Submission on ‘Enduring stewardship of Crown pastoral land’

I am submitting as someone who has a strong interest and involvement in the South Island High Country as an outdoor recreationist, conservationist, and former member of the Canterbury-Aoraki Conservation Board (1998-2006).

General comments.

Virtually since the commencement of tenure review (TR) in the 1990s I have believed that this has been a flawed process, particularly on environmental but also economic grounds in terms of the public interest, and to a lesser extent public access for recreationists to those areas which have been taken over by DOC into public conservation land. In fact I find it difficult to understand why there was so much initial support for the alienation of huge areas of publicly owned land.

As Dr Ann Brower et al have argued through detailed research over the last decade this process has been a case of ‘agency capture’ at the expense of the public interest, resulting in the loss of conservation and economic values in many areas that have been freeholded by lessees.

Government agencies appear to have been willing to close TR proposals with lessees, rather than withdrawing from unsatisfactory contracts. It seems every effort was made by LINZ and their commission agents to push deals through the system rather than withdraw to protect the public interest and the environment if the terms of the agreement were unfavourable.

As a DOC senior manager said to me early in the process there was pressure to get the lessee to ‘unlock the gate’. In that sense TR was always very much a political process, one of divesting Crown land, rather than a balanced protection of the public interest and the environment. Many people I know have been dismayed by what has happened under TR and the ineffectiveness of Ministers theoretically controlling the process.

This is despite the fact that the law, under the CPLA (S.2), clearly states that TR is to ‘enable the protection of significant inherent values of reviewable land.’ The upshot has been that this appears to have been more often honoured in the breach than the observance in terms of land freeholded under TR. This meant that very often land with the highest economic and conservation values was freeholded and land with the least value, and the biggest problems, retained by DOC.

Of course most of this is not news to people who have followed TR over the years. Unfortunately most New Zealanders don’t care much, particularly in the most populous parts of the country such as Auckland. Very few journalists, either in print or broadcasting, with the exception of those on The Press (Charlie Mitchell), have got to grips with these failings. Essentially TR has flown under the public radar and if noted is seen as a ‘complicated’ and remote South Island matter.
Issues and Solutions.

I support the following action in relation to any reform proposals.

- Maintain all existing crown pastoral leases in Crown ownership, except those which are at the substantive proposal stage. Halt the TR process as such.

- Reform the process for discretionary consents. Perhaps bringing them under a model which has similar transparency to that used with the RMA. That is public notification, submissions, accountability and right of appeal, and Ministerial call-in powers. Whatever the final decision discretionary consents must be more open to stakeholder input and accountability than the ‘smoke and mirrors’ process at present.

- Review restrictive trespass rights over leases which appear to be based on dubious minority legal opinions. In many parts of the world, such as Scotland/Sweden/EU and parts of England there is an unrestricted ‘right to roam’ over agricultural land similar to the South Island High Country. And other areas there are over 200,000 kilometres of legal public footways in the UK which are almost as good as a ‘right to roam’. In contrast access over private land in this country is very limited and restricted.

- Review the terms of the lease on a more regular basis in light of any land use changes because of discretionary consents. In many cases 33 years is too long. Terms and rentals must take into account the increased income from tourist operations and discretionary consents on Crown land.

- Ban all sales of Crown Pastoral leases to offshore absentee owners. No exceptions. The lessee must live in New Zealand. Check to make sure this is complied with. High country land should not be held by overseas or boosted in value because of absentee owners.

- Amend lease conditions to allow greater access for recreationists. Under TR agreements access to land taken over by DOC is often obstructive and difficult, whereas easy access up a nearby farm 4WD track may be prohibited under the final agreement. This appears deliberate obstruction to many recreationists.

- Ban the charging of fees for access to Crown owned land, except for commercial tourist operations.

Answers to questions in Tenure Review discussion document

1. How to best manage the end of tenure review
Support the better management of CPL land with SIVs through covenants or in rare cases purchase by Crown. Implementation of covenants must also be strengthened and improved. At present too weak.

Reason. Protection of areas of high ecological value on lower altitude freehold land has not been given the priority it deserves.

Support improved public access through more accessible easements or ‘right to roam’ agreements

2. Do you agree with the proposed outcomes

I support the proposed outcomes, particularly the increased focus on Crown stewardship of CPLs through more effective regulation in collaboration with lessees and key stakeholders. Support the use of ‘natural capital’ rather than ‘ecological sustainability’ as more appropriate in the context of a farmed landscape. While also supporting a greater use of covenants or some other more effective mechanism to better protect areas of SIV. At present I do not trust the application/operation of many covenants to adequately protect SIVs. Better inspection from DOC, compliance and compensation needed?

Support lessees right to make a return on investment, while being responsible for maintenance and enhancement of natural capital.

Like thousands of New Zealanders and overseas visitors I greatly value the expansive landscape of the high country, which includes ecological values, natural quiet and access for controlled recreation.

Question 3.

I support the proposal that the Commissioner should have to present a regular publicly available statement of performance expectations as laid out by the Minister of LINZ

Reason. There needs to be much more transparency and accountability in the regulation of CPLs.

Question 4

Support that the CPLA should be amended so that it provides for the Commissioner to release additional cost effective guidance and standards for officials and leaseholders. These guidelines must be to the point, transparent and in clear English, not jargon or legalese. Must be edited by someone who understands the importance of clear English for the lay person. No academic English.

Critical that these guidelines still allow some discretion and are not overly complex. This system should not cost millions of taxpayers’ dollars to administer.

Reason to provide better environmental, economic and recreation outcomes on CPLs

Question 5
Agree that the Commissioner must be required to give effect to proposed outcomes in any discretionary consent decisions.

**Reason.** Discretionary consents have been loosely applied and resulted in ecologically destructive results in unique landscapes and habitat loss, particularly in the MacKenzie Basin. The process is full of conflicting contradictions and needs to be comprehensively reformed.

Not sure if the proposed approach will support the proposed outcomes. Very concerned about the opaque and secretive process of DCs. Needs to be consideration of a more open process involving stakeholder submissions and possibly the right of appeal? But I am also opposed to making it too bureaucratic and costly.

Specific matters to be considered in approving an application are such things as ecological impacts, landscape impacts, effect of freshwater values, natural quiet, and cost.

Covenants need to be reconsidered/reformed to make them much more effective. At present there are huge doubts as to their effectiveness and essentially the feeling is that they don’t work and are more ‘honoured in the breach’. Much more effort and consideration needs to be put into strengthening covenants and making the areas they cover much larger in order to have a useful ecological effect. At present many covenants, such as QE11, are just Claytons conservation measures. No third party covenants!

There should be thorough research consideration of other methods of protection of natural landscapes such as farm plans to make sure they are worth the paper they are written on. Box ticking is a waste of everyone’s time and junk conservation.

No discretionary consents should be granted on land which has been abused and overexploited. At times the DC process has been used to disingenuously justify development and intensification on CPLs.

**Question 6**

I support the requirement for the Commissioner to obtain expert advice and consult on discretionary consent decisions.

**Reason.** See points made in previous answers as to the ineffectiveness of DCs in terms of environmental protection.

Information from experts should be sought initially on most consents. On those consents which cover a wide area or have SIVs or require significant changes in land use or involve land which has been seriously degraded the Commissioner should not only consult with experts but other stakeholders such as NGOs. In these significant cases there should be the opportunity for stakeholders to appeal the Commissioner’s decision to the Minister or an independent body.

**Question 7**
I support the introduction of management fees for all DCs for the reasons outlined in the discussion document. I also support the consideration of a concession charge for tourist operators on CPLs.

Question 8

Support more effective monitoring of DCs for the reasons outlined in the discussion document. However concerned that the monitoring regime may be too complex, bureaucratic and costly. Must be carefully designed to avoid excessive cost and not rely on expensive consultants.

Thank you

8th April 2019
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.

Publishing and releasing submissions

LINZ is bound by the Privacy Act 1993. Any personal information, including your name and address, which you supply to us in the course of making a submission or providing a point of view, will be used by LINZ only in conjunction with the purpose of collecting the submissions.

All or part of any written submission (including names of submitters) may be published on the Land Information New Zealand website www.linz.govt.nz. When you make your submission, you consent to your personal information being published, unless you tell us otherwise. If you do not want your personal information published, please tell us when you make your submission.
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

<table>
<thead>
<tr>
<th>Name 1</th>
<th>Name 2</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Submission type*

- [x] Individual
- [ ] NGO
- [ ] Local government
- [ ] Business / Industry
- [ ] Central government
- [ ] Iwi
- [ ] Other (please specify)
  Add your details

* Questions marked with an asterisk are mandatory
Question 1:

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

To ensure “enduring stewardship”, the Crown interest needs to be managed by a well-resourced government agency with in-depth scientific skills and knowledge of high country pastoral land. This has not been the case with LINZ. A partnership and the sharing of expertise is essential. Within government, expert knowledge of ‘significant natural values’ in these lands is found in DOC, Landcare, and regional council technical staff. There are also skills in some private natural heritage consultancies.

1b. Are there any other mechanisms that could be used to protect significant natural values on Crown pastoral land?

Over 30 years the Protected Natural Areas Programme (PNAP) was very successful in identifying key areas which are identified as Recommended Areas for Protection (RAP). Large areas of pastoral high country have been surveyed by PNAP in the past and there would be much value in DOC/Landcare/Ecological consultancies extending the programme across the rest of the pastoral high country. This would assist in identifying key areas which need their natural capital protected or enhanced, and in some cases purchased from the lease.

1c. Do you have any views on the proposed transitional arrangements for ending tenure review?

No

Question 2:

2a. Do you agree with the proposed outcomes?

☒ Yes ☐ No ☐ Unsure

Please comment

If the Crown is serious about remaining in ‘shared stewardship’ of these lands it must require its agencies with expertise to closely collaborate with the leaseholders. This is a far greater responsibility than leaving so much decision-making to the Commissioner of Crown Land (CCL) who to date has not had enough in-house knowledge to call on.
2b. Do the proposed outcomes capture all the things the Crown should focus on? What’s missing?

Yes. I think they encompass what we want the Crown to achieve in ‘shared stewardship’.

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

☐ Yes  ☐ No  ☐ Unsure

Please comment

‘Natural capital’ encompasses the important attributes of natural landscape integrity and outdoor recreational resources. These are both important public goods which are not covered by ‘ecological sustainability’.

2d. 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?

Ngai Tahu should be encouraged to use their own considerable resources to identify nohoanga and places of significance to the iwi. It could be that they could compensate leaseholders for forgoing pastoral use of some areas of significance to them – something like the application of topuni in conservation lands.

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

Their value as an ‘open space’ natural landscape setting, with an absence of shelter belts, fences, and irrigation technology. Also, their value as a largely natural foreground (and access way) to our protected mountainous hinterland. The protection they offer to our high country braided rivers through their extensive (as opposed to intensive) pastoral agriculture. There should be no place for intensive, irrigation-assisted, dairying in the Crown pastoral high country.

2f. 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 can be surmised that the remaining pastoral leaseholders who have shied away from tenure review are more committed to long-term stewardship of the land. The Crown needs to lift its game to match them – and match the level of knowledge and commitment found in community interest groups and iwi. Mutual respect of all these parties is essential – but it has to be earned.
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

Please comment

The Crown has been derelict in the past by failing to spell out such expectations. The CCL has been too much of a law unto him(her)self.

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

☒ Yes ☐ No ☐ Unsure

Please comment (optional)

Provided the statement is not full of vague weasel words and gives clear direction on open processes and expected outcomes to for best sustaining natural capital.

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

An annual report to Parliament, along the lines of that provided by the Parliamentary Commissioner for the Environment.

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

Essentially, much more openness regarding expected outcomes and key discretionary consents.

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

None come to mind.

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

Please comment

This is a key legislative amendment

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

Please comment

A framework of desired outcomes has been lacking and should in future allow greater transparency of the CCL’s actions.

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?

Any Cabinet Minute pertaining to government’s desired outcomes for pastoral land, eg, water quality standards, or instructions like the 2005 minute excluding lakeside properties from tenure review.

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

A farm plan, spelling out *inter alia* the Crown landlord’s expected standard of stocking and herbage management, nutrient loads, etc, would bring about greater transparency with appraisal of actual management levels against the plan’s standard.

4e. What other mechanisms could be used to improve transparency?

n.a.

4f. Which mechanisms do you think would be most effective in improving transparency?

Annual (or two-yearly) reporting of outcomes.

4g. Do you think there are any problems with the proposed change?
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

No comment

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

No comment

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

No comment

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

No comment
**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

**The CCL has consulted with DOC on some tenure reviews but there is a widespread view that the input of expert Landcare scientists (and experts in universities and private ecological consultancies) has not been used enough – nor have their comments and submissions been made public (even when they do not have a bearing on commercial viability).**

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

- Any change to pastoral landuse, eg, dairying; any associated tourism venture which could deny reasonable requests for public access across the land; any proposals to modify (draining, ploughing) a parcel of the property with ‘significant inherent values’.

**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.

**The CCL as an independent statutory officer, needs to be respected by all parties and show his/her unbiased judgment and ability to assimilate a wide range of technical information before making a sound decision. This is a big ask. It is very likely that LINZ will need to provide the CCL with a greater depth of in-house expertise, along the lines of LINZ having to markedly increase the quality of staff in the Overseas Investment Office because of long-standing criticism of that office’s performance.**
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

*Any proposal for a change in the pastoral land status quo use incurs administrative energy. It is therefore reasonable to charge a fee for considering a consent application.*

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

n.a.

Question 8:

8a. Do you agree that the Commissioner should be required to regularly report against a monitoring framework?

☒ Yes  ☐ No  ☐ Unsure

Please comment

*It has been unfair to leave the CCL something of a ‘free agent’ with regard to oversight for the Crown of pastoral lease land use. A monitoring framework should lead to better overall management of the Crown’s interest and provide greater security for the leaseholder. It is an essential improvement.*

8b. What other mechanisms could be used to ensure the outcomes of the Crown pastoral land regulatory system are better understood?

n.a.

8c. What information do you think is most valuable to understand system performance?

*Qualitative (rather than quantitative) measures of stock production, stock...*
health, pasture condition, and biodiversity enhancement.

Question 9:

9a. Do you have any feedback on the preliminary analysis in section 6?

Yes, I think that the assessments against the 4 criteria in the tables in section 6 are a good preliminary analysis of like impacts on the proposals in the discussion document.

9b. Are there any other comments you’d like to include in this submission?

The vexed issue of LINZ’s lax management of Crown-owned river beds passing through pastoral leasehold high country needs to be addressed at a high level in the near future. These habitats are worthy of catchment-by-catchment planning and consultation by a wide range of stakeholders – lessees, DOC, iwi, regional councils, Fish & Game, etc. They are in many cases becoming choked by weeds and infested with pests, without any active management.
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?
This very much depends on the level of significance.
Landscape, in this context of pastoral land, is generally best protected under a mixed management system such as the Pastoral Lease system provides where there is continuous on site management. A grazing regime, particularly low intensity extensive systems imitate, but do not necessarily replace, the pre-human era of bird foraging under which the biology evolved. Landscape includes the natural plants that are often enhanced under a farming system that is managed to include the preservation of such plants.

1b. Are there any other mechanisms that could be used to protect significant natural values on Crown pastoral land?
Very rare or endangered natural values at risk under a continuous farming system may be better excluded from a farming system, therefore managed solely for conservation by specialists. These are generally in small areas or isolated from the general farming activity. Often the occupier has a desire to take part in the preservation but it requires sufficient legal protection to ensure the protection endures to successors.

1c. Do you have any views on the proposed transitional arrangements for ending tenure review?
Proposal acceptable and offer some flexibility. Where a Preliminary Proposal has not been advertised then possibly it should not proceed further.

Q2

2a. Do you agree with the proposed outcomes? Yes
Please comment
Partially but require some explanation and detail.
The statement about "support economic resilience" is only a "feel good" statement and depends on a wide range of ongoing national economic circumstances. The follow on "sustainability of communities" may have more substance but again is a wider issue than just the high country communities. The ability of the wider local body area and it ability to sustain infrastructure comes into play.
The statement "enable the Crown to obtain a fair financial return" should have "financial" deleted because it has a money grabbing connotation. A strong objective throughout is on natural landscapes, indigenous biodiversity, cultural and heritage values. They are the key returns the Crown desires. Receiving some rent is almost a bonus providing the aforesaid objectives are obtained and endure together with an on site caretaker.

2b. Do the proposed outcomes capture all the things the Crown should focus on? What’s missing?
There must be much closer integration between the outcomes envisaged under the Pastoral Lands and those under the RMA as administered by Local Bodies. Perhaps some integration with assistance from LINZ in obtaining joint consents for its Lessees in a single process would be of mutual benefit and lower cost to all.

2c. Do you agree with the use of “natural capital” rather than “ecological sustainability” in the proposed outcomes? Unsure
Please comment
Because the Crown is unable to clearly define what is the intended outcome it is coining a new phase "Natural Capital" as a substitute for "ecological sustainability", in itself undefined.
Perhaps the outcomes could be summarised as: "...natural landscapes, indigenous biodiversity, cultural and heritage values collectively termed Natural Capital while providing for appropriate pastoral and compatible activities".

2d. 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? No comment

2e. What are the qualities and features of Crown pastoral land that you value the most? The retention of naturally evolved grasslands, admittedly under a bird regime as opposed to an animal regime, that can be enhanced for economic production as a means to maintaining its naturalness. It is noted that the view of the land is taken in its recent state not pre-human state which is said to be very different.

