

# **Regulatory Stewardship Strategy**

## **Land Information New Zealand**

**August 2018**

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# Introduction

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## Foreword

I am pleased to introduce LINZ's Regulatory Stewardship Strategy, which sets out how we are delivering on our regulatory stewardship responsibilities.

Land has an important place in New Zealand's society. We are attached to the land by powerful cultural, emotional, and economic bonds but it faces profound challenges. Water quality, climate change and urban development are some of the complex issues we must address, so future generations can enjoy the land in the same way we do. We want our land and society to thrive and endure.

At LINZ, we share a responsibility to look after New Zealand's land and its use. Successful stewardship of our regulatory systems will help enable New Zealanders to enjoy access to our public land, benefit from private land ownership, and be sure that overseas investment in New Zealand's sensitive assets brings benefits to New Zealand.

We take our regulatory stewardship responsibilities seriously, and are working hard to implement the Government's expectations for good regulatory practice. We are focusing on actively managing our regulatory systems so they deliver net benefits to New Zealand over time, and being clear about the value of any new regulation we introduce. We need to work with other agencies, local government, non-government entities and the wider community so system risks are effectively managed and benefits fully realised. We will be future-focused and alert to upcoming opportunities, pressures and risks and adjust our regulatory approach to suit.

We acknowledge that we are at the start of our stewardship journey and have some way to go, but we have made good initial steps. This strategy outlines the progress we have made so far and the plans we have for our regulatory systems over the next two years.

**Lisa Barrett**

Chief Executive

Land Information New Zealand

## Executive summary

1. Regulation plays an important role in our society. Recent examples of costly regulatory failures in New Zealand have focussed attention on what the public sector needs to do to ensure regulatory systems are fit-for-purpose and deliver net benefits to New Zealand over the long term.
2. To manage the risk of regulatory failure or underperformance, the Government has instituted a range of initiatives to systemise and normalise regulatory stewardship across the public sector. To strengthen the requirement for agencies to embed regulatory stewardship into the way they work, the Government introduced a legal obligation on departmental chief executives via the State Sector Act 1988. In addition, and to assist agencies with meeting this statutory obligation, the Government issued guidance on good regulatory practice.
3. Reporting is one way to drive regulatory agencies to take a cross-system long term view to the way they regulate. Initially seven major regulatory agencies<sup>1</sup> were asked to provide information on what regulatory systems they had responsibility for and how well those systems were performing against four criteria (efficient, effective, durable and resilient, and fair and accountable). LINZ recently joined this group.
4. Since joining the group of reporting agencies LINZ has developed its regulatory stewardship function. We have committed resources to identify our regulatory systems, and have completed an assessment of the Crown Pastoral Land part of the Crown Land System. The remaining system assessments are scheduled over the next 18 months. We are also participating in the G-REG initiative and in the pan-agency stewardship group led by the Treasury.
5. As a regulator, we have a long way to go to fully implement the government expectations for good regulatory practice. We are early in our journey to define our systems fully, their participants and to work across the whole system. We still have work to do to be clear on the benefits the systems generate and the associated risks. We also need to continue to invest in building our regulatory capability.
6. We have set three regulatory objectives to focus our work. Achieving these objectives will embed regulatory stewardship into the way we work so we can mitigate the effects of regulatory under performance and ensure our systems deliver net benefits over the long term.
7. Our regulatory systems do not pose a major risk of regulatory failure, however, we can see areas that we can improve so they are more effective and efficient over the longer term. Our forward work programme for the 2018/19 FY describes the work we will undertake to address these opportunities. Key areas of focus for our work program in 2018/19 are:
  - Assessment of the remaining part of the Crown Land Regulatory System and the Property Rights Regulatory System
  - Implementing improvements recommended for the Crown Pastoral Land part of the Crown Land Regulatory System
  - Implementing Land Transfer Act 2017 regulations and other instruments
  - Implementing the amendments to the Overseas Investment Act 2005.
  - Other work to embed regulatory stewardship in to the way we work.

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<sup>1</sup> The seven major regulatory agencies are Ministry for Business Innovation and Employment (MBIE), Ministry for the Environment (MfE), Department of Internal Affairs (DIA), Ministry of Transport (MoT), Ministry for Primary Industries (MPI), Ministry of Justice (MoJ), and Inland Revenue (IRD).

## Introduction

8. Effective regulation is essential to achieving almost all government goals, including supporting markets to function in ways that improve wellbeing. But regulation operates in a world of people, institutions, and technological and social change, so that even the most robust regulatory design typically results in unintended consequences and costs as well as intended benefits.
9. The Pike River tragedy, leaky buildings and the collapse of some New Zealand finance companies are examples of costly regulatory failure that could have been mitigated or avoided altogether if better regulatory stewardship practices had been employed in those systems.
10. In response to these and other instances of poor regulatory stewardship, the Government sought advice from the Productivity Commission on how to make improvements in the design and operation of regulatory regimes in New Zealand. The Productivity Commission made 44 recommendations in their final report *Regulatory Institutions and Practices*, all of which the government either fully or partially agreed with. This resulted in the Government implementing its regulatory management strategy *Building Effective Regulatory Institutions and Practices*.
11. A key requirement of this strategy is for agencies to implement the Government's 'Expectations for Good Regulatory Practice'. This requirement was formalised through an amendment to the State Sector Act in 2013, which added stewardship of legislation to the list of a departmental chief executive's responsibilities.
12. To encourage agencies to focus on their stewardship responsibilities, the Government required the major regulatory departments to publish:
  - how they are meeting the expectations for good regulatory practice
  - a description of the regulatory systems they are responsible for and how well those systems are performing
  - their regulatory priorities for the year ahead.
13. In August 2017, LINZ joined the group of agencies committed to publishing an annual regulatory stewardship strategy. Since then, a new Government has been elected. It is expected that the new Government will review the regulatory management strategy but not change the requirements of agencies to implement the expectations of good regulatory practice. Agencies will need to continue to assess the performance of their regulatory systems, and where risks or underperformance exists, put plans in place to resolve those issues.

## Purpose

14. This strategy is divided into three sections:

### Section 1

- Describes how we are meeting the government expectations for good regulatory practice including:
  - the way we employ good system design principles for new regulatory activity
  - our approach to the stewardship of the regulatory systems we are responsible for.

### Section 2

- Describes the regulatory systems for which we have stewardship responsibilities, how they function, what they deliver, and to whom.
- Provides an indicative assessment of how our regulatory systems are performing.

### Section 3

- Presents our regulatory priorities for the 2018/19 and 2019/20 financial years.

