours sincerely

[Signature]

Peter Floris
CHIEF OPERATING OFFICER
18 April 2019

Dear Sir/Madam

Enduring Stewardship of Crown Pastoral Land

Thank you for the opportunity to submit on the enduring stewardship of crown pastoral land. Our understanding of the process is that this consultation is to inform the introduction of a Bill to Parliament to change the law, and that the public will have a second opportunity to comment on proposals when the Bill is considered by a Parliamentary Select Committee.

Tourism Industry Aotearoa (TIA) is the peak industry body representing the tourism industry. Our purpose is to shape tourism for the ongoing benefit of Aotearoa and our people, and our vision is “Leading the world’s most sustainable tourism industry”.

Tourism is New Zealand’s largest export sector, earning $16.2 billion in foreign expenditure, contributing 20.6% of New Zealand’s total export of goods and services (YE March 2018). Tourism in New Zealand is a $107 million per day industry, and despite being New Zealand’s number one export earner, the visitor economy is dominated by domestic tourism (59% total expenditure). New Zealanders recreating away from their home areas, whether under their own steam or using the support of commercial operators, are a critical part of the tourism industry.

Tourism takes the lead in promoting New Zealand to the world. The brand positioning built by a vibrant tourism industry has become an important source of national confidence and identity and a front window for “Brand New Zealand”. Indeed, the unique and pure offering that is synonymous with New Zealand tourism has been widely adopted and used to promote New Zealand exports in a range of other industries as well.

The discussion document states that “the Crown owns approximately 1.2 million hectares of Crown pastoral land, mostly in the iconic South Island high country and comprising almost five per cent of New Zealand’s total land area. Much of this land is leased by the Crown for pastoral farming. The decisions the Crown makes about pastoral leases have a direct impact upon environmental, cultural and economic outcomes in the high country.”

Tourism has a direct interest in each of these outcomes.

Tourism recognises the need for changes in how the Crown manages pastoral land

TIA agrees that changes are needed in how the Crown manages pastoral land. We support the position of Land Information New Zealand in the “Discussion Document on enduring stewardship of Crown pastoral land” February 2019 stating that (brackets ours):

“The Crown now needs to clarify what it wants to achieve in relation to Crown pastoral land” (in this changed context),” to ensure that this land is managed in a way that maintains and enhances its significant natural and social capital for present and future generations. It’s also necessary to ensure that the Crown pastoral land regulatory system enables this to happen.”

The importance of biodiversity to tourism

1. How the natural environment is managed is inherently tied to the economic success and well-being of the New Zealand tourism industry. Tourism is a highly competitive
global industry, and the environment is our unique selling point and underpins the Government’s 100% Pure New Zealand marketing proposition. Data from the International Visitor Survey conducted for the Ministry of Business Innovation and Employment (MBIE) shows that the top factor for influencing visitors to choose New Zealand is our natural landscapes and scenery, while New Zealand’s environmentally friendly image is also an important influence.

Top factors influencing consideration of New Zealand (from IVS):
1. Spectacular landscapes/natural scenery 46%
2. Always wanted to visit 29%
3. Visit friends/family 28%
4. Friends, family or colleague recommendation 27%
5. Somewhere new/never been there before 25%
6. Environmentally friendly image 21%

2. TIA’s view is that New Zealand has a unique opportunity to show, in a planned and deliberate way, environmental leadership and integrity. Such a move would secure a powerful high-value trading proposition for tourism and many other industries, support our nation’s social health and ensure our next generation inherits a land that is better than today.

3. The environment is integral to many specific adventure and outdoor tourism experiences. However, much of the value of the tourism/environment interface is in landscape/destination attractiveness. High country landscapes such as those under pastoral lease are often an integral component in the suite of resources that make up ‘Destination New Zealand’. Tourism landscape experiences range from visitors taking part in activities to flight-based sightseeing and the campervan style ‘touring economy’.

4. Tourism provides a means for people to enjoy our environmental resources and to monetise value from these resources in a non-extractive way. The wealth-generating capacity of the New Zealand system will be enhanced from ensuring quality environmental resources.

5. The value accrued by this non-extractive use of environmental resources is often less tangible to measure than that from industries based on extractive use (such as intensive farming, mining, irrigation or forestry), however the value ultimately achieved is just as real to the New Zealand economy.

6. The Tourism New Zealand marketing proposition ‘100% Pure New Zealand’ is a composite of our regions or destinations. The pay-back for the regions are jobs, business opportunities, and vibrant and functional communities. This is especially so for regions where there are otherwise fewer opportunities for growth. As such, how regions manage their environmental resources for tourism is very important and needs to be factored into regulatory systems and all resource use and management decisions.