2f. What does enduring stewardship mean to you? REQUIRES EXCELLENT FARMING and ASSOCIATED MANAGEMENT COMBINED WITH CONSERVATION MANAGEMENT - IT IS NOT TOO HARD TO ACHIEVE

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 Needs to stay on the ball.

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

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

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

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

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? No Please comment Just needs competency of officials. Guidance and standards will require amending and updating from time to time as part of ongoing management.

4b. Do you agree that this proposal will help improve the transparency of decision making in the Crown pastoral land regulatory system? No

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? Better ongoing communication with all parties. Perhaps a section at the annual Federated Farmers High country Conference or some other similar gathering on a regular basis.

4d. How should standards be used to help increase transparency? How should guidance be used? Standards are useful in defining the information required for decision making so that there is consistency in reporting.

4e. What other mechanisms could be used to improve transparency? Release of reports without the need to resort to an official information request. Ensure there is a continuity of suitably qualified and experienced personnel to analyse and
report on consent requests. It is not the legislation or standards that are at fault but the SP's since LINZ continues to contract out to occasional unsuitable contractors.

4f. Which mechanisms do you think would be most effective in improving transparency?
Dedicated and experienced skilled staff in the field assessments.

4g. Do you think there are any problems with the proposed change?
To regimented without equivalent skills. Need in-house or dedicated full time contractors with both farm and conservation skills. Build a close relationship between Lessee and Lessor. The more entities that are required to be consulted the more complicated the decision making becomes and the more compromises are made. Yes obtain comment and if necessary it may be necessary to obtain further explanation.

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
But must give equal weight to the purpose of the lease provided the Lessee "does not commit waste" as provided in the lease. Committing waste can be interpreted as not protecting natural values.

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

5c. What other mechanisms could be used to ensure decision making supports the proposed outcomes?
GOOD SKILLED FIELD STAFF whose job it is to assist the decision making with the highest quality of information in a quality report. This report could be attached to the response to the applicant therefore would be public.

5d. What specific matters should be considered when deciding whether to approve an application?
This is an operational matter and required more detail and time than this questionnaire can provide.

Q6

6a. Do you agree that the Commissioner should be required to obtain expert advice and consult on discretionary consent decisions? Yes
Please comment
This is a very broad question. CCL either has a certain level of expert advice in house for the regular consent requests but may need to get specialist advice where it is not a regular request, say a ski field and ski road compared to a farm track, although the latter requires some special skill.

6b. In what situations do you think the Commissioner should seek information from experts or the public on the impacts of proposed activities?
Major earthworks as in a sporting facility, eg ski field.
Roads generally for tourist facilities.
Gondola installations.
Clearing and cultivation and grassing that would contravene a District Plan or Regional Council Plan.
While this is not a complete list it should be where the CCL does not have skills in house to competently assess the matter.
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.

In the absence of setting up an independent unit to manage Pastoral Leases the Commissioner is the appropriate decision maker providing there is the power of delegation. However it is important that there is a dedicated grouping within LINZ with land management skills, similar to past specialists in the Dept of Lands & Survey with the Pastoral Lands Officers under a Chief Pastoral Lands Officer. However there should be a wider range of skills that include ecology & conservation, farming, and commercial recreation. If the personnel are multi-skilled so much the better.

A vetting board/committee appointed for their skills, not their position on some organisation, could be used to recommend approval for the Commissioner to sign off and would be useful for consistency but puts in a delay so should have a threshold required to go through the committee process.

Q7

7a. Do you agree that the CPLA should be changed to allow for fees to be charged for all discretionary consents? No

Please comment

Obtaining consents is part of the management of the high country. It is important that Lessees farm diligently and efficiently but in this case the Lessor wants to retain an oversight on how the land is managed. A partnership is referred to and in such it is reasonable that each party bears its own costs. If there is to be a mutual relationship do not put irritating blocks in the way to obtaining the objective desired by the Crown.

It is reasonable to pay a fee for other Land Act requirements such as Easements, Transfers, plus Recreation Permits or other non pastoral activity.

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

It will be a disincentive to apply for consents. Why would a Lessee willingly pay a fee for consent to eliminate shrub weeds that they are obliged to control under the terms of the lease yet have been told they need a consent to do so. How ridiculous.

Q8

8a. Do you agree that the Commissioner should be required to regularly report against a monitoring framework? Yes

Please comment Commissioner needs to know the state of leases and what activity is happening.

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?

Many outcomes from granting discretionary consents are subjective and climate as well as management dependent. Nothing is precise. Outcome results are dependent on many things
starting with defining the objective. Second is assessing the proposal which requires knowledge and skill in the activity sought, and thirdly implementing the proposal. Lastly, managing the effected change over a generally long period to deliver the desired outcome. This requires skilled and dedicated personnel from both Lessee and Lessor all the way to ensure the desired outcome.

9b. Are there any other comments you’d like to include in this submission?

The whole process is a bit like back to the future. However we must learn from possible errors and focus on the future. It is important to focus on the land and the environment in which the Crown Pastoral land is located. It is generally in a harsh environment with limitations on enhancing pastoral agriculture however there are also many opportunities for economic return while retaining, or enhancing, the inherent values, which are many. There is an implied partnership between Lessor and Lessee that must be fostered to attain the outcomes that both vow to hold dear. The on farm operation as a whole, that may include other land, must be able to generate a cash surplus to ensure the obligation of the covenants of the lease are met plus full maintenance of the infrastructure together with a living for the Lessee. The Crown requires an amicable symbiotic relationship with its Lessees as well as its remaining subjects, the latter being in the majority. All have their own reasons for preserving the very wide inherent values (the term used here to encompass all the values set out in the document) to be found in the high country of the South Island. The Crown has however granted perpetually renewable leases of pastoral land still in Crown ownership for the rights to the pasturage, with additional options for enhancement or use with consent. Therefore a mutually beneficial partnership must exist to deliver the reasonable preservation of inherent values. There must be credibility and integrity by both partners for the outcomes to be achieved. The Crown needs a small dedicated unit of highly skilled personnel from administration to agricultural and environment who develop a long term relationships with its Lessees. While on farm Lessees should continue to take all opportunities to further understanding of the natural environment adding to their high farm and animal skills. They already have a very close business grouping within Federated Farmers. The skills already exist in the farm camp but it is acknowledged LINZ will need time to restore the expertise that once existed in the Dept of Lands and Survey and has dissipated over time and generally not been replaced even in the contracted service providers as dedicated specialists. A new model will be different but will require a technical head and an administrative head advising a decision maker. They will possibly need mentoring for a while to develop credibility and a relationship with Lessees. There are still some of the old salts about and some not so old who could be seconded.

Enjoy the journey and focus on the land and the people.
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.

Publishing and releasing submissions

LINZ is bound by the Privacy Act 1993. Any personal information, including your name and address, which you supply to us in the course of making a submission or providing a point of view, will be used by LINZ only in conjunction with the purpose of collecting the submissions.

All or part of any written submission (including names of submitters) may be published on the Land Information New Zealand website www.linz.govt.nz. When you make your submission, you consent to your personal information being published, unless you tell us otherwise. If you do not want your personal information published, please tell us when you make your submission.
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.

Submission type*

☑ Individual

☐ NGO

☐ Local government

☐ Business / Industry

☐ Central government

☐ Iwi

☐ Other (please specify)

Add your details

* Questions marked with an asterisk are mandatory
Question 1:

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

The only way to adequately and quickly provide protection is for the Crown to take back high country leasehold land - land which it actually still owns but is now virtually freeholded by the leaseholders. It is something of a conundrum. But the new strategic direction does not address this. Clearly the Minister and LINZ identify that there is a lack of environmental stewardship, and the objective is to raise that as a main goal over economic return, but this new approach is way too timid and bureaucratic. A more direct, hands on approach is required if we want to be really serious about making a difference. That means control.

While eyebrows are raised in the discussion document and briefing papers about the cost of buying back high country stations, I think this is overhyped.

The reason the high country stations sell for such huge amounts is that wealthy buyers from overseas are in the market. Remove their right to buy and the stations’ market value will be realistic and not propped up by foreign money – I doubt that many high country runs are very profitable. Surely if they were the Crown would have ensured it got a greater return for its leases than $2million a year in rents.

1b. Are there any other mechanisms that could be used to protect significant natural values on Crown pastoral land?

As above

1c. Do you have any views on the proposed transitional arrangements for ending tenure review?

It should end, if tenure reviews are not signed off, then they should not proceed. In other areas, for example immigration, if there is a major policy change there is no leeway to continue if you are in the process. It is the end.
**Question 2:**

2a. Do you agree with the proposed outcomes?

☐ Yes    ☐ No    ☒ Unsure

Please comment

I agree with 1.

2b. Do the proposed outcomes capture all the things the Crown should focus on? What’s missing?


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

☒ Yes    ☐ No    ☐ Unsure

Please comment

Unless the natural environment of the high country can be protected, and reinstated in any cases, we have no hope of stemming environmental degradation on the rest of our lands because everything flows from the high country – it is the source of our rivers, soils, rocks, the home to many native species. We should protect our natural capital.

2d. 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?

50T

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

Every feature of the natural landscape, it is visually stunning and an overwhelmingly peaceful and inspiring place to be.

2f. 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?

To me stewardship means the person/organisation has a role to “look after” something, in this case the high country land.
I do not agree with your grouping as in the question above. My remedy for effective, enduring stewardship is to have it in control of a committee, sitting under DOC (not LINZ), made up of environmental advocates and iwi. Only then will environmental protection remain the true objective.

The groups you suggest cannot effectively work together because any radical changes, which are required if we don’t want further degradation and more public access, will result in the leaseholders protesting as a group – perhaps taking court action and the courts will side with them adhering to principles of the rule of law and respect for property (as pointed out many times in briefings eg Brf 18-283). Therefore, the new strategic direction requires the Crown to take back control.

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

Please comment

50T

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

☐ Yes  ☐ No  ☐ Unsure

Please comment (optional)

Possibly in a limited and time consuming way.

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

50T

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

Complete ownership and control of the land so those on the land are directly connected to ownership. We should remove the need to "police" activities on the high country by having a management plan, and the managers of the land will be a team wearing the environmental "hat" and "badge" who will work to
the guidelines they support. Economic return will not be the be-all and end all of managing the land, which I acknowledge is one of the strategy’s objectives.

Please note, this does not imply that present leaseholders would be excluded from continuing to farm/manage the land, but they would no longer be owners, they would be members of the management team. Their priority would be the environment. Many farmers argue that they have been good stewards of the land, but have also had to get a return from it. This would be their chance to put a new hat on.

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

The only problem I see is that I doubt if it will be effective enough.

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

Please comment

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

Please comment

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?

50T
4d. How should standards be used to help increase transparency? How should guidance be used?

5OT

4e. What other mechanisms could be used to improve transparency?

5OT

4f. Which mechanisms do you think would be most effective in improving transparency?

5OT

4g. Do you think there are any problems with the proposed change?

5OT

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

5OT

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

5OT

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

5OT

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

50T

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

50T

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.

No, as mentioned previously it should be a committee of environmental advocates and iwi.
**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

50T

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

50T

**Question 8:**

8a. Do you agree that the Commissioner should be required to regularly report against a monitoring framework?

☐ Yes  ☐ No  ☐ Unsure

Please comment

50T

8b. What other mechanisms could be used to ensure the outcomes of the Crown pastoral land regulatory system are better understood?

50T

8c. What information do you think is most valuable to understand system performance?

50T
Question 9:

9a. Do you have any feedback on the preliminary analysis in section 6?

Click here to enter text.

9b. Are there any other comments you’d like to include in this submission?

5OT
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
Submission Title: Enduring Stewardship of Crown Pastoral Land

The following feedback is written in the format of the questionnaire.

Q1a/1b
I agree, the Crown does not need to freehold land to protect inherent values. The ongoing degradation of inherent natural values including landscape on leasehold land needs to be halted.
Other options:
   a) The government could buy entire leases, identify areas with significant values and put this land into the conservation estate and sell or release the remainder,
   b) Covenants using QE2,
   c) An alternative covenant system,
   d) Purchase of part of the lease to ensure the inherent values are protected.

Q1c
Tenure review should only continue for the substantive proposals already in place. All other tenure reviews under consideration should be terminated as allowed for under the current legislation.

Q2
Yes, I agree with the proposed outcomes.
The hierarchy needs to be more specific in that ecological, cultural and heritage values should be enhanced as a priority. Economic resilience for communities reliant on pastoral farming is a secondary consideration. The current economic wealth of many of these communities has been at huge environmental cost.
The Crown needs to recover any costs associated with managing and administering the leases.

Q2b
There is no consideration given to land use changes in the context of climate change and options on how this land could be used to mitigate emissions eg how the land could be used to sequester carbon long term.
Consideration also needs to be given to reducing greenhouse gases from the activities on the leased property. This should be one of the monitored and reported outcomes.

Q2c
No, I do not agree with the term “Natural Capital”. “Natural Capital” is a vague term and typical of what could have been taken from and economics text book. Surely we can do better than this in order to capture the essence of what the changes are about.
Environmental Sustainability as a term could encompass the landscape, ecology, biodiversity, cultural and heritage values. Whatever the term, it needs to be clearly defined. For enduring stewardship these values must be measured, monitored, and maintained or improved (where currently below the threshold).

**Q2e**

The sense of vast landscapes that show minimal human impact and are being managed to maintain this.

**Q2f**

Means preserving the inherent values as defined above for perpetuity.

**Q3a**

Yes

**Q3b/c**

For the proposal to improve accountability, the following considerations need to be included:

1. There needs to be real accountability and transparency for the public on any decisions made in relation to Crown pastoral land.
2. The Commissioner should report to the Minister with an independent agency reviewing performance against set and agree performance measures. There is a history of the Commissioner exercising discretion or making decisions that are contrary to his obligations. Mechanisms are needed to prevent any recurrence of this.

Accountability of the Commissioner and LINZ is essential and has been badly lacking in the past.

**Q3d**

The Environment Court should become the decision making authority and that public participation and appeals are channelled through a full public notification process consistent with the RMA. Unambiguous purpose and outcomes should be set out in legislation to direct the Court to give precedence to safeguarding and sustaining natural heritage in all decisions.

**Q4**

Yes, the CPLA should be amended.

The Commission, officials and leaseholders must all comply with current laws and all named parties should understand this. The Statutory obligations of leaseholders must be clarified so that there is no room for misguided decision making. Annual reporting by lessees needs to be publicly available on the LINZ website. Monitoring and enforcement of the obligations under the CPLA and Land Act **MUST** be improved (eg maximum stock level).

**Q5**

Yes

There is a need for transparency on how this advice is analysed and taken in to account when decisions are made. The viability of the farming activity should not take priority when considering a discretionary consent.
“Offsetting” should not be used. Rather, “Avoidance” of adverse effects should be given priority. Restoration projects, such as Te Manahuna Aoraki, are to be applauded and encouraged as aspirational goals.

Agency officials should be removed from any decision making roles relating to discretionary consents.

Iwi and other interested parties need to be involved in the decision process for discretionary consents.

Legislate for the Environment Court to make the ultimate decisions on discretionary consents.

Discretionary consent approvals need monitoring with focus on the impact of their effects, especially cumulative effects.

Monitoring of discretionary consents by LINZ and reporting of this on the LINZ website.

In the interim, ahead of legislative change, notify and consult with the public and other agencies on any discretionary consent applications.

Q6
Yes the Commissioner should be required to obtain expert advice.

The Commissioner needs to consult much more widely with other stakeholders (not just DOC). Specific advice on landscape and ecological values should be provided by both DOC and other independent experts.

The Commissioner with extensive changes to his role, as outlined above, may continue to be the most appropriate model. There may be other options, but this would likely require too much organizational change to be achieved in the short term.

Q7
Yes, the CPLA should be amended to allow for discretionary consent application fees to be charged, to allow for cost recovery.
If the applicant can’t afford to pay the fee, how can they afford to undertake the proposed work! In all other industries and businesses the applicants pay the fees, and it is only fair the same applies to the farming sector.

Q8
Monitoring as proposed is essential to ensure the outcomes are achieved. Adequate resourcing of LINZ is necessary to provide for this.
Q1

1a. What are your views on how significant natural values should be protected once tenure review is ended?
As the discussion document alludes to, outright purchasing of land with significant conservation value can result in wonderful additions to the conservation estate (such as the St James area). However, relying on this mechanism can be pricey, it relies on the leaseholder being willing to sell his or her interest in the land, and it - generally - means that land cannot be used for dual purposes. Therefore, it makes sense to purchase outright only in unusual cases, and to predominantly rely on other mechanisms (eg. covenants).

1b. Are there any other mechanisms that could be used to protect significant natural values on Crown pastoral land?
The only other mechanism that may be worth some consideration is expanding the use of Water Conservation Orders (WCOs), which can limit the uses of land adjoining protected waterways.

1c. Do you have any views on the proposed transitional arrangements for ending tenure review?

Q2

2a. Do you agree with the proposed outcomes? Yes
Please comment
2b. Do the proposed outcomes capture all the things the Crown should focus on? What’s missing?
Yes, the proposed outcomes broadly consider all the relevant factors. As noted below, I think that the wording could be changed to ensure that environmental limits are not compromised by balancing natural capital against the other considerations - this could be done by inserting another 'limiting factor' in a subclause (alongside economic resilience and a fair return for the Crown).