## Meeting the Government Expectations for Good Regulatory Practice

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### Our Regulatory Context

15. LINZ, like all public agencies, manages regulatory systems in a changing and challenging global context. While technology continues to present opportunities, the risks to individual rights and privacy are becoming increasingly evident. Geopolitical changes are placing pressure on the ability of nations to organise collectively. In some countries/regions, social divisions are re-emerging driven by growing wealth and/or income inequality. The effects of climate change and other environmental issues are becoming more apparent, and are driving how some consumers exercise their purchasing power.
16. Domestically, New Zealand faces challenges that are part of this global context. Climate change, water quality and the preservation of biodiversity are key environmental issues the New Zealand public expects the Government to address. Social issues such as income and wealth inequality, housing affordability and access, and poverty are all priorities for the Government.
17. The way we think about addressing such challenges is evolving. New Zealanders are increasingly aware that system failures (like the Pike River tragedy and leaky buildings) and their costs can be mitigated or avoided altogether, so they expect the Government to be more pro-active. Even where regulation is an obvious option, people increasingly understand that regulation on its own is seldom sufficient – enforcement, professional standards, information and more is often needed for regulation to work as intended. Systemic underperformance or failure is expected to be identified and mitigated early.
18. LINZ is working to improve the value we deliver for New Zealand. In addition to our core roles of delivering Ministerial priorities and statutory responsibilities, we have adopted a new outcomes framework, which outlines four long term outcomes<sup>2</sup> we are working towards achieving. In doing so, we have committed to working with other

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<sup>2</sup> High-value geographic and property information; world-class property system; making the best use of the Crown Estate; and safeguarding New Zealand's interest in sensitive assets

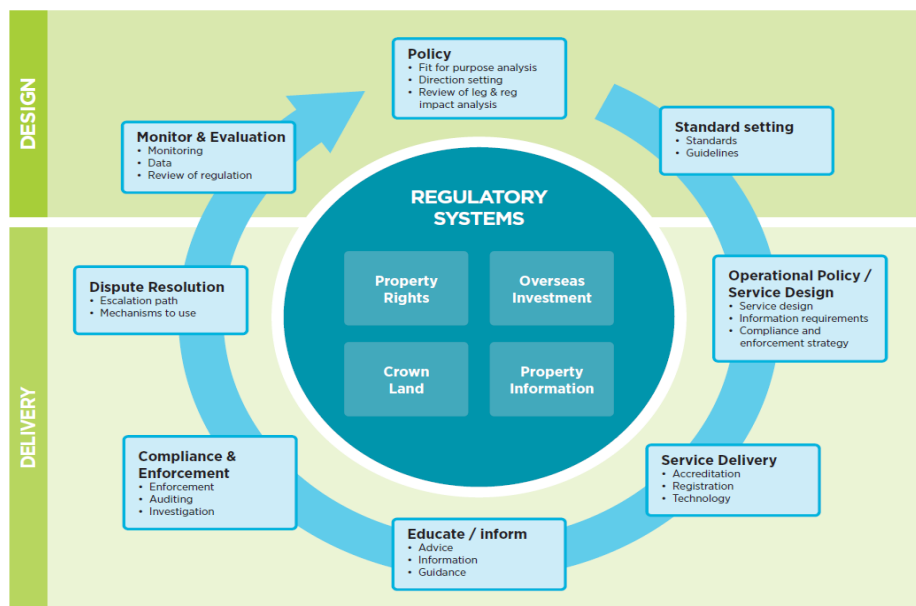
agencies to address three particularly critical cross-cutting challenges for New Zealand.<sup>3</sup>

19. LINZ has a long history of regulatory practice particularly because we have four statutory officers who are regulators<sup>4</sup> and a policy function. Our stewardship work extends this regulatory practise to take a broader focus on regulatory systems rather than just on the role of the regulator.
20. We recognise that to deliver on our outcomes, ministerial priorities and statutory responsibilities, LINZ will need to change how it operates in a number of areas. In particular we will need to shift from being:
  - a largely portfolio-driven business to becoming a more integrated agency delivering impacts bigger than the sum of our parts.
  - typically tactical and reactive when solving problems to having a more strategic focus on stewardship and actions to resolve key challenges.
  - often conservative in our approach to taking more opportunities (and measured risks), with assertive thought leadership.
  - inwardly-focused on technical expertise to taking a more outward-looking approach to relationships and system leadership.
21. Making these organisational shifts will help us become a strong regulatory steward.

## Our Stewardship Approach

22. LINZ is responsible for four regulatory systems – Property Rights; Property Information; Crown Land; and Overseas Investment (see “Our Regulatory Systems” below).
23. All regulatory systems have two main components: design and delivery (see Diagram 1). These components cover eight functions, ranging from setting policy (direction) through to monitoring and evaluation. While LINZ is responsible for one or more functions within each system, we are also responsible for ensuring that all the functions and the entities that carry them out work well together.

**Diagram 1 –the eight functions of a regulatory system**



<sup>3</sup> Water; resilience and climate change; urban areas

<sup>4</sup> The Registrar-General of Land, the Valuer-General, the Surveyor-General, and the Commissioner of Crown Lands

24. The circular nature of the diagram is intended to show that functions are related and connected. In practice they are not performed in a linear way. For example:
- evaluation should inform the range of practices under almost all functions.
  - policy thinking can usefully support most functions, particularly in the early stages of implementation.
  - lessons learned from enforcement and compliance should inform policy and service design.
25. Effective governance is one key to regulatory systems delivering long term benefits. Governance ensures that the right investments are made to improve the performance of our systems, and embed the principles and practice of regulatory stewardship into the way we operate over the long term. Such investments are not just LINZ's responsibility – all system participants (including statutory officers) make investment decisions that can affect system performance.
26. LINZ is reviewing its governance framework to, among other things, support better regulatory stewardship. At a system level, system owners are crucial to ensuring that there is a joined-up view of system performance, and that measures to improve system performance are effectively implemented.
27. We will use formal assessments of our regulatory systems as a basis for discussing performance and improvements with all system participants, including other government agencies (central and local), professional bodies and private entities. If the work needed to improve performance is to be done by LINZ, system owners will prioritise and schedule that work. If work needs to be done by other system participants, system owners will be expected to work with them to make them happen.
28. System owners are also expected to monitor improvements and report to LINZ's Chief Executive on the results. Where it is clear that the intended improvements have not occurred, system owners are expected to take action. Over time, these feedback loops will tighten as it becomes clearer what works well and what doesn't, and further improvement measures will take this into account.
29. Embedding regulatory stewardship into the way LINZ operates as an agency is not a quick task. We have prioritised work to lift our regulatory capability in all areas of our business over the next 1-3 years.

## Our Stewardship Objectives

30. We have identified three overarching stewardship objectives. These objectives are:
- 1. We identify and report on the benefits our regulatory systems deliver to New Zealand over time.**
    - For new regulatory proposals we apply a 'best in class' approach to our Regulatory Impact Analysis.
    - We have metrics in place so we can monitor, review and report on system performance.
    - We have clear and effective governance arrangements in place.
  - 2. We are deliberate about improving system performance.**
    - We actively work with our stakeholders in a planned way to collectively improve system performance



- The principles of regulatory stewardship are embedded in our day to day activities.
- We actively assess system performance and take action to improve performance.
- We invest in the regulatory stewardship capability of our (policy, operational and enforcement) staff.

### **3. We actively identify and manage risks.**

- We have early-warning information and systems to proactively identify risks.
- We systematically identify and adopt the best risk-reduction and mitigation options.

31. Our work programme and priorities for 2018/19 (presented later in this document) describe in more detail the actions we will take towards achieving these objectives.

## Issues, Opportunities and Threats

### **Context**

32. We have identified a range of issues, opportunities and threats that we will take into account when taking action to achieve our regulatory stewardship objectives. We will address directly the issues and threats that are in our control, and will mitigate those that aren't as best we can.

### **Issues**

#### *Outdated legislation*

33. As is common for agencies across the public sector, some of the legislation LINZ administers is out of date or no longer fit-for-purpose. Such legislation has a range of negative effects on system performance, particularly in regard to system efficiency and effectiveness. Legislative objectives may be unclear or no longer relevant in the current social, cultural, economic or political context, leading to the system being less effective than it could be. Efficiency can be compromised through complex legislative provisions or conflicting legislation, which is particularly problematic if decisions require the legislation to be read in conjunction with other legislation. Legislation may also reflect historical structures, practices or delivery mechanisms that may hinder newer practices (eg outsourcing of certain operational functions).<sup>5</sup>
34. For our regulatory systems to be fit-for-purpose over the long run, legislative change will inevitably be required sooner or later. Limited House time and competing priorities make any legislative change slow. In the meantime, we will continue to steward systems that we know could perform better if their governing legislation could be updated.