The importance of access for tourism

1. Public, practical access is a crucial component of outdoor recreation opportunities – both independently undertaken and those supported by commercial operators. Improving and ensuring public access to places with recreational value should be a clear and specific outcome of the enduring management of pastoral land.

2. Public access should be a key component of social capital and the cultural and economic outcomes of management of pastoral land. The proposed outcomes in the discussion document do not adequately capture this value.
3. TIA supports the submissions of the Walking Access Commission and New Zealand Recreation Association in this regard.

Responses to specific questions

TIA supports the use of the term ‘natural capital’ as it pertains to the pan-government Wellbeing Framework.

TIA supports the development of a regular Statement of Performance Expectations for the Commissioner of Crown Lands, approved by the Minister of Land Information.

TIA agrees that the Commissioner should be required to obtain expert advice and consult on discretionary consent decisions.

TIA supports enhanced monitoring arrangements.

Next steps

TIA wishes to participate further in discussion on the enduring stewardship of Crown pastoral land and we look forward to contributing further when the Bill is considered by the Parliamentary Select Committee.

Please do not hesitate to contact us if you have any queries about our feedback.

Yours sincerely

Steve Hanrahan
Advocacy Manager
TIA
Submission on the Management of Crown Pastoral Land

Introduction

1. The New Zealand Walking Access Commission Ara Hīkoi Aotearoa is the crown agent tasked with providing leadership on outdoor access issues. We administer a national strategy on outdoor access, including tracks and trails. We map outdoor access, provide information to the public, oversee a code of responsible conduct in the outdoors, help to resolve access disputes and negotiate new access.

2. The Commission has an office in Wellington and a network of regional field advisors. An independent board governs our work. Our governing piece of legislation is the Walking Access Act 2008.

3. The Commission does a significant amount of work relating to public access on Crown pastoral lease properties.

Access for Outdoor Recreation

4. The Commission submits that improving public access for recreation on Crown pastoral lease land should be an important outcome of the review.

5. The Commission submits there is a close link between public access to outdoor recreation opportunities and awareness of the New Zealand’s environmental and biodiversity needs.

6. An effective way to achieve enhanced public access and the associated social and economic benefits is to articulate clearly that public outdoor recreation (both free and commercial) is a goal and outcome for Crown pastoral land.

7. Conservation Resource Reports (prepared for Land Tenure Review) are a basis for understanding desired access over Crown pastoral lease land.
8. Outdoor recreation can include commercial operations as a way of diversifying recreation opportunities and developing regional economies. But free, practical, public access is a crucial component of outdoor recreation opportunities, and also contributes to regional economies, community and social wellbeing, and understanding of conservation and biodiversity outcomes.

9. To mitigate adverse impacts on land use and the environment, public access may be managed to regulate types of activities, the time of year that people can access land, when they can access the land and the number of people who can access the land.

**Environmental Farm Plans**

10. The Commission submits that Farm Plans for Crown pastoral leases should be a ‘one stop shop’ for all regulatory bodies (Regional Councils, LINZ, DOC) and should include a section addressing outdoor recreation and access (alongside farm management and environmental management). The Commission would support LINZ with advice on incorporating public access and outdoor recreation requirements into Farm Plans.

**Incentives to encourage public access**

11. The Commission submits that LINZ investigate providing incentives to pastoral lease holders to encourage them to provide public access. This could be through mechanisms such as rent relief or agreement for commercial access. The Commission and LINZ could use such incentives when lessees seek consents for other land uses. Incentives could be financial and may include other measures, such as opportunities to develop outdoor recreation businesses that support public access.

**Requirement to seek expert advice and to consult**

12. The Commission submits that the Commissioner of Crown Lands is required to obtain expert advice and to consult on discretionary consent decisions. The Commissioner would consult with the Walking Access Commission on issues of public access.

13. The Commission submits that the Commissioner of Crown Lands is required to report regularly against a monitoring framework that includes availability and practicality of public access.

**Secure existing public access**

14. The Commission submits that the Commissioner of Crown Lands and LINZ work with Territorial Local Authorities to rationalise public access associated with unformed legal roads. The existence of unformed legal roads is a clear intent to provide access. Many Crown pastoral leases contain Unformed Legal Roads that do not provide practical or sensible public access.
Easements

15. S60 Land Act 1948 provides the ability for the Commissioner of Crown Lands to create easements for recreational access to public lands.

Natural capital and social capital

16. LINZ’s consultation document on Management of Crown Pastoral Leases refers to ‘Natural Capital’ and ‘Social Capital’ in line with Treasury’s adoption of the Four Capitals approach.

17. The Commission submits that ‘Social Capital’ is too broad in this context, and that identifying the unique contribution public recreational access makes to enhancing ‘Social Capital’ is important.

Ngā mihi,

Ric Cullinane
Chief Executive