2c. Do you agree with the use of “natural capital” rather than ”ecological sustainability” in the proposed outcomes? Unsure
Please comment
The use of natural capital has its merits, as it's arguably a broader consideration that ecological sustainability. However, I am concerned that the design of the outcomes clause may result in ecological limits being 'balanced' against social or economic considerations (as has been common in RMA decisions). To avoid this eventuality, I would recommend a general statement that speaks of maintaining & enhancing natural & cultural capital, qualified by three points: (1.) not to compromise the life-supporting features of natural environments, (2.) to provide for the economic resilience of communities, and (3.) to ensure the Crown gets a fair return.

2d. 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?
DOC currently engages with iwi (especially Ngai Tahu) in a way that I think is appropriate given the Crown's obligations under the Treaty. I would support all decision-makers having to have regard to Treaty principles, but requiring all decisions to be consistent with Treaty principles would create an unwarranted opening for judicial intervention or practices unfair to leaseholders.
2e. What are the qualities and features of Crown pastoral land that you value the most? The bare, undeveloped, golden-brown landscapes, in contrast to the blue skies.

2f. What does enduring stewardship mean to you?

**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? Unsure

Please comment

It seems peculiar that the Commissioner would develop the Statement & then the Minister would merely rubber-stamp it. I think it would be preferable to have a system akin to that of the OIO: the Minister prepares a Statement of Expectations, the Commissioner takes it into consideration when making decisions, and then the Commissioner reports back on progress, developing issues etc which can guide subsequent Ministerial Statements. I perceive this arrangement to provide the Commissioner with adequate independence.

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

Please comment

See comment above; yes, regular reporting of this sort would greatly improve transparency and accountability.

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

See comment above - I would prefer an arrangement in which the Minister sets the expectations and the Commissioner reports back but remains fundamentally independent, akin to the OIO.

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

See comment above.

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

**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

This question is fairly uncontroversial: there is a well-recognised issue (as LINZ's review found) that some decisions have been questionable, or at least the grounds upon which they were made have been unclear. Guidance for all parties would be excellent.

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

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?

4f. Which mechanisms do you think would be most effective in improving transparency?

4g. Do you think there are any problems with the proposed change?

**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 current levels of discretion are unwarranted; what's the point of having outcomes if the Commissioner does not have to give effect to them when making discretionary decisions?
5b. Do you think that the proposed approach ensures that decision making will support the proposed outcomes for Crown pastoral land? Yes
5c. What other mechanisms could be used to ensure decision making supports the proposed outcomes?
I would also support a statement of bottom lines, giving the Commissioner discretion to approve or decline any application other than those that would compromise fundamental conservation values
5d. What specific matters should be considered when deciding whether to approve an application?
As in my answers on general outcomes: ecological and heritage bottom lines, natural capital more generally, social capital (especially the economic resilience of relevant communities)

Q6

6a. Do you agree that the Commissioner should be required to obtain expert advice and consult on discretionary consent decisions? Unsure
Please comment
Only 'as appropriate' - some decisions will not require consultation or gathering additional information. But in some situations (see below), definitely. In general, a requirement to consult is probably more important than a requirement to gather expert advice; few experts are going to be able to offer more than the range of views that affected parties will have.
6b. In what situations do you think the Commissioner should seek information from experts or the public on the impacts of proposed activities?
Wherever the effects, or reasonably possible effects, will have a more than minor impact on the long-term natural, cultural or economic value of an area (area not necessarily being the area of the lease)
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.
The Commissioner, with suitable recourse to the courts, is an appropriate decision-maker

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
This would make the CPLA more consistent with other Acts; that said, the fees must not be set at a level that impairs people's ability to seek a consent - an option to waive the fee in certain circumstances would be appropriate
7b. How might charging application fees for all classes of discretionary consents impact on applicants? Please provide the reasons for your view.

Q8
Submission 2777

8a. Do you agree that the Commissioner should be required to regularly report against a monitoring framework? Yes
Please comment
As in previous answers, this would be a welcome improvement to the transparency of these arrangements
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?
Other than under 'effectiveness' I would prefer a clearer mention of ecological and heritage bottom lines (once heritage sites are gone, they're gone for good), and I would be concerned to see the other factors (certainty, flexibility etc) compromising effectiveness; these factors have to be subservient to the overriding purpose
9b. Are there any other comments you'd like to include in this submission?
Submission Title: Enduring Stewardship of Crown Pastoral Land

Email to: CPLC@LINZ.govt.nz

The following feedback is written in the format of the questionnaire.

**Q1a/1b**
I agree, the Crown does not need to freehold land to protect inherent values. The ongoing degradation of inherent natural values including landscape on leasehold land needs to be halted.

Other options:
- a) The government could buy entire leases, identify areas with significant values and put this land into the conservation estate and sell or release the remainder,
- b) Covenants using QE2,
- c) An alternative covenant system,
- d) Purchase of part of the lease to ensure the inherent values are protected.

**Q1c**
Tenure review should only continue for the substantive proposals already in place. All other tenure reviews under consideration should be terminated as allowed for under the current legislation.

**Q2**
Yes, I agree with the proposed outcomes.
The hierarchy needs to be more specific in that ecological, cultural and heritage values should be enhanced as a priority. Economic resilience for communities reliant on pastoral farming is a secondary consideration. The current economic wealth of many of these communities has been at huge environmental cost.
The Crown needs to recover any costs associated with managing and administering the leases.

**Q2b**
There is no consideration given to land use changes in the context of climate change and options on how this land could be used to mitigate emissions eg how the land could be used to sequester carbon long term.
Consideration also needs to be given to reducing greenhouse gases from the activities on the leased property. This should be one of the monitored and reported outcomes.

**Q2c**
No, I do not agree with the term “Natural Capital”.
“Natural Capital” is a vague term and typical of what could have been taken from and economics textbook. Surely we can do better than this in order to capture the essence of what the changes are about.
Environmental Sustainability as a term could encompass the landscape, ecology, biodiversity, cultural and heritage values. Whatever the term, it needs to be clearly defined.

For enduring stewardship these values must be measured, monitored, and maintained or improved (where currently below the threshold).

Q2e
The sense of vast landscapes that show minimal human impact and are being managed to maintain this.

Q2f
Means preserving the inherent values as defined above for perpetuity.

Q3a
Yes

Q3b/c
For the proposal to improve accountability, the following considerations need to be included:

1. There needs to be real accountability and transparency for the public on any decisions made in relation to Crown pastoral land.
2. The Commissioner should report to the Minister with an independent agency reviewing performance against set and agree performance measures. There is a history of the Commissioner exercising discretion or making decisions that are contrary to his obligations. Mechanisms are needed to prevent any recurrence of this.

Accountability of the Commissioner and LINZ is essential and has been badly lacking in the past.

Q3d
The Environment Court should become the decision making authority and that public participation and appeals are channeled through a full public notification process consistent with the RMA. Unambiguous purpose and outcomes should be set out in legislation to direct the Court to give precedence to safeguarding and sustaining natural heritage in all decisions.

Q4
Yes, the CPLA should be amended.
The Commission, officials and leaseholders must all comply with current laws and all named parties should understand this.
The Statutory obligations of leaseholders must be clarified so that there is no room for misguided decision making.
Annual reporting by lessees needs to be publicly available on the LINZ website.
Monitoring and enforcement of the obligations under the CPLA and Land Act MUST be improved (eg maximum stock level).

Q5
Yes
There is a need for transparency on how this advice is analysed and taken into account when decisions are made. The viability of the farming activity should not take priority when considering a discretionary consent.

“Offsetting” should not be used. Rather, “Avoidance” of adverse effects should be given priority. Restoration projects, such as Te Manahuna Aoraki, are to be applauded and encouraged as aspirational goals.

Agency officials should be removed from any decision making roles relating to discretionary consents.

Iwi and other interested parties need to be involved in the decision process for discretionary consents.

Legislate for the Environment Court to make the ultimate decisions on discretionary consents.

Discretionary consent approvals need monitoring with focus on the impact of their effects, especially cumulative effects.

Monitoring of discretionary consents by LINZ and reporting of this on the LINZ website.

In the interim, ahead of legislative change, notify and consult with the public and other agencies on any discretionary consent applications.

Q6
Yes the Commissioner should be required to obtain expert advice.

The Commissioner needs to consult much more widely with other stakeholders (not just DOC). Specific advice on landscape and ecological values should be provided by both DOC and other independent experts.

The Commissioner with extensive changes to his role, as outlined above, may continue to be the most appropriate model. There may be other options, but this would likely require too much organizational change to be achieved in the short term.

Q7
Yes, the CPLA should be amended to allow for discretionary consent application fees to be charged, to allow for cost recovery. If the applicant can’t afford to pay the fee, how can they afford to undertake the proposed work! In all other industries and businesses the applicants pay the fees, and it is only fair the same applies to the farming sector.
Q8
Monitoring as proposed is essential to ensure the outcomes are achieved. Adequate resourcing of LINZ is necessary to provide for this.
Q1
1a. What are your views on how significant natural values should be protected once tenure review is ended?
With a fully protected drylands heritage area. The most up to date science shows that grasslands are some of the most effective and important carbons sinks on the planet, if we have any hope of slowing down the effects of climate change and meeting our obligations under the Paris Accord then it is imperative that we protect these areas. I ask the Government to commit to the creation of a Mackenzie drylands heritage area through the strategic purchase of crown pastoral lease land, complemented by a range of other protective mechanisms such as covenants, and the update and enforcement of lease terms for those who are greening the Mackenzie Basin for livestock.
1b. Are there any other mechanisms that could be used to protect significant natural values on Crown pastoral land?
There are institutions such as the Savory Institute who promote holistic livestock land management that have a wealth of information that could be consulted in drafting new lease terms for livestock land managers where it is not possible to revert the land to drylands heritage areas. Better management of existing land is as crucial as protecting that land that is not already under intensive land use schemes.
1c. Do you have any views on the proposed transitional arrangements for ending tenure review?

Q2
2a. Do you agree with the proposed outcomes? Yes
Ecological sustainability MUST be at the heart of how we manage the land in this country. It is an existential imperative to protect these lands for future generations and their utilisation for private gain is profoundly at odds with our obligations under the Treaty of Waitangi and with the spirit of this nation.
2b. Do the proposed outcomes capture all the things the Crown should focus on? What’s missing?
2c. Do you agree with the use of “natural capital” rather than “ecological sustainability” in the proposed outcomes? Unsure
Why must we place everything in capitalist terms, as if capital is all that matters? This is an existential issue. If, however, this terminology is more likely to sway those who think exclusively in those terms then use them, it does not matter, so long as better outcomes are achieved in the end.
2d. 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?
Iwi must be consulted, and not just local iwi as the ravages of climate change will affect all Maori around Aotearoa.
2e. What are the qualities and features of Crown pastoral land that you value the most?
The ability of grasslands / drylands to store massive amounts of carbon in their roots system that is less vulnerable to fires than forests systems. Their natural beauty. Their character as part of the highlands environment.
2f. What does enduring stewardship mean to you? The protection and preservation of our natural heritage for future generations

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
This should be made in consultation with groups, both Government and NGO like Fish & Game, Greenpeace, and DoC. It should be independently audited and verified.
3b. Do you agree that this proposal will help improve accountability for decision making in the Crown pastoral land regulatory system? Yes
Please comment
3c. What other mechanisms could be used to improve accountability?
3d. Which mechanisms do you think would be most effective in improving accountability?
3e. Do you think there are any problems with the proposed change?

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
4b. Do you agree that this proposal will help improve the transparency of decision making in the Crown pastoral land regulatory system? I hope so
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?
4f. Which mechanisms do you think would be most effective in improving transparency?
4g. Do you think there are any problems with the proposed change?

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
What point is there in having outcomes around ongoing stewardship if the Commissioner is not required to enforce them?
5b. Do you think that the proposed approach ensures that decision making will support the proposed outcomes for Crown pastoral land?
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?

Q6
6a. Do you agree that the Commissioner should be required to obtain expert advice and consult on discretionary consent decisions? Yes

Please comment

Absolutely. The kinds of expert advice should be cautiously selected also. Advice from environmental scientists, climate scientists, ecology and biodiversity researchers, and sustainable land management experts should be given preference over agribusiness consultants.

6b. In what situations do you think the Commissioner should seek information from experts or the public on the impacts of proposed activities? In any situation where land will be managed by private interests for private gain.

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.

Yes, so long as they remain independent and come from a background in conservation not agribusiness.

Q7

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

Please comment

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

I worry that the imposition of fees may encourage moneyed foreign interests with no real skin in the game here at the expense of local or small operators with a vested interest in preserving the land they come from.

Q8

8a. Do you agree that the Commissioner should be required to regularly report against a monitoring framework? Yes

Please comment

No question. How can we know whether a system is working without monitoring the health of that system? More data is better and that data should be freely available to scientists and researchers and reports made in plain language that can be understood by the public.

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? Air and water quality, carbon capture, biodiversity, regeneration, soil health

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?

I support:

A fully protected drylands heritage area: New Zealanders value the wide-open tussock drylands of our high country. Given land use changes that have already occurred, it is now
urgent that we protect a full range of habitats. I ask the Government to commit to the creation of a Mackenzie drylands heritage area through the strategic purchase of crown pastoral lease land, complemented by a range of other protective mechanisms such as covenants.

Prioritising protection of the intrinsic values of high country land including New Zealand’s native species: Given how much has already been lost, it is essential that management of crown pastoral lease land prioritises protection of native species and other intrinsic high country values. Dryland species can be cryptic, and have been overlooked in the past. In the Mackenzie Basin, the basin floor alone is home to at least 81 threatened or at risk plant species. The outcomes proposed for remaining Crown pastoral leases should focus on safeguarding indigenous biodiversity, natural landscapes and ecosystem services such as water yield for future generations. It should ensure that all decisions made about Crown pastoral land achieve that outcome.

Better stewardship of pastoral leases: Even where land is used for pastoral purposes, this can degrade the natural environment. Pest and weed control is not being kept up, and not all lessees are complying with their leases. LINZ needs to know what natural features are on the land and what condition they are in, and have effective monitoring, compliance and enforcement processes in place to ensure pastoral lease land is safeguarded by lessees.

Better decision making involving expert input: In the past, lessees have been given permission by LINZ to carry out activities which do not protect the land and its special natural features. Better decision making is needed that is in accordance with sound environmental policy and based on accurate information. The Department of Conservation is often a critical source of information about the natural values of high country land. DOC’s expert advice about the natural values of leases should be key to all decisions.

Better decision making involving public input: In addition, the public should be enabled to have a say on significant discretionary and recreation consent applications.

More accountability and transparency: I support the proposal for the Commissioner of Crown Lands to be required to develop a Statement of Performance Expectations; report regularly against a monitoring framework, obtain and take expert advice on discretionary consent decisions. I want the Commissioner to give effect to environmental policy that prioritises protection of the high country.

Practical access: Access to their conservation and other public land is close to the heart of many New Zealanders. More easements should be negotiated over the remaining pastoral leases so that current and future generations can experience the vastness of these iconic places. Better mechanisms should be developed to enable public access.

Nature Heritage Fund acquisitions: I would like to see Nature Heritage Fund resourced to make strategic purchases of parts of Crown pastoral leases that have high natural values.

Thank you for the opportunity to make a submission on the enduring stewardship of Crown pastoral land.
Q1

1a. What are your views on how significant natural values should be protected once tenure review is ended?
I am confident significant natural values will remain protected under the management of High Country Leaseholders. These Leaseholders have protected the land for many decades and indeed the only reason the land is in such great condition is due to their excellent stewardship. The Resource Management Act provides an overarching development control over high country land which can be used to determine potential development.

1b. Are there any other mechanisms that could be used to protect significant natural values on Crown pastoral land?
The crown should tap into the existing knowledge base of the leaseholders who have many decades of experience managing the land.
Land without significant natural values (i.e., land without amazing scenery, rare habitat, rare vegetation etc), should be able to be developed more intensively, to allow land with high natural values to be used less intensively. You cannot apply a blanket reduction in development across the entire high country but should allow some areas to be developed to allow for (i.e. to pay for) some areas to be left in its more natural state.

1c. Do you have any views on the proposed transitional arrangements for ending tenure review?
I don't support ending Tenure Review and believe this is a very short sighted decision. I believe there are significant gains for both the NZ public and the leaseholders in this voluntary process. Stopping Tenure review could mean that significant areas of highly sought after back country lands for trampers, hunters, and outdoor enthusiasts will remain inaccessible, which otherwise may have become public following Tenure Review. High Country Leases are extremely strong in terms of the Lessee’s rights and while the crown may own the land, virtually all the rights have been provided to the Leaseholders. Without Tenure Review, getting access to some of these lands will now be extremely difficult, if not impossible.
Given the decision has been made, I believe every property under Tenure Review should be given an opportunity to continue through the process. Should a change in Government occur, I would recommend Tenure Review be reinstated. This is because the gains to the NZ public are too high to not consider it.