#### *Regulatory stewardship capability*

35. LINZ is a small, operationally-focused agency with a diverse set of responsibilities. Our workforce includes a large number of technical experts who have deep specialist knowledge and expertise – it is not sensible to deploy such experts across systems to perform more generalist regulatory stewardship roles. As we have explored what is required to carry out our stewardship role effectively, it has become clear that we will need to build more general regulatory capability across our business to complement our existing technical expertise and recent investment in improving our policy capability.

<sup>5</sup> For example, the Public Works Act 1981 was written at the time when the Ministry of Works would acquire land and construct public works for the Crown. All major construction work is now carried out under contract.

## **Opportunities**

### *Lifting our regulatory stewardship capability and governance*

36. As noted above, LINZ is reviewing its internal operating and governance arrangements to support, among other things, better regulatory stewardship performance. This includes making sure we have the right regulatory stewardship capability in the right places.
37. Our aim is to embed the principles of regulatory stewardship into how we work day to day, and in a way that complements our strong technical capability and leadership. We have two priorities in this area over the next financial year:
  - a. More LINZ staff enrolling in the G-REG qualification programme where they can gain better understanding of good regulatory practice.
  - b. Instituting a fit-for-purpose regulatory impact analysis process so our policy work is 'best in class'.
38. For governance, we are setting up clear and effective arrangements both at an overall stewardship level as well as for individual systems. In particular:
  - a. We have confirmed owners for each system, who are clear on their responsibilities including the planning, prioritising and resourcing of work to improve their systems.
  - b. We are establishing cross-system governance to oversee our regulatory stewardship forward work programme and monitor the performance of our regulatory systems.

### *Using technology to help our systems deliver benefits over the long term*

39. LINZ has expertise and a track record of successfully using technology to deliver major benefits for customers. A key opportunity now is to leverage the use of technology for the benefit of our regulatory systems.
40. We are working on two key technology opportunities.
  - Survey and Title Enhancement Programme (STEP)
  - Integrated Property Services (IPS)
41. STEP is the programme to modernise New Zealand's land information platform and services (Landonline) and is expected to take five years to complete with a deliberately phased approach over four stages. STEP is necessary because Landonline is now 20 years old and has become increasingly difficult to support and enhance, which reduces LINZ's ability to respond to changing customer needs. Its core software, which was widely used in the 1990s, is now nearing 'end of life' and not recommended for further development.
42. The new platform will enable the property system to continue to deliver benefits over the long term by:
  - maintaining New Zealanders trust and confidence in their property rights
  - reducing the risk to business continuity of survey and title services
  - improving responsiveness to changes in customer and government expectations
  - improving productivity, efficiency and economic value across the property system.
43. IPS is aimed at increasing the quality, accessibility and connectedness of property information to enable better informed property-related decisions, thereby unlocking substantial economic, social and environmental value.

44. IPS has four key elements:

- opening up access to core property data
- improving data currency, consistency and quality (including completeness)
- enabling a full digital view of property
- creating a 'single source of truth' across the property system that other systems can draw on to improve performance.

#### *Leveraging strategic relationships*

45. Relationships with other entities, government and non-government, will be important if we are to improve our performance as regulatory stewards. We are already working with key stakeholders to achieve shared ambitions. Examples include:

- a. Work we are doing with Environment Canterbury, DOC, and the Waitaki and Mackenzie District Councils to improve the environmental and economic outcomes in the Mackenzie Basin. While in its early stages, the work already includes how statutory decision making might improve with greater agency alignment.
- b. Work we are doing with councils and DIA to improve the processes by which lawyers inform both councils and LINZ of a change in property ownership. Improvements will help councils to levy rates more efficiently.

46. We recognise that effective engagement with stakeholders is critical to improving our regulatory stewardship performance. We have a draft strategy in progress, which we expect will be finalised and adopted over coming months. A key to delivering this strategy will be ongoing and active stakeholder management.

#### **Threats**

47. A major threat to our regulatory systems generating benefits over the long term is IT failure, notably Landonline (and STEP in future). 'Failure' could mean system outages, security breaches, data corruption, interface issues or other systemic technology problems. LINZ is working on Phase 1 of STEP, but in the meantime we are working to ensure that Landonline remains stable and functioning well.

48. Our regulatory system performance is also dependent on the extent to which we are able to prioritise and resource work to improve system performance. Given our strong operational focus, we face pressures to invest in immediate and urgent work at the expense of work with a longer term pay-off.

## Our Stewardship Responsibilities

### Our Regulatory Systems

49. As signalled by the legislation we administer, LINZ has identified four regulatory systems for which we have stewardship responsibilities:

- 1. Property Rights System** establishes a state-guaranteed system of property rights, restrictions and responsibilities over most (not all) land and property in New Zealand. The property rights system is underpinned by the survey and geodetic sub-systems.

#### Regulatory Systems

- Regulatory systems are a set of rules, norms and sanctions supported by actions and practices of agencies to shape behaviour for a policy goal or outcome.
- All legislation LINZ administers is part of one of our regulatory systems but our systems are broader than legislation.
- Regulators (such as LINZ statutory officers) are a part of one or more of our systems but they don't define a system.
- Our systems are fit-for-purpose when all functions work well together including those undertaken outside of LINZ.
- Our systems have interfaces with a range of other regulatory systems.

- 2. Property Information System** provides a range of (non-private) information that New Zealanders value when making property-related decisions. It includes – but is not limited to – information underpinned by legislation.
- 3. Crown Land System** is made up of two sub-systems:
- *Crown Pastoral Land System* provides for Crown-owned land to be leased for the purpose of pastoral farming.
  - *Crown Estate Management System* enables the Crown to acquire and dispose of land in a way that balances both the public interest and private property rights.
- 4. Overseas Investment System** ensures that permitted investments in New Zealand’s sensitive assets by overseas persons provide net benefits to New Zealand.

## System Descriptions and their Performance<sup>6</sup>

### **Property Rights System**

#### *Overview*

50. The Property Rights System establishes and maintains the integrity of title to estates and interests in land in New Zealand. The system includes the cadastral survey and geodetic sub-systems, which also contribute to other systems.
51. The key statutes are:
- Land Transfer Act 2017
  - Cadastral Survey Act 2002
  - Canterbury Property Boundaries and Related Matters Act 2016
  - Unit Titles Act 2010
  - Real Estate Agents Act 2008

#### *System objectives*

52. The overall objective of the Property Rights System is that New Zealanders have confidence that New Zealand’s property system is robust, giving them certainty regarding their rights and responsibilities. This includes maintaining the Torrens system of land title in New Zealand of which the fundamental principles of the system are to:
- provide security of ownership of estates and interests in land
  - facilitate the transfer of and dealings with estates and interests in land
  - provide compensation for loss arising from the operation of the land title system
  - provide a register of land that describes and records the ownership of estates and interests in land.