Q2

2a. Do you agree with the proposed outcomes?
Please comment
2b. Do the proposed outcomes capture all the things the Crown should focus on? What’s missing?
2c. Do you agree with the use of “natural capital” rather than ”ecological sustainability” in the proposed outcomes? Unsure
Please comment
Not exactly. While it would be great to maintain and enhance our Natural Capital, that may not be possible or practical in some circumstances. For example some natural processes may erode natural capital irrespective of our desire for certain outcomes. E.g. Wilding Pine trees are a major threat to many parts of the high country. Positive action is required to deal with these. Every tool in the toolbox is required to manage them and this may include helicopters, chemical spray, fire, grazing, manpower. Other areas may have little to no public appeal (e.g
not scenic) and would be better used intensively. Other areas may have high public access appeal but low economic value. I would prefer to consider the High Country under 3 key criteria, where all have certain weightings but all need to be considered. These 3 criteria would be Environmental, Economical and Social. I believe a balance of all 3 is a better solution, the weightings of which will vary from place to place. For example an area of untouched High Country, high natural beauty, remote etc may have outcomes weighted as follows:

Environmental – Strong weight (e.g no burning, minimal soil disturbance, minimal oversowing, low to no stocking etc)
Social – Strong weighting – Public access, facilities for the public such as huts, tracks, toilets
Economical – Weak – this area may not earn NZ much income

Alternatively an area that does not appeal to the public in terms of their use, may have ratings skewed towards Economical and this area may earn significant income to offset the lack of income from other areas.

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?

The Crown land under Pastoral Lease should be a close relationship between Lessee and Lessor (The Farmer and Linz). This relationship should be the Crowns number one focus and should be an extremely positive long term relationship. Consultation between these parties should happen first and foremost before consultation with any other party, including Iwi. Leaseholders have decades of experience managing these lands and contain a wealth of knowledge that should be utilized in the ongoing management of the high country.

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

Scenery. History (Gold mining, farming, Maori). Infrastructure (tracks, huts etc). The people who have spent generations managing the land.

2f. What does enduring stewardship mean to you?

Enduring Stewardship means stakeholders working closely together so all parties can get the best outcome possible. The Leaseholders need certainty of their tenure, rental and their economical outcomes to ensure they can remain as leaseholders. Other groups such as Hunters, Fishermen, trampers etc are looking for access to pursue their chosen pursuit. Tenure Review was a vehicle for that to happen and with it being stopped, they may be unable to access additional land that otherwise would have become public. However they are not stakeholders – the only stakeholders are Lessee and Lessor as there is a contract between these parties and ownership of property rights.

Some Leaseholders provide public access for such groups, even if they are not legally obliged to do so. I believe these groups (NZDA, F&G, FMC etc) should be forming close relationships with leaseholders to facilitate this access. Forcing access through properties (such as easement) will likely result in costly legal battles that the Leaseholders may win given the proven legal strength of Pastoral Leases.

One way to overcome this is for the leaseholders to charge an access fee and I don't believe this is unreasonable. DoC charge fees for various things (hut fees etc). Providing access for people through a farm is not without its issues – there will always be people getting lost, causing issues etc. A small fee to the farmer could pay for these and alleviate the lessee's concerns and is another source of income for the farm. It would require a change in mindset for people to pay such a fee however as traditionally Kiwis expect to be able to access the backcountry for free. But on the scale of a trip that may cost $1-2000, a $20 or $50 fee is not a significant component of a trip cost.

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
Yes. This should apply to all lands including DoC managed land and particularly land recently retired from farming following tenure review. There are proven benefits for grazing in the High Country in controlling weeds such as Wilding Pine Trees. Removal of grazing will require other control mechanisms such as chemical spray. This has the potential to cause reductions in Natural Capital. As such the management of this land needs to be accountable. Measurement of public use of land should also be made including track networks and their maintenance, hut maintenance and development, degradation of land due to 4WD and motorbikes, pests weeds etc. Measuring the performance of land management must include NZ's biggest land manager, DoC.

3b. Do you agree that this proposal will help improve accountability for decision making in the Crown pastoral land regulatory system? No
Please comment
No. Management of land is a long term action, the effects of decisions are seldom realised within a few years. Some decisions can take many years to show affects. No LINZ or DoC official and certainly no Minister will be around to see the effects of their decisions. For example, destocking of a high country station at risk of Wilding Pine spread may show few outward visible changes for several years. However the seedlings of spreading wilding pines, which are no longer being eaten by stock, and controlled by a lessee will start to become visible in a few years (say 3-5 years?), and reach maturity in another 5-10 years. That is 10-15 years after the decision is made – long after the decision makers have moved on. To then come and address this problem is an extremely difficult, if not impossible task. A leaseholder has to live with the long term decisions on the land – that is accountability. Officials tenure are typically very short term and are not accountable for their decisions.

3c. What other mechanisms could be used to improve accountability?
Trust in Lessees, work closely with them. They have decades of experience and are accountable for their decisions. Lessees experience, coupled with scientific facts will give the best outcomes for the high country

3d. Which mechanisms do you think would be most effective in improving accountability?
Trust in Lessees, work closely with them. They have decades of experience and are accountable for their decisions. Lessees experience, coupled with scientific facts will give the best outcomes for the high country

3e. Do you think there are any problems with the proposed change?
Yes – ending Tenure Review does not provide for public access. It has caused major damage to the Lessee Lessor relationship through lack of consultation. The decision has been made without properly considering the likely outcomes.

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
Applicants need certainty that their application will be approved so guidance and standards to review before applying will be useful.

4b. Do you agree that this proposal will help improve the transparency of decision making in the Crown pastoral land regulatory system?
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?
Lessees need clarity on what will be approved in terms of applications for consents. The Leaseholder and LINZ are the only stakeholders as the Lease is a legal contract between those parties and the other parties are not included in that contract.

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?

4f. Which mechanisms do you think would be most effective in improving transparency?

4g. Do you think there are any problems with the proposed change?

Q5

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

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

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?

Q6

6a. Do you agree that the Commissioner should be required to obtain expert advice and consult on discretionary consent decisions? No
Please comment
No they should not be required to however can choose to in certain unique circumstances. Simple applications (such as the repetition of an existing consent) should not require expert advice and decisions should be able to be made in house. Expert advice may be required in certain circumstances however it must be weighted up and balanced with many other factors. For example, DoC may recommend an application be declined but they may not be considering all factors (e.g. economic benefit) and as such, the advice needs to be considered as part of the entire application.

6b. In what situations do you think the Commissioner should seek information from experts or the public on the impacts of proposed activities?
Information from experts should only be sought in unique situations well outside typical activities. LINZ have been managing pastoral leases for 70 years and should have adequate experience to deal with the large majority of applications. The public do not need to be consulted on operational and development activities taking place within a Pastoral lease as the lease is a contract between Lessee and Lessor. These are the only two stakeholders and as such external parties do not need to be consulted. The RMA already has provision for public consultation which may happen depending on the activity.

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.
Yes. The Commissioner needs to remain politically neutral. He/She also needs to maintain a close relationship with the Lessee and work closely together when considering applications
Submission 2780

for activities. Ultimately the Lease is a Contract to allow for certain activities and the Commissioner must honor that contract.

Q7

7a. Do you agree that the CPLA should be changed to allow for fees to be charged for all discretionary consents? No
Please comment
No. There is currently a double-up of consenting requirements as LINZ provide approval and then approval is also required by local government (Resource Consent, Building Consent etc). I don't believe it is reasonable to require multiple consents for one activity. There needs to be a rationalization of the approval process to remove this double up. If Resource Consent requirements were waived, the charging a fee for Discretionary Consents would be acceptable, provided they were a fee, notified in advance and were reasonable rates. There must be clear guidelines on what type of consents would be granted so that applicants know they will be approved given there is a cost associated with the application.

7b. How might charging application fees for all classes of discretionary consents impact on applicants? Please provide the reasons for your view.
Charging a fee would discourage applications and reduce the number of applications given there is a time and cost associated with it. Activities may not be done, which may result in a net loss of Natural Capital. i.e. if a consent is required to clear weeds, this may mean this work does not take place. Rationalization of fees (remove the RMA and LINZ double up) and ensuring fees are set at a reasonable level and are transparent would mean applicants can apply with confidence

Q8

8a. Do you agree that the Commissioner should be required to regularly report against a monitoring framework? Yes
Please comment
Yes. This must include monitoring of all land in particular DoC and LINZ managed land. Land that has recently been taken from a lease and returned to DoC management following Tenure Review (or property purchase, or other means) absolutely must be monitored. This is critical. This land has been managed a certain way for 150 years (certain grazing levels etc). A sudden change to its management often leads to adverse effects on the land that could be irreversible and cause catastrophic loss of Natural Capital. For example sudden removal of grazing often leads to an explosion of wilding pine trees. How is this dealt with and managed? Also, careful management of vehicle access is also key. Rouge 4WD and motorbikes can cause havoc on sensitive land, and result in scarring, or removal of historic items, damage, vandalism, rubbish etc. Without a Lessee living on the land and controlling this access, there is a risk of a sudden degradation of natural capital that needs to be monitored.

8b. What other mechanisms could be used to ensure the outcomes of the Crown pastoral land regulatory system are better understood?
Trust in Lessees. LINZ and DoC (the Crown) to work closely with Lessees. Develop good relationships. This starts with Consultation between LINZ and Lessees, valuing Lessee's experience and input

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?
I believe ending Tenure Review, with no consultation with the critical stakeholder (Lessee) is a bad decision and short sighted.
The Crown has lost the best mechanism for delivering public access to high country land.
It has removed its best mechanism for protecting sensitive land.
It has caused significant damage to the Lessee, Lessor relationship by making a critical, far reaching decision with no consultation.
Visions such as the Remarkables National Park are now lost forever given Tenure Review was the primary vehicle to deliver this outcome and would have been a key negotiating aspect of Tenure Review of those affected properties.
Access and easements through High Country Leases that would have been created during Tenure Review will no longer be available.
Moving forward, I believe the Crown need to work hard to rebuild the relationship between Lessee and Lessor. The Leaseholders have a lot to offer and should be valued.
Ironically, with this decision the Leaseholders are now in control of the Crowns preferred outcomes. The Leaseholders could be the party that deliver the Crowns preferred outcomes.
This could be by the Crown investing in the Leaseholders to enable them to continue Pastoral Farming but also for them to provide for Public Access. This might be a payment to the Lessee (one off, or ongoing) to provide a service for the benefit of NZ such as providing public tracks, or easements. In the same way as DoC receive funding for managing land for public and conservation purposes, so to could Leaseholders. It would need to be negotiated on a case by case basis but there is potential for a public private partnership to be developed.
Q1

1a. What are your views on how significant natural values should be protected once tenure review is ended?
Preferably through the restoration of the land to full Crown ownership and control, however this option appears no longer to be available short of full property purchase. Use of discretionary consents is a way of guiding development if this is sought however it does not address the underlying problem of the adverse effects and unsustainability of grazing an indigenous ecosystem by ungulates that did not evolve under this use. Pastoral lease tenure just happens to enshrine a land use over vast swathes of country for which it is unsuitable for and for which it is better suited to providing ecological services than grazing.

1b. Are there any other mechanisms that could be used to protect significant natural values on Crown pastoral land?
Rental remissions for agreeing to destock areas or take specific action to protect natural values could provide a useful incentive.

1c. Do you have any views on the proposed transitional arrangements for ending tenure review?
It is not clear what you mean by 'Transitional arrangements'. Tenure review is to end and you are proposing making changes to lease administration. What are the transitional arrangements?
LINZ could make a start by reviewing the skills they require in their staff and the current practise of contracting out advise. The skills and knowledge required to inform discretionary consent conditions and to assess desired and current land use condition and management is quite wide ranging and unique. Specialists but with a wide knowledge from farming systems to ecology to legal. If you can get together a team of a dozen individuals over the whole country who have these skills it would be most effective to have them in LINZ rather than as outside consultants. That way you can provide an environment within that group for growing knowledge as opposed to competing.

Q2

2a. Do you agree with the proposed outcomes? Yes
Please comment
While I agree with the outcomes I have concerns about the underlying conflict between retaining pastoral leases which main purpose is to provide for grazing of natural grasslands and enhancing natural capital and social and cultural values.

2b. Do the proposed outcomes capture all the things the Crown should focus on? What’s missing?

2c. Do you agree with the use of “natural capital” rather than ”ecological sustainability” in the proposed outcomes? Unsure
Please comment
Although ecological sustainability has remained undefined in the legislation and provides some practical challenges to provide meaning, we are beginning to make progress some progress in this, particularly as it is used in the RMA. Ecological sustainability denotes the linkages between individuals and systems but natural capital is more vague and less defined.

2d. 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?
Iwi and hapu should have significant input in developing policies and specific outcomes that support the broader outcome of enhancing natural capital and social and cultural values.

2e. What are the qualities and features of Crown pastoral land that you value the most?
A properly functioning indigenous ecosystem with all its original components contributing.

2f. What does enduring stewardship mean to you?
A system that can meet its stated and agreed outcomes, protecting and enhancing natural capital, in the face of changing political governments, market forces and climate.

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
The Statements of Performance Expectation should be developed in consultation with a representative body of major stakeholders. The statement would need to provide SMART goals that are supported by an adequately funded and independent monitoring system.

3b. Do you agree that this proposal will help improve accountability for decision making in the Crown pastoral land regulatory system? Yes
Please comment
It is important that both the stakeholder group that helps develop the Statement of Performance and the monitoring body are independent of LINZ, otherwise it will be LINZ reviewing itself.

3c. What other mechanisms could be used to improve accountability?
A periodic review by a panel of independent experts such as university academics or the Parliamentary Commissioner for the Environment would be a useful measure of whether goals are being achieved.

3d. Which mechanisms do you think would be most effective in improving accountability?
Stakeholder advisory group based outside LINZ.

3e. Do you think there are any problems with the proposed change?
Yes. The system for informing CCL decisions needs a major review. Presently LINZ do not employ individuals with appropriate or adequate knowledge of the resource and community they purport to manage to achieve the stated goals.

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 A high country pastoral policy should be a legal requirement of the CCL.

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

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?
Regular communication from the CCL by way of staff visits and/or a newsletter to keep lessees informed of the Commissioner's thinking on current issues. If joint stewardship between the Crown and lessees is to work regular communication will require investing in.

4d. How should standards be used to help increase transparency? How should guidance be used?
Standards need to be SMART. Guidelines should be used where variation in environments make specific requirements inappropriate.

4e. What other mechanisms could be used to improve transparency?
Making publicly available all discretionary consent decisions including supporting advise.

Implementing a Land Use Condition score system around desired states for different environments similar to that used in the USA rangelands by the BLM.

4f. Which mechanisms do you think would be most effective in improving transparency?
Making CCL decisions and supporting information publicly accessible.

4g. Do you think there are any problems with the proposed change? Yes, in setting measurable objectives around the principle outcomes.

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
This will be the principle way in which the CCL will be able to give effect to the goal of enhancing or protecting natural capital.

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

5c. What other mechanisms could be used to ensure decision making supports the proposed outcomes?
Whole farm plans are a better way of achieving the necessary trade offs between development and protection than incremental decisions on discretionary consents.

5d. What specific matters should be considered when deciding whether to approve an application?
The legislation will need to remove the current requirement to balance between the benefits of making it easier to farm the land and the desirability of protecting inherent values and establish a hierarchy where enhancing or protecting natural capital is the principal goal. The CCL should then consider the application in how it would achieve the principal goal in the context of the wider ecosystem including factors outside the property.

Q6

6a. Do you agree that the Commissioner should be required to obtain expert advice and consult on discretionary consent decisions? Yes
Please comment
Practicality would suggest that guidelines need to be developed for where outside expert advise is sought and when consultation is required. Standard requirement should remain that DOC be consulted and advise sought on all discretionary consents. LINZ need to employ/develop its own experts in resource management.

6b. In what situations do you think the Commissioner should seek information from experts or the public on the impacts of proposed activities?
All decisions should be supported by expert advise. Only decisions that have significant potential impact such as approving irrigation schemes or major development programmes should be open to wider consultation.

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. Yes, provided systems of accountability are in place.

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
All major developments within other resource management regimes such as the RMA on freehold land require the applicant to meet the cost.
7b. How might charging application fees for all classes of discretionary consents impact on applicants? Please provide the reasons for your view.
It would reflect the true cost of a proposal on the applicant which would rationalise decision making of lessees. Contentious proposals would reflect a potentially higher cost to the lessee providing an immediate disincentive to such proposals.

Q8

8a. Do you agree that the Commissioner should be required to regularly report against a monitoring framework? Yes
Please comment
Refer to previous comments regarding suggestions for monitoring. Monitoring should include reporting on the detail of discretionary consents granted in a form that provides meaning eg area of oversowing, cultivation, burning, spraying herbicide etc.
The results of monitoring should be publicly available.
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?
Discretionary consents granted with adequate detail provided.
Land condition monitoring on each property in conjunction with the lessee is desirable to provide an indication of long term trends however is expensive. More cost effective methods needs looking into.

Q9

9a. Do you have any feedback on the preliminary analysis in section 6? No
9b. Are there any other comments you’d like to include in this submission?
History in the South Island high country has been one of administrative failure where the wider public interest has been subsumed by the private interest of the lessees and government departments have been unable to or unwilling advocate for the public in the process of joint ownership and management. It has been proven that a whole army of bureaucrats has been no match for an individual high country lessee armed with a commercial imperative. To have a different outcome will require something that no government has previously achieved, that is a government administration that works for the public. For this proposal to work will require some major changes to LINZ, to its culture and to individuals within it. It will need to be more open, less defensive, employ more appropriately skilled staff, more accountable and more willing to put in place proper policy initiatives for achieving its stated goals.
Q1

1a. What are your views on how significant natural values should be protected once tenure review is ended?
I'm a normal person and don't know much about all of this, other than what I've learned from reading the discussion document. However, I have been appalled at the transformation in the high country in recent years – the dramatic changes in land use and the rort of on-selling former public land for enormous profit. It has been private profiteering on a large scale at the expense of the public and the environment and I'm glad that this Government has put a stop to it.

It seems that the proposed changes will make the environment and cultural heritage paramount and enshrine these priorities in law. I'm all for that. My one concern is that perhaps too much power is vested with the Minister. Whilst I trust the current Government and Minister to prioritise these values, I'm concerned that a future National-led Government would try to undermine this priority. Perhaps the requirement of planning statements, transparency and reporting is the best you can do to keep future governments reined in.

I am also in favour of using this opportunity to work in partnership with Ngai Tahu both to benefit from their kaitiakitanga and to address past transgressions.

1b. Are there any other mechanisms that could be used to protect significant natural values on Crown pastoral land?
I think Te Manahuna Aoraki provides a model for the best way to secure effective stewardship. A cooperative/coordinated system will probably have the best outcomes.

If I understood things correctly, the options are: covenants, easements and purchase and each of those is with the cooperation of the leaseholder (and the Commissioner). It seems there is no ability to compel (such as with the Public Works Act). So it seems this is a proposal to not mess things up further, but there is no mechanism to correct past mistakes without the leaseholder's cooperation.

1c. Do you have any views on the proposed transitional arrangements for ending tenure review?
It seems that public access can be compelled under Section 18 of the CPLA. Is it only for public access easements or can it be used to protect the environment or other inherent values? I recognise that we would want to avoid compulsion of an unwilling buyer, but there may be circumstances where we may want this option more broadly that just for public access.

Q2

2a. Do you agree with the proposed outcomes? Yes
Please comment
I like the words "to ensure that this land is stewarded to maintain and enhance its significant natural and social capital for present and future generations." These outcomes should be paramount. Financial/economic concerns should be secondary. As Herman Daly has said, "The economy is a wholly-owned subsidiary of the environment". We need to start acting like that. I agree that "natural capital should be maintained and enhanced." I support upholding the principals of Te Tiriti and enhancing the role of iwi.

2b. Do the proposed outcomes capture all the things the Crown should focus on? What’s missing?
2c. Do you agree with the use of “natural capital” rather than “ecological sustainability” in the proposed outcomes? Yes

Please comment

Ecological Sustainability can be subjective; Natural Capital promotes valuing nature and seeing it as an asset to be protected and enhanced. This fits with Well-Being measures and valuing more than just financial assets.

2d. 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?

Yes, iwi are tangata whenua and their kaitiakitanga should be a greater part of the process than has occurred in the past.

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

The untouched beauty, the unique species here in Aotearoa, recreational activities, combined with truly sustainable farming practices that enhance the economic value of the land.

2f. What does enduring stewardship mean to you?

Basically protecting and enhancing what I said in 2e.

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

Yes, this is a good idea and I hope it would detail how the proposed outcomes will be served and include a clear statement of goals, perhaps with targets and time frames.

I would want public consultation/feedback and stakeholder involvement so that groups like Forest and Bird could have input.

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

Please comment

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

Again, I am concerned about a future government trying to undermine these changes and wonder if a more independent Commissioner might be a better idea. The SOE model didn't prevent Bill English and Simon Power from interfering in Solid Energy, increasing the levels of debt in their capital structure and ultimately bankrupting the company. Whilst I'm no fan of coal, it was a public asset that Minister interference scuppered. Perhaps an independent Commissioner would work better to safeguard the protection of these national assets.

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

Clear targets and time frames, transparency, robust testing regimes and analysis, public and iwi input.

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

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

This would provide clarity and consensus in many different ways.
4b. Do you agree that this proposal will help improve the transparency of decision making in the Crown pastoral land regulatory system? Certainly.
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?
4f. Which mechanisms do you think would be most effective in improving transparency?
4g. Do you think there are any problems with the proposed change?

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 current situation is a shocking oversight that has undoubtedly contributed to the degradation of the environment and heritage assets.
5b. Do you think that the proposed approach ensures that decision making will support the proposed outcomes for Crown pastoral land?
I like the idea of a hierarchy of priorities. It would signal to the Commissioner the level of importance of various considerations and yet allow for flexibility. We want to support the best stewardship of the land by prioritising various outcomes and yet balancing competing interest.
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?

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 document says "the Commissioner must obtain expert advice as necessary". This is certainly an improvement on the current situation, but who determines whether it's necessary? Who are the experts that must advise? I appreciate that this is a difficult area to pin down - you can't have an elaborate process for every application, but would want that for others that would have a big effect. The language "would depend on the complexity of the issue and the likely significance of the impact" is probably sufficient.
6b. In what situations do you think the Commissioner should seek information from experts or the public on the impacts of proposed activities?
I think there needs to be more awareness of cumulative effect of consents and am pleased that this will be a consideration in future applications.
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.
Yes, probably. Any appointed official will be subject to ministerial interference; I don't know how you can entirely avoid that.
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
I'm astonished this is not currently the case. This money can contribute to administration costs.
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
Robust monitoring and enforcement are necessary for any regulatory regime to function properly. This information will be useful to coordinate with leaseholders to achieve the proposed outcomes.
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?
As I said before, I am pleased to see that natural capital and cultural and heritage values have priority and financial considerations are subject to these priorities.
9b. Are there any other comments you’d like to include in this submission?
Releasing submissions You may publish my submission with my name on it.
Releasing submissions OIA Include my personal details in responses to Official Information Act requests
Outcomes

**DRYLANDS**

* I seek a fully protected drylands heritage area. Given the land use changes and losses that have already occurred it is essential that we act now to protect what remains of this iconic habitat. I ask the Government to commit to the creation of a Mackenzie drylands heritage area through the strategic purchase of crown pastoral lease land.

**PROTECTION**

* I seek to secure protection "absolute" of iconic and irreplaceable lands and values associated with high country land and dry landscapes. The protection of the New Zealand’s native species (flora and fauna) that inhabit these areas, the dark sky attributes, the water sources and the landforms. It is
critical that management of crown pastoral lease land prioritises protection of these values, many of which are unique and occur nowhere else. The outcomes proposed for the remaining Crown pastoral leases should focus on providing genuine safeguards to ensure that all decisions made about Crown pastoral land achieve that outcome.

I support a hierarchy for decision making where the Crown will maintain and enhance and safeguard natural landscapes, indigenous biodiversity, cultural and heritage values ahead of economic resilience.

The Discussion Document states “to achieve this, Crown pastoral land will be managed to maintain and enhance natural capital, and cultural and heritage values”

I seek the use of the term ‘natural heritage’ in place of ‘natural capital’.

Performance Expectations

BETTER STEWARDSHIP

I seek real accountability and transparency in regards Crown Pastoral Leases.

I seek high standards of stewardship of pastoral leases to reflect the importance of the lands and their natural inherent values. There are many historic examples of land degradation and loss of these values either by act or omissions by both leasees and governing bodies. Lack of pest and weed control, intentional removal of native vegetative cover and/or intentional undermining of the structure of native ecosystems. The basic premise of many agricultural activities underpinning good husbandry and soil care, particularly in farm intensification regimes are at odds with maintaining the inherent values so the debate about being good custodians of the land becomes muddied. It is an area of conflicting focus that has long stymied all involved.

I seek that the decision makers give effect to environmental policy that prioritises protection of the high country.

I seek the free and unfettered sharing of information between agencies, NGOs and interest groups who have interest in ensuring the legislation and stewardship framework are both fit and being enacted appropriately, to provide eligible protection, and enduring stewardship of Crown lease land.

Guidance Standards

The discussion document states “Under the current regulatory system, when considering whether to grant consent to certain activities on Crown pastoral land, the Commissioner must first consult with the Director-General of Conservation who can provide input to inform a decision. The Commissioner must then take into account those matters set out in section 18 of the CPLA:

a) the desirability of protecting the inherent values of the land concerned (other than attributes and characteristics of a recreational value only), and in particular the inherent values of indigenous plants and animals, and natural ecosystems and landscapes; and

b) the desirability of making it easier to use the land concerned for farming purposes.”
The above requirements of a) and b) are contradictory requirements; which along with other points noted under the Crown Pastoral Land Regulatory System Assessment document, have had massively negative outcomes for intrinsic high-country values.

I seek

- unambiguous purpose, outcomes and definitions be set out in legislation to direct the decision makers to give precedence to safeguarding and sustaining natural heritage in all decisions.
- that any decisions be required to consider the outcomes of previous decisions, the cumulative impact of multiple decisions, and effects on other areas of the high country. Cumulative impacts are critical for decision makers to be aware of and take into due consideration, they have had devastating impacts on the protection of inherent values.
- a set of clear, unambiguous expectations, rules and penalties provided / available to all agencies, stakeholders, iwi and the public.

DESCRIPTORARY CONSENT APPLICATIONS

- I seek notification and consultation with the public, iwi and other agencies on any discretionary consent. Notification and / or consultation on any other applications.
- I seek a publicly available register of applications for discretionary consents regardless of deemed complexity or significance because who’s to say what is and isn’t significant? History would show it is a bad idea not to have greater consultation and transparency.
- I contend that high risk discretionary activities should probably not occur. If for any reason they did occur then such activities should be subject to the highest level of consultation, monitoring and enforcement and that cost recovery in relation to all of this would apply to the applicant.
- I seek that all methods of land modification i.e. weed spraying of vegetation, planting / spread of lupin (or other aggressive exotic species) direct drilling etc. that are at odds with the outcomes of the hierarchy for decision making and which lead to loss of inherent natural values be subject to strict control and monitoring.

MONITORING

LINZ needs to know what natural features are on the land and what condition they are in.

I support the Crown’s proposal that the legislation be amended to require the Commissioner to regularly update and release a monitoring / inspection framework relevant to the outcomes of the stated hierarchy and for the Commissioner to release regular reporting of outcomes from this to all stakeholders, iwi and the public.

I seek that agencies be resourced in such a manner as to ensure the following are enacted appropriately and in a timely manner to ensure security of remaining values.

- Monitoring needs to provide for a baseline of the current status of the values, how it will be assessed over time, relevant frequency. It needs to provide appropriate coverage to clearly
identify values on all crown pastoral lease land, with special attention to regular monitoring of discretionary consents and covenanted areas or any areas of special interest.

- Effective monitoring needs to be a priority, compliance and enforcement processes need to be in place to ensure pastoral lease land is safeguarded in perpetuity.

PURCHASE

I seek that government provides resources to make strategic purchases of either whole or part of Crown pastoral leases that have high natural values.

ACCESS

I request that practical access be provided for: The ability to access conservation and other public land is important for all New Zealanders. Suitable easements should be negotiated with pastoral leaseholders so that current and future generations can experience these magnificent places. Better mechanisms should be developed to enable ease of public access.

ECONOMIC VIABILITY

The discussion document states “Only a limited range of activities are permitted on Crown pastoral land. The leaseholder can only use the land for pastoral farming (i.e. the grazing of stock, such as sheep, cattle, deer)”

I seek that government investigate what other potential activities could occur on pastoral land in consultation with relevant agencies, iwi, interest groups and the public. Appropriate activities could allow for land use diversification and economic viability for leasees, whilst still maintaining protection of values per hierarchy. Any change should not enable freeholding or subdivision.

FEES AND CHARGES FRAMEWORK

The discussion document states “It is common practice for government to recover the costs of administering approval activities, such as under the RMA or Overseas Investment Act 2005. This is in line with the principle of “benefit for pays”, where costs are recovered from those that benefit from activities that are being applied for.

I support the recovery of relevant costs and fees as per the above under any new regime.

My views on the use of:

Mitigation and Offsetting – as I have seen them applied, I consider them to be of highly dubious value. They have been used when granting consents, as a method to trade off important constraints that would otherwise have secured natural values from further damage and loss. Such trade-offs providing no significant gain in return.

The discussion document states in relation to off-setting

- That positive actions, such as the ongoing application of restoration techniques, are not followed through with (whether through noncompliance or a restoration technique proving ineffective). This can be mitigated through regular monitoring of the offset.
This last about “This can be mitigated through regular monitoring” proves the point I make about the use of mitigation - its usefulness is highly dependent on the quality of monitoring, compliance, enforcement, an agencies willingness, funding and capability. In reality that makes the use of mitigation and offsetting to grant discretionary consents very dubious in many if not most situations.

I agree with the following statement from the discussion document in relation to off-setting

_In some situations, offsetting will not be appropriate because of the irreplaceability or vulnerability of the value affected._

**Covenants**

The discussion document states “The protection offered by a covenant depends on the conditions that are put in the covenant.”

Protection afforded by covenants is also dependent on the following:

- timely identification of any breach of conditions
- integrity of those charged with monitoring
- appropriate legislation to enforce penalties
- a willingness by agencies to pursue compliance and enforce penalties
- the financial capability to do so

The danger of covenants is that by the time it is noted that there is a breach it is often too late to save the values that the covenant was established to protect or at best they are seriously degraded initiating additional time and cost to restore which is usually not available. We often have one shot at securing these values – let’s make it our best one.

Thank you for the opportunity to make a submission on the enduring stewardship of Crown pastoral land.
Submission to:  Enduring Stewardship of Pastoral Leasehold Land

Submission from:  

**Personal background**
I have been a user of both DOC and LINZ administered lands in Otago for 35 years, as an outdoor enthusiast (tramping, fishing, climbing, canyoning etc) and also as a commercial operator (canyoning).
I am a current board member on the Otago Conservation Board.

**General Summary**
I applaud the focus of this review process being on biodiversity and conservation and am hopeful that this will lead to positive outcomes for the preservation of indigenous ecosystems. While the focus of this consultation is rightly on conservation outcomes on CPL, it needs to be recognised that engagement with the outdoors is one of the pillars of conservation and this submission relates largely to the access arrangements that allow that interaction.

Public engagement with CPL land is a vital part of supporting conservation outcomes on it, just as it is on Conservation land. Access to the special environments of CPL land that are not used for pastoral farming, or are only used lightly, should be encouraged. This does not have to be at the expense of farming operations if handled well.

The original purposes of pastoral leases were largely for pastoral farming. Times have moved on and the public now require more from their land in the way of access for a diverse range of activities, especially in terms of outdoor recreation. This requires reliable access to CPL lands that have recreational opportunities. Now tenure review is off the table, a system that allows for this access needs bedding in.

Despite the shortcomings of tenure review, one thing it did provide was a process for negotiated access across pastoral leasehold land. With the ending of tenure review it is important that another process for ensuring access is developed. The aim of this process should be to ensure better and more consistent outcomes than the rather patchy results that stemmed from tenure review and new processes must be easily available to the general public.

Now that the government has signaled its commitment to the stewardship of this land, it needs to ensure that the interests of its owners - the people of New Zealand - are enhanced by any new process.

**Principles and Mechanisms**
My particular focus in this submission is that this process needs to improve on the access outcomes of tenure review, which in many cases has lead to insufficient access for the public to Crown lands, both conservation and pastoral. I have suggested below, some principles and mechanisms to help achieve a goal of better - and fairer - access to LINZ administered lands as an outcome.

- Remove or adapt the meaning of 'quiet enjoyment' in leases. Too many leasees hide behind the provision for 'quiet enjoyment' and subsequent trespass rights to disallow access to areas that are not farmed.
  I realise this has been put outside of the scope of this review, but quiet enjoyment of a 5000 hectare high country station should be possible whist still sharing it with others.
– Recognition in high-level documents, that reasonable access to non-farmed leasehold land and adjacent conservation land, should be generally allowed as a basic principle.

– Processes should be developed that encourage/ensure that useful dialogue occurs between leasees and recreation interests and that workable outcomes can be reached in negotiated agreements. Consider a greater role for the Walking Access Commission and support for leasees to engage with it.

– There needs to be meaningful oversight by LINZ, with provision for external input from other parties such as DOC, FMC, recreation/local interest groups and individuals in the process of negotiating easements. This could involve the use of the LINZ High Country Advisory Group in some form.

– There should be a process for mediation/arbitration in disputes over access, with decisions arbitrated by an independent source if necessary, with the authority to make decisions. This may already exist through the Walking Access Commission.

– Transparency is key in these processes.
– Monitoring and reporting of access outcomes should occur.

**Discretionary Consents and Easements.**
As well as processes for dealing with recreational access there needs to also be the facility to involve independent bodies in the assessment of applications for consents and easements for commercial purposes (such as Recreation Permits). Many of these activities go across geographic and tenure boundaries and decisions are often inconsistent (in several ways) because at present, consents are generally only granted with the approval of the leasee (which is often dependant on monetary gain to the leasee – a very 'grey' area) and this is generally supported by LINZ.

As with the process with recreational access, there needs to be a more enlightened – and fairer – attitude from LINZ. There needs to be allowance for independent oversight and involvement in decision making, with of course transparency and monitoring part of the process. There also needs to be much better consistency with DOC concession processes, especially as to conservation outcomes.

I sincerely hope that the outcomes of this review lead to improved outcomes for conservation and access across all government-administered lands. If there were to be any hearings process or similar into the future, I would be very interested to be part of it.

Sincerely,
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.

Publishing and releasing submissions

LINZ is bound by the Privacy Act 1993. Any personal information, including your name and address, which you supply to us in the course of making a submission or providing a point of view, will be used by LINZ only in conjunction with the purpose of collecting the submissions.

All or part of any written submission (including names of submitters) may be published on the Land Information New Zealand website www.linz.govt.nz. When you make your submission, you consent to your personal information being published, unless you tell us otherwise. If you do not want your personal information published, please tell us when you make your submission.
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.

Submission type*

☒ Individual

☐ NGO

☐ Local government

☐ Business / Industry

☐ Central government

☐ Iwi

☐ Other (please specify)

Add your details

* Questions marked with an asterisk are mandatory
Question 1:

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

Before the values can be protected, they need to be identified. A survey of what the
crown lease properties have on them will be necessary and then on going monitoring
of the areas.