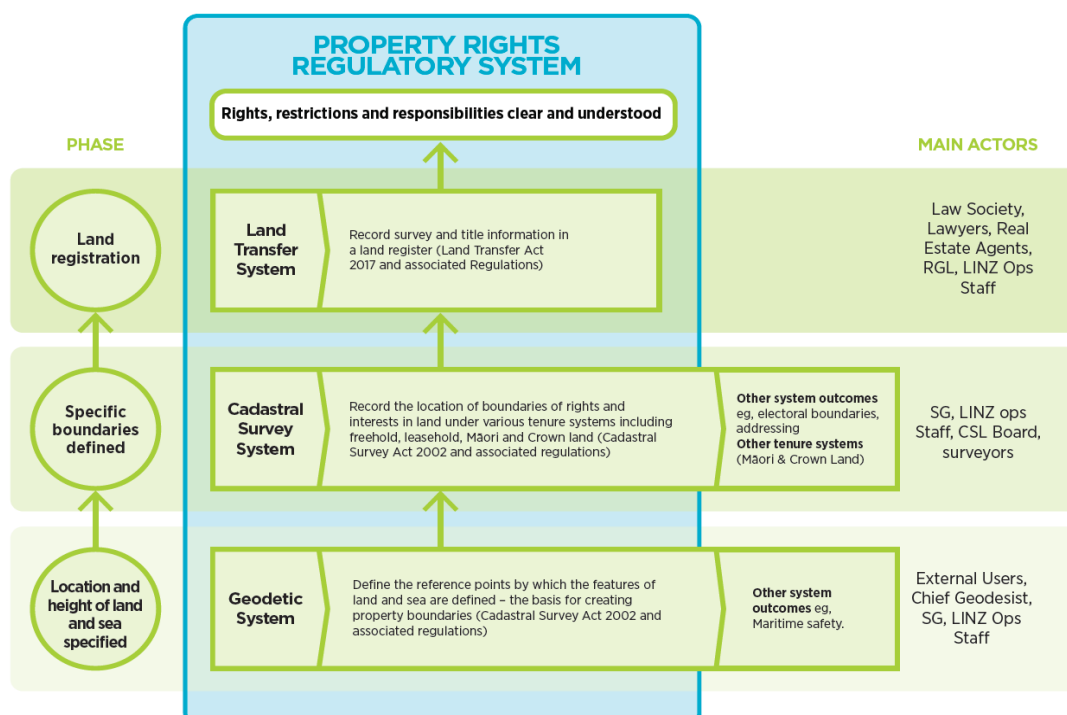
#### *Key Roles and Responsibilities*

53. Real estate agents and lawyers play key roles in the system. Real estate agents and lawyers facilitate legally-binding sale and purchase agreements and lawyers ensure applications for a change in title are lawful. Lawyers also play a key compliance role in managing the risk of incorrect or fraudulent property transactions.

<sup>6</sup> Comments on system performance are made in lieu of formal system assessment. To date we have only formally assessed the Crown Pastoral Land regulatory sub-system.

54. The Real Estate Agents Authority licenses and oversees the conduct of real estate agents and the New Zealand Law Society licenses and oversees the conduct of lawyers.
55. Developers and territorial authorities also play a part in the system. Taking land subdivision as an example, developers apply to subdivide (and potentially re-zone) land for the purpose of on-selling and/or building, and territorial authorities consent the subdivision and approve title plans.
56. LINZ has key roles in relation to both system design and delivery. The roles and responsibilities of two statutory officers – the Registrar-General of Land and Surveyor-General – are important because:
- a) The Registrar-General of Land is responsible for:
- an efficient and effective system for registering dealings in land
  - managing the risk of fraud and improper dealings
  - maintaining public confidence in the land titles system
  - maintaining the integrity of the register and the right to claim compensation under the Land Transfer Act.
- b) The Surveyor-General is responsible for:
- Maintaining the accuracy of the cadastre through setting standards and undertaking audits
  - maintaining the national geodetic and survey control systems
57. LINZ staff also perform key delivery roles in the system. For example, they process applications to lodge survey data sets into Landonline, and to change title ownership, and applications to lodge an interest on a title such as an easement or covenant etc.
58. Diagram 2 below shows the three phases that define a particular piece of land so that a state guaranteed title can be issued.

**Diagram 2 – Property Rights System**



### *System Interfaces*

59. The Property Rights System interfaces with a range of other regulatory systems:

- Resource management system
- Local planning system
- Building and construction system
- Finance and insurance system
- Māori land system
- Anti-money laundering system
- Housing and tenancy system
- Property Information system

### *System performance (indicative only)*

60. We have not undertaken a formal assessment of the Property Rights System, so the comments below are preliminary in lieu of a full assessment.
61. New Zealand operates a Torrens base land registration system with a state guarantee of title for general land. This has proved to be a very secure and effective regime for recording and transferring land ownership.
62. In the early 2000's the Property Rights System underwent a digital transformation when LINZ implemented Landonline. This technology has effectively positioned LINZ to deliver a world class property system with high levels of automation and effective service delivery to core customers.
63. In 2017 the International Property Rights Index ranked New Zealand as number 1 in respect of physical property rights, which takes into account both protection of property and ease of registering property. For the last three years the World Bank has ranked New Zealand no 1 in its *Ease of Doing Business* report which includes performance measures for registering property.
64. There is an opportunity to improve the tenure constructs that underpin the property rights system to better accommodate the increasing diversity of collective living arrangements, beyond what can be managed through unit titles and cross leases.
65. The system could also better integrate with the Māori Land system through data matching and streamlining processes with the Māori Land Court.
66. As part of implementing the Land Transfer Act 2017, LINZ consulted with stakeholders on new regulations. During the consultation, no information was received suggesting major risks or concern with overall system performance.
67. The legislation underpinning the Property Rights System makes clear the respective roles and responsibilities of the Surveyor-General (SG), Registrar-General of Land (RGL) and the Chief Executive of LINZ. Internally, LINZ is in the process of reviewing how we operate to take better account of evolving customer and stakeholder expectations of the property system.
68. As a result of issues regarding boundaries arising from the Canterbury earthquakes, the system is now more durable than it was. The Surveyor-General now has clear, documented experience on how to respond should another event involving boundary movement occur.

69. The efficiency of the system can be improved. We are working to streamline aspects of the end to end process to lodge survey data sets into the cadastre and on titles which will improve the customer experience. Recently technical issues have meant customers were not able to access Landonline for a series of short periods of time. LINZ is aware of the reasons access was not available and is working to stabilise the broader technical environment so Landonline continues to meet customer needs.
70. LINZ knows Landonline needs a substantial update, which is not surprising given its age. An update to the existing platform or a new technology solution will improve system resilience, customer experience through streamlined processes, functionality and linking information between the property right and the property information systems.
71. Overall, we are not seeing any major indications of system failure in the short-term. But given the challenges New Zealand is facing we have an opportunity to evolve the system over the medium/long term to keep pace with changing customer and regulatory needs while continuing to maintain a very high level of public confidence in system as a whole.

## **Property Information System**

### *Overview*

72. The Property Information System includes (but is not limited to) several statutory frameworks that articulate various attributes of New Zealand property:
- Property values for market and local government rating purposes through the Rating Valuation Act 1998 and Valuers Act 1948
  - Electoral boundaries through the Electoral Act 1993
  - Geographic place names through the NZ Geographic Board (Ngā Pou Taunaha o Aotearoa) Act 2008
  - Addresses through the Local Government Act 2002 and Electoral 1993.
73. More broadly, the Property Information System includes all non-private information that is of value in assisting people to make well-informed decisions about property.

### *System objectives*

74. The primary objective of the Property Information System is to provide quality information about properties to enable well-informed decision making. As such, it is fundamental to a well-functioning property market. Such information includes:
- Property boundaries, which define the extents of property.
  - Underlying zoning, which indicates the approved use of the land and property.
  - Rating valuation, which enables the funding of local government services such as sewerage, rubbish collection, water provision (at the property level) and recreational, arts, environmental and community services (at the community level).
  - Market values, which enable mortgages to be raised and lodged on titles, and assist with the sale and transfer of property assets.
  - Sales history, which indicates the value of the property over time.
  - Addresses, which facilitate accurate postal services and effective emergency services (fire, ambulance, police, search and rescue).
  - Utility and infrastructure connections, which assist owners, tenants, providers, developers and others in planning for the future.