Territorial and regional authorities would communicate and enforce their rules. They
would have regular inspections of the compliance levels and be prepared to prosecute
when necessary

1b. Are there any other mechanisms that could be used to protect significant natural
values on Crown pastoral land?

QEII and DOC covenants

1c. Do you have any views on the proposed transitional arrangements for ending tenure
review?

I think it is a fair way.

Question 2:

2a. Do you agree with the proposed outcomes?

☒ Yes ☐ No ☐ Unsure

Please comment

Times have changed since the original farmers took up pastoral leases. An emphasis
on landscapes, biodiversity, and cultural and heritage values is now appropriate as we
look back on the losses of the above values and how they are still being lost on the
high country lease properties.

2b. Do the proposed outcomes capture all the things the Crown should focus on? What’s
missing?

50T

2c. Do you agree with the use of “natural capital” rather than “ecological sustainability” in
the proposed outcomes?
I do not see that natural capital puts more emphasis on “captures the capacity of the environment to meet the needs of present generations without disadvantaging future generations” than ecological sustainability and it concerns me the connection of capital with biodiversity when it is so difficult to give monetary value to the inherent value of biodiversity and landscape.

2d. 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?

50T

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

The open quality of the landscape (this is a bit of a catch 22 as we need stock to keep the open character in many places)

There is not as many people as there are in other public conservation areas.

Being able to ride a horse with dogs and shift stock

Amazing dryland vegetation

2f. 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?

Looking after the land so there is no more loss of indigenous biodiversity and decrease in water quality and quantity.

The Crown, territorial and regional authorities would uphold their rules and enforce ment needs to be done when they are not heeded too.

Monitoring would be done by authorities

Lessees would conform to rules and farm in a manner that takes into consideration ecological values as well as pastoral goals.

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?
The present system does not work in a way that is consistent with the new outcomes sort by the government.

It would be good for all stakeholders to have an opportunity for input

There needs to be a base to assess performance.

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

☒ Yes ☐ No ☐ Unsure

Please comment (optional)

50T

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

Frequent monitoring of the properties

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

50T

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

50T

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?
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

Please comment

Additional guidance and standards will be helpful for officials and leaseholders as often it is unclear what the rules are and what they mean and how adherence to rules look.

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?

 Lease holders need clarity that although they have perpetual rights of renewal it is not private land, but land owned by the crown and is not for them to degrade ecological values for their profit.

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

 Standards that are transparent to all stakeholders make it easier to know expectations. Guidance could be used to advise leaseholders and officials on expectations of what the standards mean.

4e. What other mechanisms could be used to improve transparency?

50T

4f. Which mechanisms do you think would be most effective in improving transparency?

50T

4g. Do you think there are any problems with the proposed change?
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

It will be good that natural capital will be given priority. I am concerned that in the past even though areas of high natural value have been identified they have still been developed under discretionary consent.

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

I think it will go a long way toward helping to achieve the outcomes as much loss of biodiversity happens via the mechanism of discretionary consents.

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

Surveying ecological values and monitoring.

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

If there is going to be intensification, where will stock water come from and the receiving water bodies, soil types. How much of the ecosystem type is left? For example, some of the best and easiest land to develop is fans and flats however there is not many examples of these environments left. What else it opens access to. EG wilderness areas, if the development is a lodge near the boundary of a wilderness area. Biodiversity values. Territorial and regional rules. Lease holders previous commitment to good management practice farming.
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

To achieve the new proposed outcomes it will be necessary for the commissioner to seek expert advice and an expectation that public consultation will be appropriate in certain situations.

In the past there has been a strong influence on the commissioner for development on properties, from influential leaseholders and federated farmers. Times have changed and no longer should this group be the decision makers.

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

- Intensification of the property
- Tourism development
- Vegetation removal
- New fencing (not replacement of old if it does not need earthworks)
- Fire
- Hydro Developments and other water developments such as aquaculture

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.

50T
**Question 7:**

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

- [x] Yes
- [ ] No
- [ ] Unsure

Please comment

The environment is a public good and any degradation of it for profit is a subsidy (or handout) from the nation to selected businesses. For that reason I think that fees need to be charged.

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

**Question 8:**

8a. Do you agree that the Commissioner should be required to regularly report against a monitoring framework?

- [x] Yes
- [ ] No
- [ ] Unsure

Please comment

A monitoring framework will assist stakeholders understanding of systems. However, as well as monitoring there should be analysis of the data that can be used to see what is being achieved.

Firstly, there needs to be surveys to see what there is.

8b. What other mechanisms could be used to ensure the outcomes of the Crown pastoral land regulatory system are better understood?

Farm Environment Plans may have a place in this area however at present they do not have to cover off ecological values and many are written aimed at farming practice as compared to environmental practice.

As well as that, the follow up process on FEPs would be inadequate to ensure the outcomes expected by the Crown need to be considerably more rigorous with input from ecologists.

8c. What information do you think is most valuable to understand system performance?
Knowing what is there already, monitoring and then observing over time.

**Question 9:**

9a. Do you have any feedback on the preliminary analysis in section 6?

Click here to enter text.

9b. Are there any other comments you’d like to include in this submission?

Many High country run holders supply high quality products to industry such as ice breaker. These industries have supply standards and they could have an influence on environmental capital.

I appreciate the opportunity to comment and commend the Minister and LINZ for recognizing the values of our high country and that mechanisms need to be put in place to retain it natural capital.
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
Submission 2786

Submission to the Minister of Land Information and the Commissioner of Crown lands in respect of proposed changes to the Crowns management of Pastoral Land in the South Island High Country

Background

As a part-time resident of the Mackenzie Basin at Lake Ohau and a keen outdoor recreationist, retired lawyer, former trustee of the Mackenzie Country Trusty and as a conservationist I submit with some knowledge of the pastoral leases and the tenure review process.

Submission

The Tenure Review process should be discontinued permanently. In other words it should be scrapped. It has passed being a fair and equitable process for the Crown and thereby the public of New Zealand.

The thinking behind it was flawed. The high country in many places should never have been ‘farmed’ as the land was suitable for economic farming even as we knew it at the time the leases were granted. There was historically an undignifies ‘land grab’ in the 19th century permitted by authorities inexperienced in the opening up of news lands and quite likely demanded by greedy people. Low carrying capacity and extreme weather conditions and distance from export hubs made farming marginal. The history of the ups and downs and failures of farming the Mackenzie into the early 20th century are evidence the poor decisions made in allowing the basin to be farmed.

The granting of leases enabled the Crown to retain ownership for the benefit of all New Zealanders but gave false expectation to the lessees that they had something of value when it encouraged them to invest in improvements to the land for farming purposes.

Now lessees believe they manage assets worth 80 per cent of their market value. That too is false. And what is their market value? What a foreign would pay for a ‘bolt-hole’ or as retreat for entertaining friends or for cleaning ‘dirty money’ and or for a ‘tax dodge’ or the variable income that can genuinely be derived from the land. How many stations in the Mackenzie are unofficially for sale? Many I suspect. Succession is a major issue for the so called ‘legacy farmers’ (i.e. a couple or more generations of one family farming one piece of land). And with climate change now an accepted reality farming the Mackenzie and other high country areas will be problematic to say the least and probably totally uneconomic if some stations are not already.

Without water and heavy doses of fertilisers and probably drought and flood subsidies or hand-outs the farms will not survive without being subsidised from ‘off farm’ money and then the farming operation merely becomes a major ‘tax dodge’, i.e. the waged and salaried working population of New Zealand subsides the, usually, rich owners (corporate and family/individuals) of stations. Do you want names?

In short pastoral leases have passed their ‘used by’ date and did so last century. Tenure review was a ‘give back’ to farmers in the guise of obtaining conservation land with sometimes doubtful or limited conservation values. Indeed all that happened was the Department of Conservation (“DOC”) was lumped with land it did not have the resources to manage and probably did not want to have to manage. Now neighbouring farmers – the same ones that exchange rubbish farm land (and they knew it) for freehold land and significant in many cases huge amounts of cash, complain that DOC is a bad neighbour. The same farmers who over grazed the high country and destroyed much the ecological values on the leased land (no matter what the Lease prescribed). Where was
enforcement by the Commissioner of Crown Lands? Were they told unofficially to take a light hand or turn a blind-eye?

What now? **How about this suggestion?** It will take time to implement and a lot of money and the benefits will take time to materialise but in the near to long terms the high country could be restored or at least given the opportunity to return to a more natural state. My suggestion is:

1. A comprehensive ecological study is conducted on all high country stations under pastoral lease, part or, entirely to determine the biodiversity values that exist.
2. The landscape values – more immediately evident - of the same land are assessed.
3. The pastoral leases are ‘bought-out’ over time by the Crown funding coming from: the Crown via various funds and a special additional allocation in every annual budget; funders from within New Zealand and internationally (once a comprehensive and creditable Plan is conceived and publishes ) from philanthropic organisations and families (ed NEXT, Tindell Foundation, Morgan Foundation and the many other smaller and less public benefactors, and internationally Greenpeace and The Nature Conservancy, ‘crow-funding’ of specific stations or areas.
4. Purchases would be immediately as with Birchwood Station in the Ahuriri Valley or could be over time (price agreed but paid by instalments after an agreed partial capital while the farmer stays on while retiring land progressively in appropriate cases).
5. Land transferred back to the Crown is the managed by Pamu/Landcorp in a more ecologically and environmentally friend manner and in line with Pamu’s inventive and more modern and diverse farming practices. Immediately there would be income to help pay the price of purchasing the land but over time the land would be deintensified or new farming practices introduced and ones more suited to the effects of climate change. Ultimately some or much land )over several generations) would no longer be farmed at all and truly became part of the conservation estate.
6. Management by Pamu would not be solely for profit (or subsistence in some if not many instances and sometimes without ‘off-farm” funding) but for more harmonious agriculture suited to the soils, climate, water supply (without over-allocation as at present) of the land, and would introduce a truly more conservation-minded management philosophy. Aren’t we tired of hearing that farmers are great stewards of the land? They’re there to make a living and a profit both income and capital. The problems of intensive dairy farming while predicated now will take some time to manifest themselves to the detriment of future generations and the land: polluted rivers and the lakes of the Waitaki and ‘poisoning’ of the vulnerable soils of the Mackenzie, increased weed plants and likely more ‘unintended consequences’ not yet imagined. Future generations could well curse this and passed generations for our ruination of the high country and particularly the Mackenzie Basin.

**Conclusion**

Arguably pastoral leases were a mistake from the outset though justified at the time by what now would be considered false and misleading reasoning. However hindsight is great but foresight is greater. Applying that now the leases must be terminated and fair but not ridiculous prices – as has occurred under tenure review (look at some of the numbers made public, eg $12m and freehold land for one station in the upper Mackenzie) paid for their surrender. It is a cost the nation must pay before the land is further exploited for profit and tax advantage of some at the expense of many, and for future generations to enjoy: a high country view can be uplifting to the soul and the emotions, they can motivate and be the source of inspiration and comfort.
Under the total management by the Crown through an excellent agency as is the well managed Pamu the best and most suitable farming practices can continue or new ones introduced and inappropriate land retired. As parts of New Zealand become ever more crowded open spaces and big views will be more and more appreciated and more appreciated.

New Zealand will be generous in their support both in principle and financially in making the process of returning leasehold land to complete Crown ownership for the benefit of all New Zealanders well into the future.
Submission 2787

Submission on Discussion Document

Enduring stewardship of Crown pastoral land

- I support the Crown having an interest in Crown pastoral land for the long term.
- I support the Government decision to end the tenure review process.

The process has resulted in irretrievable losses of ecological sustainability, biodiversity and landscape values across freeholded land. The Crown has performed poorly on protecting those ecological values that are the most rare and threatened. The process has been “opaque, unfair, and skewed towards farmers” (Newsroom 5/3/19).

Land used for pastoral purposes can degrade the natural environment. Stock overgrazing has degraded indigenous biodiversity to serious levels in places. I am told, by experienced ecologists, of the serious detrimental effects of stock grazing on some Crown pastoral lease land at altitudes too high for rabbits to be blamed. Pest and weed control is often not being maintained and lessees do not always comply with the conditions on their lease.

The Crown owns the land and it can, and should, set the terms of its use. I support Ann Brower’s comments that Crown pastoral lease land has not been alienated. It has not been disposed of. Some few rights have been alienated but not permanently. This is on a perpetually renewable basis, which is not the same as in perpetuity.

**Action sought:**

- That the Crown ensures the processes used to consider any land-use change on Crown pastoral land are made really tight, are well resourced and not politicised.
- Require LINZ in managing Crown pastoral land leases to know what the natural heritage is on the land and know its condition.
- Require LINZ to have effective monitoring, compliance and enforcement processes in place to ensure Crown pastoral lease land is safeguarded by the lessees.
- Require more regular monitoring to improve compliance with lease conditions.

Section 1: Managing the implications of ending tenure review

**Protecting inherent values after tenure review is ended**

The Land Act can still be used to purchase parts of pastoral leases, or whole leases, where the lessee is willing.

**Action sought:**

For the Government to use a range of approaches as follows:

- Buying entire leases, then assessing needs to ensure ecological sustainability and identifying inherent values requiring protection. Follow this with a consultation process and the selling of land not needed to ensure the above.
- Creating reserves on suitable parts of pastoral lease land, as the Land Act 1948 allows, and amend the Act to allow other uses for pastoral land such as tourism and recreation where suitable. Values could be protected and recreation access established, while allowing for more diversified land use, such as tourism activities. Freeholding or subdivision would not be permitted.
- Negotiating with leaseholders to achieve the outcomes sought, such as access for recreation, and provide compensation where required.
I ask the Government to:

- Address the current and ongoing degradation of ecological and landscape values on leasehold land.
- Have as its bottom line for ongoing Crown stewardship, the maintenance of remaining ecological, natural heritage and landscape values.
- Amend the CPLA so that when any Crown pastoral land is proposed to be freeholded, decision makers must take into account future use of land that is freeholded and the effect this may have on natural heritage and landscape values.
- Resource the Nature Heritage Fund to enable it to strategic purchases of parts of Crown pastoral leases that have high natural values.

Covenants
Covenants are not necessarily a satisfactory method of protecting values. They are only as good as the appropriateness of their size, the conditions put on them and the monitoring of these, and the attitude of the current land manager. As Ann Brower says, a covenant does not protect ecological values that the CPLA promises to protect:

Covenanted areas are often too small and too confined and don’t take account of ecological functioning beyond the fence, e.g. with wetlands, the catchment boundaries are particularly important. Often a covenant does not take into account the effect of activities on the surrounding areas that feed into the wetland and affect its heath and resilience. I am reliably told that this applies to covenanted areas on high country pastoral areas.

I question the wisdom of bringing in a third party, such as the QE II Trust, to add to the leaseholder and LINZ relationship. This may not work successful.

We have experience of covenanting, and the difference the land manager makes. When we farmed, we covenanted a part of our freehold land under QE II. A subsequent owner was not particularly committed to the covenant and did not repair windfall damage to fences quickly, allowing stock in for periods. The current owner, fortunately, is committed. We saw varying attitudes to covenants in other parts of our region. Deterioration can occur between monitoring visits, which could be critical on sensitive high-country pastoral sites.

Action sought:
- Where covenants are being considered as a protection mechanism, base any decisions on advice from suitably qualified and experienced high-country pastoral ecological experts within the Department of Conservation or independent high country pastoral ecological experts to ensure ecological values are protected.
- Ensure the covenant has conditions that safeguard its natural heritage and ecological values and that these are regularly monitored.

Section 2: Articulating outcomes for stewardship of Crown pastoral land

The Crown needs to ensure its pastoral land does not deteriorate further, by ensuring ecological sustainability is a central tenet.
The history of Crown pastoral land from the 1850s through to the Land Act, through to the tenure review process, is one of ongoing loss of the ecological sustainability of this land.
The outcomes on high country land have not meet the statutory goals of the Land Act and Crown Pastoral Land Act (CPLA). Under the tenure review process, for the most part, land with the rarer values was freeholded, and the land that least needed it was protected. (Brower et al 2017).
The Crown did not ensure the Department of Conservation presented informed full reports on ecological, historical and landscape values, and did not ensure that the Commissioner of Crown Lands properly considered ecological sustainability, natural heritage and landscape values when finalising proposals.

In a case in the Environment Court, Federated Farmers of New Zealand (Inc) v Mackenzie District Council [2017], Judge Jackson expressed the view, that freeholding land without a covenant in some form was not consistent with the objects of the Crown Pastoral Land Act, for example requiring control of the wilding pines, and that: “Without such a covenant it is difficult to see how the [Commissioner of Crown Lands] can justify freeholding as consistent with the purpose of tenure review under the CPLA.”

I want to see the term ‘ecological sustainability’ retained with a clear, unambiguous definition such as: “ecosystems to maintain their essential functions and processes, and retain their biodiversity in full measure over the long-term”. This will need to be backed with input into all decisions on land use from qualified and experienced high-country ecologists.

The management of Crown pastoral-lease land from now on needs to prioritise protection of indigenous biodiversity. Decision making on Crown pastoral land needs to take account of biodiversity linkages and coverage, and the ecology process.

Because dryland species, both plants and animals, can be cryptic they been too easily undervalued and ignored in the past. There are many 81 threatened or at-risk plant species In the Mackenzie Basin that need protection.

Maintaining, enhancing and safeguarding ecosystem services are high priority given climate change effects, e.g. water services. This is an inter-generational issue. Ecosystem services needs to be added into the outcome statement below:

‘The Crown will ensure that the natural landscapes, indigenous biodiversity, cultural and heritage values of this land are secured and safeguarded for present and future generations. To achieve this, Crown pastoral land will be managed to maintain and enhance natural capital, cultural and heritage values; and subject to this provide for pastoral and appropriate non-pastoral activities that support economic resilience and foster the sustainability of communities and enable the Crown to obtain a fair financial return’.

I support the hierarchy that places maintaining and enhancing and safeguarding natural landscapes, indigenous biodiversity, cultural and heritage values ahead of economic resilience.

I realise the term ‘natural capital’ is being used to align with Treasury’s four capitals in the its Living Standards Framework but I do not favour it. I prefer natural heritage.

Action sought:

- Ensure ecological sustainability of Crown pastoral land, is a central tenet underlying the required outcomes for Crown pastoral land management.
- Add as a key outcome statement Add ‘ecosystem services’ to the outcome statement, defined as ‘a capacity of ecosystems to maintain their essential functions and processes, and retain their biodiversity in full measure over the long-term’.
- Retain the hierarchy that places maintaining, enhancing and safeguarding indigenous biodiversity, natural landscapes, ecosystem services, cultural and heritage values ahead of economic resilience.
• Use the term ‘natural heritage’ to replace ‘natural capital’ when referring to managing Crown pastoral lease land.
• Ensure that all decisions made about Crown pastoral land achieve the above outcome (with ecosystem services added in).
• Ensure all decisions on Crown pastoral land use takes account of biodiversity linkages and coverage, and the ecology process.

Recreational access
Recreation access has been raised as a concern post tenure review. It needn’t be. There is a need for more recreation access.

I note, there is nothing explicit in the text of the Land Act that delivers to leaseholders the right to exclude recreationists, and that the High Court was only able to say this was implied (Fish and Game Council v. Attorney General and Others (2009). The Crown could amend the Land Act to allow recreational access to Crown pastoral lease land, subject to conditions that ensured, for example, that 4-wheel-drivers couldn’t drive everywhere unimpeded.

The Crown already has the means to negotiate an access easement across Crown pastoral land for recreational purposes. There could be compensation, when required, or in some cases the access could be bought.

Action sought:
• For the Crown to consider amending the Land Act to allow for foot access over Crown pastoral lease and other access with conditions attached.
• To negotiate or buy access easements across Crown pastoral land to increase recreational access, if required.

3. Ensuring decision making is accountable and transparent
As there are now only 1.2 million hectares of Crown pastoral land remaining in the South Island High Country, decisions made for it must be properly accountable and transparent.

The Commissioner of Crown Land position has extraordinary independence and this has been used in the past to make decisions that have overridden some of the statutory goals of the Land Act and CPLA, at the coast of ecological sustainability and natural heritage and landscape values.

I appreciate that leaseholders highly value the independence and permanence of the position of the Commissioner. The question is, what are the costs and is it fair.

I agree with Ann Brower that the most important principle for governance of Crown land in the future is that there should be no discretion without accountability, in the form of public openness, participation, transparency.

The discretionary consent process on Crown pastoral lease land has approved activities that caused the natural features and the land to deteriorate. Expert advice was either not good enough, lacking or ignored, and cumulative effects across landscapes and values were not taken into account.

The balance was weighted in favour of expert farming advice over expert ecological advice.

“The history of the role of the commissioner in respect of discretionary consents is one of abject failure of public policy... We learn from our mistakes; we don’t ignore them,” Gary Taylor, Environmental Defence Society. I agree.

Action sought:
• Public notification of any and all proposed changes and intensification on Crown lands—Crown purchases of lease rights, or Crown alienation of Crown lands, discretionary consents on pastoral leases, or changes in the lease arrangements, consistent with the Resource Management Act 1991.
• Provision for public submissions and consent hearings, on the proposed land use changes.
• Authority for decision making for Crown pastoral lease land to be vested with the Environment Court.
• Clear-cut statements of purpose and outcome for Crown pastoral land be set out in legislation, to direct the Court to give precedence to maintaining and sustaining natural heritage across its decisions.
• Agency representatives to be removed from decision-making roles for consent applications.
• Cumulative effects of discretionary consents to be given greater emphasis.
• Discretionary consents to adhere to sound environmental policy and be based on advice on ecological values provided by high country pastoral ecological experts within the Department of Conservation and independent high country pastoral ecological experts.
• Discretionary consents to be based on expert landscape advice.
• The Crown to weight expert ecological advice over expert farming advice, in order to meet the hierarchy of values outcome.
• The requirement of more regular monitoring of approved discretionary consent activities to ensure compliance and gauge impacts.
• From now on and until new legislation is in place, require discretionary consent applications to be notified and the public and other agencies consulted over them.

Farm environment plans
I do not support using farm environment plans as a management tool for Crown pastoral land. ECan’s Farm Environment Plans have yet to prove themselves as a successful means of halting environmental degradation, which is critical for Crown pastoral land. Outcomes for Crown pastoral lease land need to change. Clear requirements for lessees will ensure this; not farm environment plans. Cross boundary issues and cumulative impacts can be managed through other mechanisms, such as discretionary consents and the Resource Management Act.

Action sought:
• Instead of using farm environment plans, provide clear requirements for Crown pastoral land lessees.

Update the fees and charges framework
I support the principle of ‘benefiter pays’ and therefore support the recovery of costs to administer consent applications. This is reasonable and fair.

Action sought:
• Recovery of costs associated with discretionary consents.

A drylands high country park
In the early stages of implementing the CPLA, Forest and Bird suggested creating a high-country park in the Mackenzie. The Department of Conservation in 2006 proposed creating a Mackenzie Basin drylands park to protect some of the area's significant natural landscape and native plants and animals, which the government at the time, regrettably, chose to not to implement. There has been substantial loss of natural heritage and landscape values in the Mackenzie since.
I support the current Forest and Bird proposal to protect a full range of habitats across the Mackenzie dryland.

**Action sought:**
- That the Government commit to the creation of a Mackenzie drylands heritage area that protects a full range of habitats across the Mackenzie dryland, through the strategic purchase of Crown pastoral lease land, complemented by a range of other protective mechanisms such as meaningful covenants.
- Where leaseholders have accepted a substantive proposal to implement a tenure review, is there any way to ensure they cannot intensively develop some of their freehold land in a way that undermines what the Crown is trying to achieve in ending tenure review?

**Crown pastoral land that is already degraded**

Pastoral practices that have already degraded land need addressing. These include overgrazing stock, running cattle on land that is inappropriate for large animals, failing to control pest and weeds adequately.

Retire degraded and degrading land from grazing as needed, to protect it from further degradation and allow it to recover over the long term.

Restoration planting may be required on some sites.

**Action sought:**
- For the Crown to require LINZ to monitor pastoral activities better and more regularly to stem degrading practices, added by qualified and experienced high-country ecologists where required.
- Retire land from grazing as needed.
- Restore indigenous biodiversity on suitable sites, under guidance from a qualified and experienced high-country pastoral ecologist.

**Offsetting**

I do not support offsetting for the reasons stated on P37 of the discussion document:

- That it could be used as a primary measure when it should only be a last resort after mitigation, avoidance and remediation measures.
- That the offset will not be equivalent to the loss in values caused by the approved activity. This can obscure negative net impacts. For example, an offset that is far removed from the impacted area might lead to habitat fragmentation.
- That positive actions, such as the ongoing application of restoration techniques, are not followed through with (whether through noncompliance or a restoration technique proving ineffective).

Offsetting can lead to interrupting natural sequences and ecological processes.

I have seen biodiversity offsetting used inappropriately by the Department of Conservation, where like has not been offset by like, and where there has been a net loss of biodiversity.

**Action sought:**
Submission 2787

- I ask the Crown not to use offsetting as a mechanism for allowing a change of use on Crown pastoral land.
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.

Publishing and releasing submissions

LINZ is bound by the Privacy Act 1993. Any personal information, including your name and address, which you supply to us in the course of making a submission or providing a point of view, will be used by LINZ only in conjunction with the purpose of collecting the submissions.

All or part of any written submission (including names of submitters) may be published on the Land Information New Zealand website www.linz.govt.nz. When you make your submission, you consent to your personal information being published, unless you tell us otherwise. If you do not want your personal information published, please tell us when you make your submission.
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.

Submission type*

☒ Individual

☐ NGO

☐ Local government

☐ Business / Industry

☐ Central government

☐ Iwi

☐ Other (please specify)

Add your details

* Questions marked with an asterisk are mandatory
**Question 1:**

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

Once tenure review ends, natural values including the picturesque and diverse landscapes found within the Crown pastoral land should be protected. This should occur through implementation of standards, expectations, goals and monitoring the environment to allow future generations to enjoy what is often taken for granted. Standards and outcomes could include reinstating vegetation and wild life, allowing the environment to return to a more historic and natural state. Monitoring current leaseholders land and remaining Crown pastoral land through visits or testing vegetation health through technology such as drones. Knowledge is power, giving people the right information to understand the significance of the environment around them and how to protect it, will allow everyone to do their part. Finally, with the Crown becoming the enduring stewardship, they should do everything possible to protect the significant natural values as it cannot protect itself.

1b. Are there any other mechanisms that could be used to protect significant natural values on Crown pastoral land?

The discussion document mentions the use of covenants and easements to protect inherent values and access, which also in turn can help protect biodiversity. These covenants vary from prohibiting exotic plants to preventing clearing of indigenous species and are very capable methods of protecting significant natural values. Due to this, there are no other mechanisms I would recommend.

1c. Do you have any views on the proposed transitional arrangements for ending tenure review?

The transitional arrangements proposed seem suitable and fair, as they are allowing for any tenure review currently underway to finish their process, whilst stopping any new reviews from beginning. This allows what is already in motion to finish, and others a chance to learn and understand the new system before applying under the proposed changes.
Question 2:

2a. Do you agree with the proposed outcomes?

☒ Yes ☐ No ☐ Unsure

Please comment

I agree with the proposed outcomes as the Crown will have enduring stewardship of the Crown pastoral land, meaning they ensure it will be safeguarded, maintained and enhanced for present and future generations. This allows land to be maintained in a state of natural value, whilst also adhering to the Treaty of Waitangi principles and following standards set by the government and Commissioner.

2b. Do the proposed outcomes capture all the things the Crown should focus on? What’s missing?

The proposed outcomes capture valid and important areas of interest the Crown will focus on, including iwi interaction, land ownership and ecological sustainability. These outcomes should stop intensification of land use at the expense of the environment, which happened at Mackenzie basin where there has been a long list of decline in indigenous plants and animal species.

Although these are broad proposals, something missing is how waterways will be protected from forms of pollution or other adverse effects from leaseholders or Crown pastoral land.

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

☒ Yes ☐ No ☐ Unsure

Please comment

I disagree with this change as ecological sustainability refers to meeting the needs of present generation without hindering future generations. This is compared to natural capital which refers to the ecosystem that is required to allow human life to survive. Although they are both referring to the environment ecosystems, there is a difference between not hindering future generations, and having an ecosystem which allows humans to survive. Ecological sustainability also aligns better with the proposed outcomes of ensuring the “natural landscapes, indigenous biodiversity and cultural and heritage values of this land are secure and safeguarded for present and future generations”. Furthermore, it is mentioned this change is required due to the lack of definition of ecological sustainability in the CLPA. Although the discussion document mentions natural capital, there will need to be a clear definition free of ambiguity, otherwise nothing will change regarding the issue of interpretation.

2d. 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?
As a lot of the Crown pastoral land lies within Ngāi Tahu takiwā, they have kaitiakitanga and mana over this area. The Crown should oblige by including iwi in decision making to fully understand how these principles can be respected, and the cultural significance of areas located within the Crown pastoral land. The Crown must respect the tradition of rangatiratanga, which is a main principle of the Treaty of Waitangi principle, allowing iwi to carry on certain traditional practices.

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

I value the environment features of picturesque high ridge lines to the low-lying valleys with braided rivers the most. The environment is like no other and being able to enjoy and view the land is a privilege. I am aware the environment aspect is intertwined with economic and social aspects as well, however, these have lesser value to me.

2f. 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?

Enduring stewardship to me implies the natural environment, from the soils to the sky will be protected and safeguarded as well as possible. By having a stewardship, the environment can be protected and enhanced to allow the natural beauty to thrive. This cannot be achieved by one of the groups mentioned above, but all must work together. Having a meeting where groups can pose any questions or seek help and advice to allow the natural environment, as well as the economy to succeed, will allow them to work effectively. The iwi and leaseholders can contribute to helping maintain environments by completing pest control and ensuring the land is well retained. The Crown should oblige to their responsibility of meeting standards, outcomes, and being transparent on decisions.

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

Please comment

I agree with the question above as it will increase the likelihood of these expectations and outcomes being met. By having the Minister for Land Information approving these expectations, there will also be another view which could help diversify opinions and ensure nothing has been overlooked. These statements would allow the Commissioner and Minister to ensure what is occurring in the High Country reflects against these expectations.
3b. Do you agree that this proposal will help improve accountability for decision making in the Crown pastoral land regulatory system?

☒ Yes ☐ No ☐ Unsure

Please comment (optional)

I agree with this proposal as the Commissioner must make regular statements of expectations mentioned above, to be approved by the Minister, there will be a clear line of whom is responsible and should be held accountable for the decisions and actions taken. With this new proposal, stakeholders can reflect their perspectives, however, there is still independence for the Commissioner to make decisions which align with statutory framework. This will increase the accountability of the Commissioner as their role is created and bound by legislation.

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

The current proposal has clear line of accountability of final decisions, however, there could be consideration to the external accountability. For example, if the Commissioner bases a decision off expert advice, which was incorrect or misinformed, then the advisor should also be held accountable. Furthermore, if the public and stakeholders are included through either submissions or input on decision making, the Commissioner could take these into consideration, making the Commissioner more accountable to the public. Also, if transparency is increased as proposed, accountability will improve.

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

By having the Commissioner creating regular statements to be approved by the Minister of Land Information, as well as having these publicly released, this is the most effective way to improve accountability. There is a clear path of who is accountable for making the report and decision, however, if advice is used in reports the person responsible should also be held some what accountable as mentioned in 3c.

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

The only potential issue with the proposed changes that will need to be considered and managed, is the increase of time and work expected of the Commissioner to write the reports, standards of expectations and guidelines.
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

Please comment

I agree as the more detail released by the Commissioner of what is expected and required, then the stakeholders, leaseholders, iwi and public would hopefully see the decision making as less opaque. This would allow the leaseholders to have clearer certainty around legislative requirements as any ambiguity would be removed by having these details set out in standards and guidelines. Furthermore, if leaseholders are still unsure on legislative requirements, the Commissioner could provide specific guidance to remove any further ambiguity.

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

Please comment

I agree the transparency will improve through the new proposal as the Commissioner will have standards, policies and guidelines providing greater detail on what is expected and how decisions are made available to the public. By having these documents, there will be more certainty and understanding of the process which improves fairness and transparency of decision making.

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?

Guidelines around how the Commissioner could rank items, activities and evidence in some form of hierarchal order, which will impact and hold most weight in the decision and report. If adhering to legislation, then it should be written in a way, or defined in a way that uses language for leaseholders, iwi and stakeholders to understand, reducing misinterpretations.

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

Standards should be publicly available to increase transparency as there will be set regulations and expectations to remove most doubt and ambiguity. However, as known with other forms of standards and legislation such as the RMA 1991, there will be areas of ambiguity where guidance and further discussion should be provided. If
new standards are being introduced, then guidance should be readily available either through supporting documents or experts.

4e. What other mechanisms could be used to improve transparency?

Including public participation before a decision is made could provide clarity and fairness to results, however, could significantly delay the decisions and outcomes. Therefore, public participation could be required dependent on the case and level of effects which could arise from a decision. This could help ensure the decision-making regarding standards and guidelines are implementing shared values and results, rather than being determining for those impacted.

4f. Which mechanisms do you think would be most effective in improving transparency?

Having public participation (case dependent) and reports, standards and outcomes easily accessible to the public, written clearly and easy to follow.

4g. Do you think there are any problems with the proposed change?

The only issue could be with more transparent decisions, accountability will increase, which for the most part is a good thing. If difficult and/or controversial decisions must be made, which upset leaseholders, stakeholders, iwi and the public, this could be difficult for the Commissioner if accountability falls entirely on them.

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

Yes, I agree as requiring the Commissioner to give effect to proposed outcomes there will be several benefits to the regulations and outcomes, including effectiveness and certainty. However, by having this requirement the costs for the Crown could increase, meaning the cost to apply for discretionary consent could also increases for the leaseholder.

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

Yes, this approach will support the Crown pastoral land proposed outcomes as it will remove the current issues mentioned in the discussion document which include, not looking at cumulative impacts, and not including iwi or other impacted parties in the
decision. Furthermore, currently the Commissioner only has to “take into account” section 18 of the CPLA, where as the proposed approach will provide more certainty and require decisions be consistent with outcomes expected, whether this be through offsetting, mitigation or restoration.

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

Have regulations and expectations listed from which the Commissioner can refer to when making decisions, however, this could limit scope of advice and may not cover every situation that comes before the Commissioner.