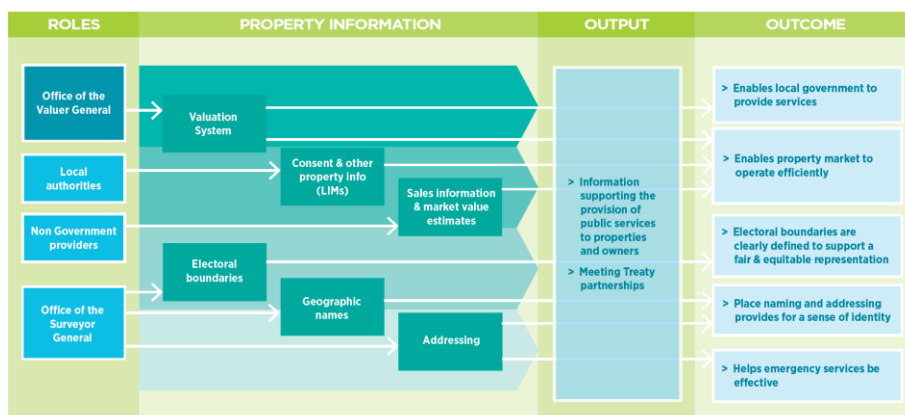


- Electoral boundaries, which assist the efficient and transparent election of local representatives.
- Geographic place names which enable people to communicate efficiently about location, and which reflect and promote New Zealand’s heritage and cultural identity.
- Other information produced as part of the resource management system and building system are also relevant such as:
  - resource and building consents, which provide information about the approved development of the property over time
  - building information, which informs judgements of buyers/sellers, emergency services and finance/insurance companies about the performance of the building.

*Key Roles and Responsibilities*

75. The Valuer-General plays a key role in the Property Information System by providing technical advice to the government on valuation issues, setting standards for the District Valuation Roll (DVR), and ensuring those standards are met. The Valuer-General also makes rules regarding rating valuations, and audits that valuations carried out or commissioned by local authorities comply with those rules.
76. Local authorities use the DVR to help them set rates that fund essential local services. They also provide public property and rates information that assists the property market to function efficiently.
77. The Surveyor-General plays a role in the Property Information System by providing advice on geographic place names, addressing and electoral matters, which support the functions of LINZ and other agencies. The Surveyor-General is also a member of the Cadastral Surveyors Licensing Board and chairs the New Zealand Geographic Board.
78. LINZ provides support to enable the Valuer-General and the Surveyor-General to execute their statutory roles. This includes assistance with analysis to inform their statutory decisions and administrative support (for example, to support the functions of the New Zealand Geographic Board).
79. There are a range of professional and non-government providers of information that contributes to well-informed property decisions. Surveyors and valuers, along with providers such as CoreLogic, homes.co.nz and trademe all provide public information and analysis that assists the property market to operate efficiently.
80. Diagram 3 below summarises key elements of the Property Information System.

**Diagram 3 – Property Information System**





### *System Interfaces*

81. Like the Property Rights System, the Property Information System also interfaces with and range of other regulatory systems:
- Resource management system
  - Local planning system
  - Building and construction system
  - Housing and tenancy system
  - Finance and insurance system
  - Māori land system
  - Electoral system

### *System performance (indicative only)*

82. We have not undertaken a formal assessment of the Property Information System, so the comments below are preliminary in lieu of a full assessment.
83. Councils have a long-standing high level of confidence in the process for establishing rating valuations, and therefore have a stable information base to calculate their rates based revenue. However there have been recent examples of a decline in the performance of providers of rating valuations to Councils.
84. For example the 2017 Auckland revaluation (approximately 560,000 properties) did not go well. Most of the proposed new values were well supported by recent sales evidence, but approximately 10% were not considered credible and posed a risk that ratepayers would not accept of the overall revaluation outcome. Auckland council took remedial action ensuring the revaluation was well received by ratepayers. In general rating valuation has become more complex, particularly for rural property types.
85. The property market is increasingly demanding more and better information. While some information such as registered valuations and property information held by local authorities is generally available, there is growing demand for this and other public information to be better integrated and more easily accessible.
86. Non-government providers of information are increasingly using public data as a basis for creating more sophisticated information and analysis that in turn serves to inform market decisions. From a search cost perspective, this has created some efficiency.
87. LINZ's addressing and electoral functions seem to be working well. The Geographic Board continues to have a work load that exceeds available resources. In part, this reflects a naming process that could be more streamlined.
88. Overall, the Property Information System has scope to become more effective, durable and resilient with continued joint effort and investment by LINZ, local authorities and the private sector in clarifying respective roles, and removing cost duplication. Moving from generating transaction based data sets to information that is interoperable is an opportunity for LINZ to generate value for its customers. Interoperable information will also help the accuracy of regulatory interventions.

## **Crown Land System**

### *Overview*

89. The Crown Land System is based around the statutory framework that enables the Crown to acquire, sell and manage land (including pastoral leases) in a way that balances both the public interest and private property rights. There are two parts to the system - the Crown Pastoral Land and Crown Estate Management systems.

### *Crown Pastoral Land System*

#### *Overview*

90. The Crown Pastoral Land System establishes a relationship between the Crown as landowner and the lessee as exclusive occupier of Crown pastoral land. In return for rent, the lessee has specified rights to reside, graze the land for pastoral farming, and subject to consent, disturb the soil or use the land for a different purpose (eg tourism). These rights are granted and enforceable via a 33-year perpetually renewable lease.
91. The key statutes are:
- Crown Pastoral Land Act 1998
  - Land Act 1948

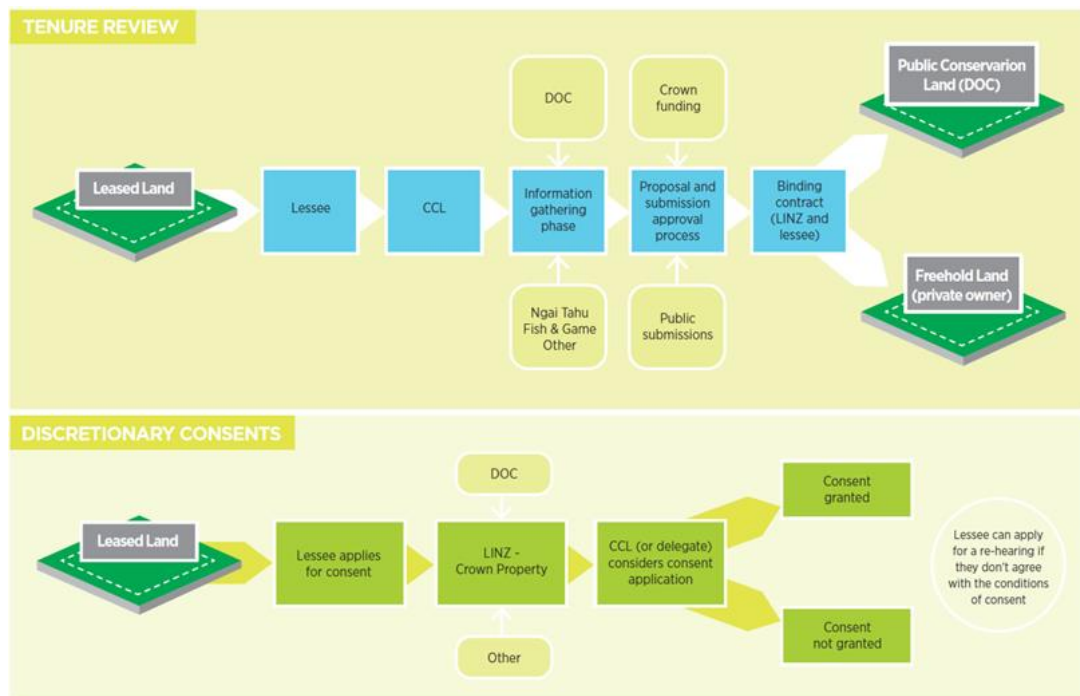
#### *System objectives*

92. The primary objective of the Crown Pastoral Land System is to optimise economic and environmental outcomes from the management of Crown pastoral land. Currently this includes transferring Crown pastoral lease land with significant inherent values into the Conservation Estate, and the remaining productive lease land into private freehold tenure by the voluntary process of tenure review. The system also establishes the rights, responsibilities and restrictions over land that remains leasehold.

#### *Key Roles and Responsibilities*

93. Lessees play a key role in the Crown Pastoral Land Regulatory System as they are directly responsible for managing the Crown pastoral land leased to them.
94. The Commissioner of Crown Lands, an independent statutory officer, plays a key role by acting as landowner for Crown Land held under the Land Act 1948 and Crown Pastoral Land Act 1998. The Commissioner is responsible for a range of decisions relating to tenure review and discretionary consent applications from lessees.
95. LINZ provides support to enable the Commissioner to execute his/her statutory role. This includes assistance with analysis to inform the Commissioner's decisions and administrative support (for example, for processing lessee applications). LINZ also engages a number of service providers to undertake work and provide advice.
96. The Department of Conservation provides advice to the Commissioner on what, if any, inherent values exist on a particular leasehold property and their significance. This information is one input used in the tenure review process to decide what leasehold land might be appropriate to freehold and what might go into the Conservation Estate.
97. Diagram 4 below summarises key elements of the Crown Pastoral Land System.

**Diagram 4 – Crown Pastoral Land System**



### System Interfaces

98. The Crown Pastoral Land System interfaces with a range of other regulatory systems:

- Resource management system
- Local planning system
- Crown Estate Management system
- Conservation system
- Māori Land system
- Primary sectors systems
- Biosecurity system

### System Performance

99. LINZ has undertaken a formal assessment of the Crown Pastoral Land System (see summary in Appendix 1). Key findings against the four assessment criteria are set out below.

### Efficiency

100. The system is not efficient. Tenure review is slow, which is expensive in many ways for all parties. Discretionary consent costs are shared between the Crown and the lessee even where the majority of the benefit is realised by the lessee. Service providers acting on behalf of the Crown are unclear about what is expected of them. Stakeholders disagree about necessary process steps and the interface with the resource management system is poor, causing significant inefficiency and additional work.

## **Effectiveness**

101. The system is not as effective as it could be. Of 303 Crown pastoral leases in 1998, 125 (40%) have completed tenure review, with large amounts of land added to both the Conservation Estate and to freehold tenure, suggesting that much Crown pastoral land can be better managed. Of the current 173 leases, only 40 are in tenure review. Beyond these, it is unlikely that many more will complete tenure review. Overall, the process has not delivered on the initial expectation that all leases would have been reviewed by 2003 (subsequently revised to 2008).
102. Many stakeholders consider that tenure review and discretionary consents have assisted land use change and intensification, but that the system has not delivered ecological sustainability.

## **Durability and resilience**

103. The system has continued to deliver results from tenure review, discretionary consents have continued to be used, and concerns over rents have reduced. However, the system does not accommodate the wider range of stakeholders that want to have input.
104. The system was originally designed to enable the Crown to exit lease arrangements. As pressures on land increase and the number of interested parties increases, the system has begun to struggle. For example, discretionary consents now relate to a much wider range of activities, and the Crown is likely to remain a landowner over the long term.

## **Fairness and accountability**

105. The CCL is only accountable to the Minister for Land Information, so stakeholders do not see the CCL role as transparent or representing their interests.
106. Processes are opaque and not well understood, and are seen to favour lessees' interests (eg appeal rights on discretionary consents). Overall, the system is not generally seen as fair (eg tenure review is seen as excluding many legitimate perspectives).

## *Crown Estate Management System*

### *Overview*

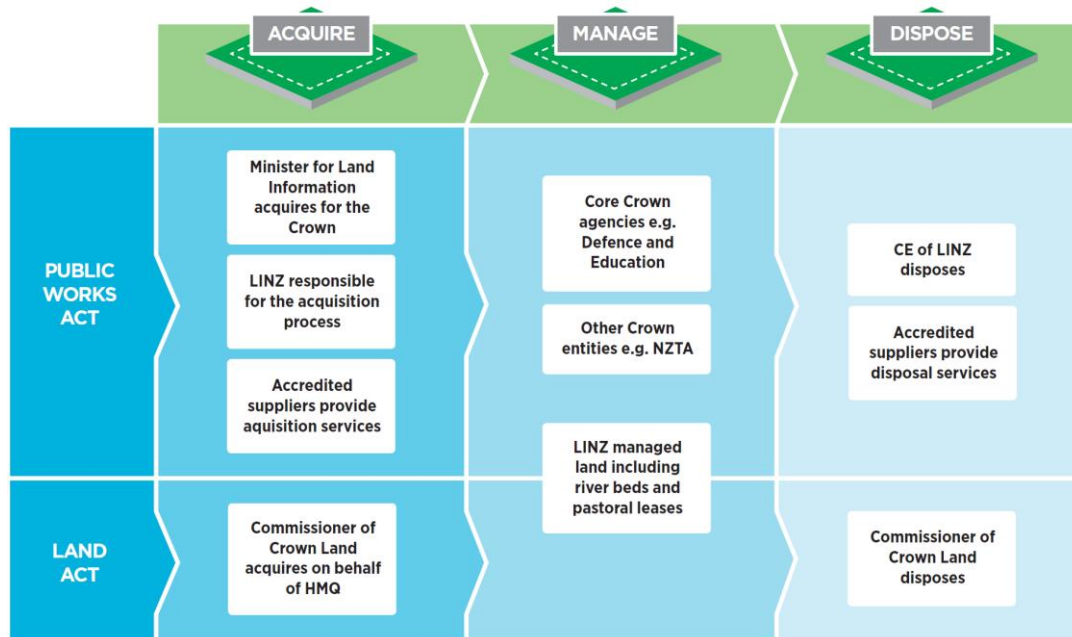
107. The Crown Estate Management System enables the Crown to acquire, manage and dispose of land. Its key statutes are:
- Public Works Act 1981 (PWA)
  - Land Act 1948.

### *System objectives*

108. The primary objective of the Crown Estate Management System is to create value for New Zealand by enabling the Crown to:
- acquire land, buildings and other property, including by compulsory acquisition, for the provision of public works and other public purposes subject to fair compensation or the purchase price being paid
  - manage land while it is held by the Crown, including the granting and administration of leases, easements or other rights
  - dispose of land to alternative owners in ways that meet all legislative (including Treaty) requirements, and protect the interests of former owners and iwi

- manage the residual Crown interest in land that is not owned by anyone or for any specific public purpose.
109. The PWA provides measures that constrain the acquisition rights of the Crown and local authorities, particularly in relation to the necessity and scope of public works. The PWA also enables landowners to challenge acquisition through the courts.<sup>7</sup> The Land Act provides for situations where land may revert to Crown ownership through the application of common law or statutory principles, such as bona vacantia.
110. The Crown Estate Management System includes land held by Crown agencies under other legislation where LINZ has a statutory or functional role, for example, coastal reclaimed land under the Marine and Coastal Area (Takutai Moana) Act, railways land, or the application of some Treaty settlement requirements.
111. Under the PWA, the Minister for Land Information is responsible for the acquisition of private land by the Crown, including land vested in a local authority, for a public work. The chief executive of LINZ is responsible for the disposal of such land when it is no longer required. He/she is also responsible for ensuring memorials relating to rights of first refusal in Treaty claim settlement deeds and legislation are properly dealt with.
112. The Commissioner of Crown Lands is responsible for administration of all Crown land under the Land Act including deciding on whether to alienate Crown land to the public. The Minister for Land Information has a role in changing the status from Crown land to another public use (eg public works or reserves).
113. LINZ and other agencies contract accredited suppliers to engage with land owners as the first step in acquiring private land for a public work or disposing of that land.