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

How the land has been used in the past, current and proposed future, as this can show how the land is impacted. The health of the land should be a high priority of a decision, as it should not be used in a way that will compromise the environment for the sake of money. However, if a discretionary consent is granted, then correct mitigation, offset and restoration steps should be taken to ensure the environment is not significantly impacted. Relevant cases and case law should also be taken into consideration, as this will allow insight into whether the decision made was correct and what may be potential consequences as a result.
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

I mostly agree. If the best sound judgment and decision is to be made fairly to both stakeholders and the environment, expert advice should be required when deciding on discretionary consents. In saying this it should be within reason based on what they're applying for, and the amount of expert advice required could depend on the size of the case.

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

This would depend on the proposed activity, if a leaseholder already farming wanted to intensify and increase livestock, then expert advice could be sought after to determine the effects on things like soils and waterways, and whether these effects can be mitigated. In this case the public may not need to be notified as this activity is already occurring and could have little effect to them. Another situation could be the creation of a new walkway being placed through Crown pastoral land. The Commissioner should seek information from local iwi and other experts about any potential cultural or historic value. This sort of proposed activity could also require public notification.

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.

Yes, the Commissioner is an appropriate decision maker as they are acting as the landlord to the leaseholders, which allows the leaseholders to have clear understanding of who they contact if they wish to apply for discretionary consent or any other dealings. As the Commissioner is bound by the Land Act 1948 and CPLA, as well as the new proposals suggested, decisions made should be free of bias towards one party. By having one person in charge, who reports to Minister of Land Information, there is a clear line of hierarchy and accountability, removing ambiguity about who should decide on matters regarding Crown pastoral land. The only other decision-making model would to have a committee or panel making the decisions, which would provide greater input and diversification of opinions, however, if they must adhere to legislation this would increase costs and slow down the process.
**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

I agree because if applying for a discretionary consent within a local council and other legislation such as RMA 1991, there is a charge associated so why should this be any different. Under the current framework of fees, applicants have no charge and gain all the benefit of the consent approval, whilst the Crown covers the costs. The proposal will allow the Crown to receive a fair financial return, which could be used in ways to further help maintain the Crown pastoral land. With all the new proposals discussed, the Commissioner and Minister of Land Information will have to spend a longer period making decisions around the discretionary consents and these costs should be taken into consideration.

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

Depending on the fees charged, applicants may not apply for the discretionary consents or will have to think seriously whether they want to pay this extra cost. By having a reasonable charge associated with the application, it will also ensure they are willing to commit to the consent, providing all documentation and other information as required.

**Question 8:**

8a. Do you agree that the Commissioner should be required to regularly report against a monitoring framework?

☐ Yes  ☐ No  ☐ Unsure

Please comment

Yes, by having a monitoring framework in place it will allow the Commissioner to report against this, determining whether decisions and outcomes are being followed and adhered to. This will increase the proposal of transparency due to monitoring of the land, showing whether outcomes are being met.

8b. What other mechanisms could be used to ensure the outcomes of the Crown pastoral land regulatory system are better understood?
As the land regulatory system allows the Crown to buy and sell land in a balance between public and private interests, another mechanism could be to have set standards that must be adhered to. This will provide clarity of what outcomes are expected and how to achieve them.

8c. What information do you think is most valuable to understand system performance?

To have regulations which have to be measured against on a regular basis. By having a monitoring framework, leaseholders and the Commissioner are aware of what must be achieved. Over time the Commissioner can accumulate evidence and information on whether they are reaching those targets and goals. Furthermore, these standards and regulations should be written in a way that can be easily understood by leaseholders and the public, free of ambiguity. With easily understood information, this will increase certainty and effectiveness of system performance.

Question 9:

9a. Do you have any feedback on the preliminary analysis in section 6?

Although brief, all points get across in an easily understandable manner providing insightful information. This analysis has been well compiled and written in a way a member of public can understand. It also helps clarify why the proposed choice has been chosen over the alternative options. The inclusion of alternative options shows the extensive research that has been conducted and the best fitting outcome has been selected.

9b. Are there any other comments you’d like to include in this submission?

Overall, the discussion document and supporting documents supplied has been written in a clear, concise and easily read format. The proposals mentioned seem to take both the environment and stakeholders into account, trying to find the middle ground on pleasing and looking after both. I believe these proposals will improve the status and protection of the Crown pastoral land.
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
Submission 2789

Tenure review:

1. I support the Government decision to end the tenure review process. “opaque, unfair, and skewed towards farmers” (Newsroom 5/3/19).
   Reasons:
   - Loss of ecological sustainability, biodiversity and landscape values.
   - Has not protected the most rare and threatened values.
   - Pastoral use has degraded land; weeds and pests not adequately controlled.

2. All decisions about Crown pastoral land should be accountable and transparent.
   I think the CCL position would best be abolished.
   If not, then there needs to be public accountability of the Commissioner’s decisions.
   I.e public notification of any proposed changes or intensification on Crown land with:
   - opportunity for public submissions and consent hearings.
   - right of appeal to the Environment court.
   - Ministerial call-in powers.

3. I support ranking for maintaining and enhancing and safeguarding natural landscapes; i.e. indigenous biodiversity, cultural and heritage values ahead of economic resilience when making any decisions about Crown pastoral lease land.
   I want to see ‘ecosystem services’ added to the natural values to be preserved.

3. I want the term ‘ecological sustainability’ retained with a definition of: “A capacity of ecosystems to maintain their essential functions and processes, and retain their biodiversity in full measure over the long-term”.

4. Post tenure review I ask that the Crown:
   - Retain, as a bottom line, the maintenance of remaining ecological, natural heritage, landscape and ecosystem service values.
   - Put a halt to further degradation of Crown pastoral lease land and introduce measures to address and ameliorate current degradation.
   - use the Land Act to purchase parts of pastoral leases, or whole leases, where the lessee is willing.
   - create reserves where suitable.
   - negotiate recreational access and compensate lessee where required.
   - ensure any future freeholding process takes into account any effects future land use may have on natural heritage and landscape values.

5. I support recovery of costs associated with discretionary consents.

6. I support the current Forest and Bird proposal to protect a full range of habitats across the Mackenzie drylands.

7. I endorse the view that covenants are of dubious value. Covenanted areas are often too small, don’t take into account natural processes (e.g. if a wetland area, the site often doesn’t take into account the effect of the surrounding areas that feed into the wetland and affect its heath and resilience), and are only as good as the attitude of the current land manager.
8. I am sceptical of the value of ECan Farm Plans – i.e. talk of putting pastoral lease requirements into ECan farm plans.

9. Expert advice – need much more input from suitability qualified and experienced high country ecologists – either within DOC or independent contractors. (Even the present HCAG - which LINZ promotes as being able to provide much more balanced advice than previously - is over-weighted with people from farming backgrounds. 5 of 10 positions are either farmers or from farming backgrounds while there are only 2 ecologists. In my view, ecological advisors should predominate quite markedly. The history of the high country is one of continual degradation at the hands of commercial interests, especially farmers. This needs to change. The change needs to be led by ecologically literate mentors).

10. I promote the idea of “First do no harm” as an approach to preserving the natural and ecological values of the high country. I think Ann Brower’s suggested amalgamation of Aldo Leopold’s mission statement with Matauranga Maori to have merit.

‘Natural capital’ is vague. If such terms are to be used they need to be carefully and clearly defined.
The Implications of ending Tenure Review
My views on the best way to manage the implications of ending tenure review are that we must ensure land management legislation provides effective tools and guidance necessary to help farmers protect the natural capital of their land. The main implication that more crown land will not be privatised at the Crown’s expense can only be viewed as a positive. In the 150 tenure reviews completed prior to 2018, the crown paid $64,610,990 for 370,000 ha of land that was added to the conservation estate as well as covenants on 14% of the privatised land titles (Mitchell, n.d.). For this price however, the Crown gave up the rights to 430,000 ha of land which portions of were sold off massive profits. The Crown has spent nearly $65 million buying back land for conservation from the lessor via a process that has left many feeling as though the Crown has been ripped off. This implication, that more land will not be set aside for conservation through tenure review is a negative impact however the Crown must now investigate new ways of protecting the land without attaining the rights to it. The major implication however is that the Crown will now be required to take a more effective and hands on approach to conservation and stewardship of the South Island high country. This will likely involve strengthening and revisiting relevant legislation that governs stewardship on this land and increasing the accountability of those who make the decisions regarding stewardship of the land.

I believe that the strategy of separating the land into conservation land and pastoral land could be harmful to the natural capital as it does not appear to give the privatised land consideration in regard to sustainability or protection. I believe that making decisions on what activities are permitted on land in isolation from decisions made on neighbouring land risks ecosystems becoming fractured. Although it may encourage sustainable management of the micro ecosystem, the larger ecosystem such as a catchment basin may still be adversely affected (‘Tenure review to end - Expert Reaction - Science Media Centre’, n.d.). Unfortunately tenure review leads itself to this scenario as leaseholders negotiate with the Crown as to what land will be set aside and what land will become privately owned. Leaseholders looking to subdivide sections of their land have been able to make massive capital gains by privatising lake front areas such as Damper Bay which was a part of Alpha
Burn Station. The farmer ultimately paid $50,000 for 2 thirds of the station including a 190 ha section at Damper Bay on the edge of Lake Wanaka. This land was sold within 18 months to a group of wealthy investors for $10.2 million, an immediate capital gain of approximately 37,000 percent despite huge controversy. (‘The Wanaka Sun - Tenure Review has local farmers on tenterhooks’, n.d.) Ann Brower of University of Canterbury estimates that farmers have made approximately $275 million by on-selling 74,000 ha of former Crown Pastoral Land at a median price of 50,000 per cent what the Crown was paid (‘The end of tenure review’, 2019). The Crown has not seen any of this money as New Zealand does not have a capital gain tax.

I think a good way for farmers to ensure that their land remains profitable without intensifying their farming strategy is to trade off the extra live stock income for tourism. It is estimated by Business Ministry that international visitor numbers will reach 5.1 million by 2024 (‘New Zealand Tourism Forecasts 2018-2024’, 2018) and with the South Island high country being a hot spot for tourism and tourism being New Zealand’s biggest export (‘Tenure review to be scrapped’, n.d.) this should be seen as an opportunity to diversify. Simon Williamson, who is the chair of Federated Farmers’ high country industry, expects that many high country farms would be able to sufficiently accommodate tourists with a little development. This would take the strain off areas such as Aoraki which is struggling with the increase in numbers and outsources majority of it’s accommodation to neighbouring towns like Tekapo and Twizel. (‘Unprecedented” tourist demand packs out Aoraki/Mt Cook’, n.d.) This would require that legislation allowed the farmers to build accommodation and trials on their property for hikers and tourists. This must be closely protected to ensure that any new lodgings do not disturb the natural landscape that so many of the tourists come to see. This diversification would also add an element of insurance to a farmers income, as tourist numbers are not likely to be negatively affected by poor farming conditions meaning the farmer’s income will be less weather dependant. This is an important notion as with the unstoppable increase in temperatures, traditional farming may not be as viable in traditional farming. (Kenny, New Zealand, Ministry for the Environment, & New Zealand Climate Change Programme, 2001)
Giving farmers legislative and financial incentive to diversify their income would be a better way to gain conservation land without having to buy the land outright. It would also help ensure that the land remains economically viable while also enhancing the land's natural capital with the benefit of it becoming accessible to the public. It is important to remember that the beauty of the South Island high country lies largely in the farming lands and that this is important to tourism. As Simon Williamson, the chair of Federated Farmers, stated, “They (tourists) go to bloody Alaska if they just want to see pine trees.” (‘Tenure review to be scrapped’, n.d.)

I do agree with the proposed set of outcomes as stated on page 23 in the discussion document. The intention to enhance, rather than to simply maintain the natural capital provides good protection for our land. The use of the term ‘Natural capital’ I believe, is a better term than ecological sustainability as sustainability appears to allow for some damage to be caused if it is not permanent. It also does not give mention to the fact that our ecology and biodiversity is tightly linked to our economic and social well-being as a country. Natural capital, as described in the Living Standards Framework regards the natural environment as having a direct correlation to the financial, human and social well-being of New Zealanders. The way this wraps the four pillars of our society together is important as this use of the term capital is likely to be found in other legislation as it is used by the Treasury to help them advise government agencies on how their policies are likely to affect the living standards of everyone (‘Natural Capital - SBC’, n.d.). This will increase the awareness of how these factors are all interdependent upon each other.

The Crown should fulfil its obligations under the Treaty of Waitangi by ensuring that local iwi maintain a strong position in terms of decision making throughout the South Island high country. This is very important as the South Island high country was purchased from South Island Māori through a series of insincere deals and promises of reserves and continued access to their resources which never eventuated. The Crown apologised to Ngāi Tahu in 1998 for acting “Unconscionably and in repeated breach of the principles of the Treaty of Waitangi” (‘The Apology - Te Rūnanga o Ngāi
Tahu’, n.d.). Although this was a good start along with the settlement, to continue to act on this apology would mean to give Ngāi Tahu power in decision making along with the Crown on how best to steward the land. This is especially important for example when there is a discretionary consent application for land that contains a historic burial site or other important sites for the affected iwi. This would be a good opportunity to strengthen relationships with local iwi as well as a good opportunity to use their expertise as long term stewards of the land which is a role the Crown will be stepping into. This would also require the CCL to be allowed to consult experts on the topic for discretionary consents.

The lack of accountability has been one of the biggest complaints regarding tenure review as the Commissioner of Crown Lands (CCL) has been failing in the eyes of the public to secure a fair deal for the land. The Commissioner has been called “the most unaccountable civil servant in the country” (‘EDS not convinced abandoning tenure review is a good thing - EDS’, n.d.). This is due largely in part to the amount farmers have been able to on sell their land for quickly after attaining it at well below market price. The CCL oversaw $65 million being given to farmers as well as land that has then been on sold with a median capital gain of 69,200 percent (Mitchell, n.d.). I believe a large part of this issue is that the Commissioner does not have clear and publicly available goals to compare their results towards, for example if the Commissioner’s only goal was to attain Crown pastoral land for the conservation estate then they have achieved this. The Crown attained 370,000 ha for the conservation estate as well as covenants on 14 percent of privatised land allowing for walking tracks and increased accessibility. The public did however give up 430,000 ha of some of the high country’s most productive land, some of which has been turned into luxury mansions or tourism ventures. (Mitchell, n.d.) To improve accountability I believe the Commissioner should be required to develop a statement of performance expectations to be approved by the Minister for Land Information. I believe that having the Minister for Land Information approve the statement rather than developing it in consultation will allow a clearer focus to be broadcast to the public. It does leave the CCL the opportunity to apply easily obtainable performance guidelines for himself
however I believe having the Minister for Land Information approve them will mitigate this risk. Having the CCL write the guidelines himself will help with any misunderstanding within the performance expectations. This could become an issue however if the CCL who succeeds the current CCL interprets the expectations in a different way. This issue should be mitigated by the Minister for Land Information approving the guidelines as they will not approve guidelines that they do not understand or that require extra clarification.

I do believe the Commissioner should release additional guidance to officials and leaseholders to ensure that they understand their rights and their legislative requirements regarding their land and what activities they are permitted to undertake. This would aid farmers in making discretionary consent applications as the likelihood of their consent being more appropriate and more likely to succeed would increase. Although drafting and releasing these guidelines may increase costs to the Crown, it would increase productivity with consent applications for both the Crown and the farmers in the long run. It would also aid farmers in understanding why their applications were declined if the guidelines that the application was measured against were referenced. An important part of drafting these guidelines would be working with local iwi to establish all sites of historical and cultural significance throughout the South Island high country and what activity they would permit around these sites.

To increase transparency, consent applications could become public documents after a certain period of time. This would help with leaseholders being able to see exactly what is expected from them when drafting their application by using another application as a reference. The issue with this however is that farms are unlikely to want their applications made public as they may contain sensitive information such as their farm plan or the number of stock. This could make them vulnerable and would pose a serious risk to privacy and would act as a deterrent to the consent application process. They could however be shared with neighbouring farms, to help manage cross boundary issues, such as the protection of catchment basins. An alternative could be to share with
neighbouring farms only the parts of the returned application that are relevant to their shared boundaries. This would still potentially be a breach of privacy however the effects of it would be mitigated somewhat. The transparency of this process is even more important if it is decided that the CPLA will be amended so that discretionary consent applications will have fees attached to it.

I believe that the CPLA should be changed to allow for fees to be charged for all discretionary consents on the basis that the process is improved to the point that applicants have a clearer view of how likely their application is to succeed. Changing the CPLA to allow fees to be charged would ensure the longevity of the legislation as the Crown would be able to recover some of the costs it takes on. It also brings the CPLA into line with similar legislation such as the Resource Management Act 1991 which allows the local authority the power to “recover from an applicant the actual and reasonable costs incurred by the local authority” (Resource Management Act 1991 No 69 (as at 19 December 2018), Public Act Contents – New Zealand Legislation’, n.d.). There are similar sections for the Environment Protection Authority. This would improve the system and bring it in line with the “benefiter pays” principle which was the reason for cost reimbursement being attached to the RMA.

I do believe that the Commissioner should be required to regularly report against a monitoring frame work to help the Commissioner better understand if the decisions that are being made are effective and if the decision making process is adhering to the outcome guidelines. I do believe that this may increase the Commissioner’s work load however and this should be done in consultation with relevant experts such as local iwi, DOC and others who may be able to help understand the impact that the decisions have had on the natural capital. This would also be a good tool to help increase transparency as if the reports were made available, the public would be able to see the success of the process while also keeping the Commissioner accountable. This would also be a good accountability measure for the Commissioners’ decisions on consent applications.


http://www.landcareresearch.co.nz/publications/newsletters/discovery/discovery-issue-26/defining-true-conservation