**Diagram 5 – Crown Estate Management System**



#### System Interfaces

114. The Crown Estate Management System interfaces with a range of other regulatory systems:
- Resource management system
  - Local planning system

<sup>7</sup> While the Public Works Act (PWA) applies to the Crown, it also applies to local authorities which are independent of the Crown but can be impacted by legislative change (eg by increasing the level of compensation payable when land is acquired).

- Property rights system
- Conservation system
- Māori land system
- Primary sectors systems
- Biosecurity system
- Crown Pastoral Land system

*System performance (indicative only)*

115. We have not undertaken a formal assessment of the Crown Estate Management System, so the comments below are preliminary in lieu of a full assessment.
116. In terms of processes, the system functions adequately. Acquisitions are completed using a standard process set out in the PWA. Some government agencies have noted that the acquisition process could be quicker and more streamlined.
117. The disposal process is effective and efficient. LINZ's internal processes for making decisions under the PWA have been reviewed, and inefficiencies from a customer perspective have been identified and removed. As a result a number of performance metrics relating to the process have improved – some significantly.
118. The main area of risk in the system relates to land management practises. The Crown does not have a consolidated view of what land in New Zealand is owned by the Crown, where that land is or which agency is responsible for it. It is therefore unclear whether the Crown is managing its land for the best use.
119. Agencies with land that they deem surplus to their requirements must dispose of that land. Other agencies are notified that the land is available, but there is no formal process or framework for making decisions about its best use.<sup>8</sup> In general, agencies including LINZ have managed land held under the Land Act with a view to simply disposing of it, rather than to achieve a 'best value' outcome.

**Overseas Investment System**

*Overview*

120. The Overseas Investment System is currently undergoing significant change. The system ensures that investment in sensitive assets (land and residential property, significant business assets, and fishing quota) by overseas persons benefits New Zealand.
121. The system requires overseas people wanting to invest in New Zealand's sensitive assets to get prior consent through the Overseas Investment Office (OIO). Investors requiring consent are people who are not generally New Zealand citizens or who ordinarily live here.
122. Investors need to meet the relevant conditions outlined in the Overseas Investment Act 2005 and associated regulations.
123. Its key statutes are:
- Overseas Investment Act 2005 (OIA)
  - the Fisheries Act 1996 (s56 to s57J)

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<sup>8</sup> LINZ has started working on a decision making framework to help agencies make land use decisions that reflect best use.

*System objectives*

124. The Overseas Investment System aims to strike a balance between three key objectives:

- **Enabling desirable foreign investment** by recognising the benefits that it brings to New Zealand. For example, foreign investment can help overcome domestic saving constraints, increase exports, bring more productive and better managed firms to New Zealand, or expertise into existing New Zealand firms, as well as provide spill-over benefits to the local economy such as greater competition, access to overseas markets and research and development opportunities.
- **Addressing public concerns about foreign investment.** These may include concerns about profits going offshore, loss of ownership value, and overseas investors creating social, economic or environmental risks.
- **Providing a stable investment environment.** Public concerns about foreign investment can change over time, but it is not desirable to frequently change our investment screening policy settings, particularly at short notice. Therefore, foreign investment policy needs to be flexible enough to address domestic concerns that may arise now and in the future, while providing adequate certainty for investors that the 'rules of the game' are unlikely to change suddenly.

*Key Roles and Responsibilities*

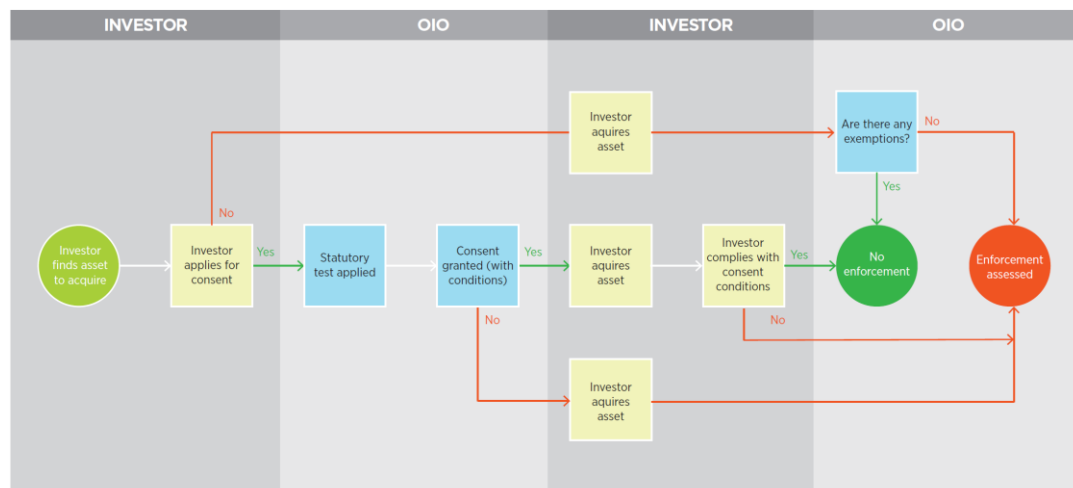
125. The Treasury and LINZ perform the key roles in the system. Treasury is the Government's primary strategic policy advisor on overseas investment. LINZ through its OIO implements the Overseas Investment system, including processing applications, operational policy, service design and enforcement activity. The Chief Executive of LINZ is the regulator of the Overseas Investment Act 2005 (OIA).

126. Lawyers and real estate agents play a part in the system. Lawyers advise overseas investors on their requirements (including compliance) under the overseas investment system and help them to navigate the application process. Real estate agents identify whether an investor in residential, commercial or rural property are from overseas and therefore require consent to invest. They often advise the investor to seek legal advice.

127. Most consent decisions are made by one or a combination of the Ministers of Finance, Land Information and Fisheries depending on the nature of the sensitive asset. Some decisions are delegated to the OIO.

128. Diagram 6 below outlines the key processes in the Overseas Investment System.

**Diagram 6 - Overseas Investment System**





### *System Interfaces*

129. The Overseas Investment System interfaces with a range of other regulatory systems:

- Fisheries management system
- Resource management system
- Corporate governance system
- Local planning system
- Property rights system
- Corporate governance system
- Conservation system
- Primary sectors systems
- Biosecurity system
- Crown Pastoral Land system
- Anti-money Laundering System

### *System Performance (indicative only)*

130. The Overseas Investment System has not been formally assessed and is undergoing significant change, so the comments below are preliminary in lieu of a full assessment.

131. The Overseas Investment System operationalises complex legislative requirements including a range of tests and consent pathways. The impact of complex legislation is investment uncertainty, slow decision making, and resourcing challenges for LINZ. The Overseas Investment Act (OIA) is currently being substantially changed which is an implicit recognition the system objectives set out in that Act are no longer appropriate in the current political context.

132. Implementation is challenging when the OIA is being significantly changed. Resourcing, operational policy and the need to adjust processes and procedures in an uncertain legislative context are challenges that require judgements to execute.

133. The system is fair in that the current rules are applied consistently. Applicants receive the same level of information to help them apply, and enforcement action is taken proportionate to the risk.

134. A recent Controller and Auditor-General review focusing on the OIO's use of information within the context of the governing legislation and ministerial direction concluded that the information collected and used by the OIO to make decisions is appropriate. Although the review showed that the OIO demonstrated effective judgement, it could sometimes benefit from more ready access to specialist advice.

135. One opportunity to improve system performance is for the OIO to increase its ability to detect when sensitive assets are purchased in New Zealand by foreign buyers without consent. It is unknown how many unconsented purchases of sensitive assets go undetected each year.

136. A priority for the OIO has been to improve the specificity and nature of consent conditions. Some consent conditions in the past have been too general so are difficult to enforce.

137. While the OIO has engaged with lawyers and other advisory agents to improve the services it provides investors, there is an opportunity to do more to help educate them



on how the system works particularly to help implement any changes to the OIA. Real Estate Agents are crucial to the OIO successfully implement the legislative changes as they are often the first to become aware of overseas investors wanting to purchase sensitive property assets in New Zealand. Better awareness amongst these professional groups will help the system effectively provide for appropriate overseas investment.

## Our Regulatory System Priorities

### Forward Work Programme for 2018/19 and 2019/20

138. Our regulatory forward work programme is grouped into four categories:

- Regulatory and other instruments.
- Work in 2018/19 to deliver on our regulatory system objectives.
- A schedule of system assessments for 2018/19 and 2019/20
- Plans for improving the performance of our systems.

#### **Regulations and other instruments**

139. **Rules for Cadastral Survey** – specify standards for the conduct of cadastral surveys and standards for cadastral survey datasets to support owners of rights in Crown Land, Māori Land and General Land. We are currently reviewing the 2010 Rules and plan to draft new Rules in late 2018/19.

140. **The Rating Valuations Rules 2008 (and guidelines)** - The current Rating Valuation Rules (Rules) were made in 2008. We are reviewing the Rules to take account of the impact of digital technology, and to better enable data interoperability.

141. **The Land Transfer Act 2017 Regulations** - The Land Transfer Act 2017 revokes the Land Transfer Regulations 2002 and so new regulations are required. The new regulations reflect a variety of changes in the new legislation. Changes relate to modernising the legislative provisions and not materially to the policy intent. Regulations were gazetted on 12 November 2018.

142. **New Land Transfer Act 2017 Interventions** - The Land Transfer Act 2017 requires the Registrar General of Land to make new standards and directives (disallowable instruments) as well as guidance and education material. The standards and directives we put in place on 12 November 2018.

#### **Work in 2018/19 to deliver on our regulatory objectives.**

<b><i>Objective: Identify and report on the benefits our regulatory systems deliver to New Zealand over time</i></b>	
<b><i>Goal</i></b>	<b><i>Delivery</i></b>
Performance metrics in place	<ul style="list-style-type: none"> <li>• Develop 2-3 performance indicators under each of the four performance criteria.</li> <li>• Design a monitoring regime to demonstrate system performance.</li> </ul>
Effective governance arrangements in place	<ul style="list-style-type: none"> <li>• LINZ and system owners demonstrate appropriate governance.</li> </ul>

Robust Regulatory Impact Analysis applied to all new regulatory proposals	<ul style="list-style-type: none"> <li>• Establish a RIA panel to provide guidance on regulatory proposals.</li> <li>• Ensure RIA is a core part of policy capability.</li> </ul>
<b><i>Objective: Improve system performance</i></b>	
<b><i>Goal</i></b>	<b><i>Delivery</i></b>
Invest in the regulatory capability of our staff	<ul style="list-style-type: none"> <li>• Continue to enrol our staff in the G-REG qualification levels.</li> </ul>
Embed principles of regulatory stewardship into our day to day activities	<ul style="list-style-type: none"> <li>• System improvements are built into business plans and budgets and are part of annual planning expectations and guidance.</li> </ul>
Assess system performance and commit to action to improve performance	<ul style="list-style-type: none"> <li>• Assessments are scheduled for all regulatory systems.</li> <li>• Assessments, system owner responses, planned improvements and progress against those plans are agreed and published regularly.</li> </ul>
<b><i>Objective: Actively identify and manage risks of failure and underperformance</i></b>	
<b><i>Goal</i></b>	<b><i>Delivery</i></b>
We have information and systems to proactively identify risks	<ul style="list-style-type: none"> <li>• We assess the risks for each system and actively monitor the risk controls.</li> </ul>

### ***Schedule of system assessments***

#### *Method*

143. Regulatory system assessments are not policy reviews (ie they are not about assessing what the rules should be), nor are they an assessment of organisational capability. Instead they answer the question: given current settings, how is the system working?

144. Assessments provide a description of the performance of the regulatory system snapshot at a point in time and are about:

- how an agency assures itself that the systems it is responsible for are in good working order
- identifying issues that should lead to a plan for improvement (ie defining a forward agenda)
- engaging with stakeholders to develop a broad view of system performance
- generating data on the system, not expecting there to be much data to start with
- shifting from a largely unsystematic and subjective view of system performance to a more quantitative, objective and systematic view.

145. Assessments are overseen by the Director Regulatory Systems (for independence), with input from the system owners, their Business Group, statutory officers and the Policy team. The key process steps are:

- complete the assessment and prepare a draft report (will involve LINZ staff and external engagement).
- system owner reviews report and prepares a response to the report. The system owner's response should identify actions they will prioritise to address weaknesses or maximise opportunities.

- report to ELT on the final report and the response.
- prepare and publish the report and system owners response.

#### Scope

146. When we assess our systems we will identify:

- whether the system, including the relevant legislation and regulations is achieving the intended outcomes
- whether the roles and responsibilities are clear and appropriately allocated, including the evaluation of outcomes and enforcement activities
- the extent to which the system is transparent and delivers good processes
- recommendations to improve the performance of the system, which inform a programme of work to improve performance.

#### Timing

147. The remaining four system assessments are scheduled to be completed as follows:

<b>Regulatory System</b>	<b>Timeframe</b>
<i>Crown Pastoral Land System</i>	<i>Completed (Recommendations scheduled).</i>
Crown Estate Management System	Completed by March 2019
Property Rights System	Completed by September 2019
Overseas Investment System	Completed by March 2019
Property Information System	Completed by September 2020

#### **Plans for improving the performance of our systems**

148. To date we have completed a formal assessment on the Crown Pastoral Land System which identified:

- system objectives need to be clarified
- information, monitoring and transparency should be improved
- continue with work to improve processes
- underlying legislation and supporting institutional arrangements need to be reviewed.

149. To address these priority areas, we are proposing a range of actions focussed solely on the South Island High Country. By 30 June 2019 we will have:

- established a new **Crown Pastoral Land Advisory Group** to advise the CCL and LINZ on Crown pastoral matters, and our future work programme to address this review
- undertaken policy work on the Crown Pastoral Land Act and system settings
- worked with key agencies in the Mackenzie Basin to implement the findings of the 2017 Mackenzie Review. This work will also provide a model for how we can work with other agencies elsewhere in the South Island High Country.
- improved how we work with DOC, including looking at the information we obtain from DOC on discretionary consents and during tenure review

- established a formal monitoring, compliance and enforcement strategy for Crown pastoral land
  - improved and are making better use of the information we hold on Crown pastoral land
  - commenced a review of our relevant standards and operating guidelines
  - delivered other operational improvements to Crown pastoral land management.
150. We intend that stakeholders will see improved information on tenure review, the legislation and consents – in particular how decisions are made. This also includes improving the availability of mapping and data.