

Discretionary Actions

Crown Pastoral Land Standard 1

Office of the Chief Crown Property Officer

13 March 2000

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Foreword

Land Information New Zealand (LINZ) (Toitu te Whenua) was established in July 1996. It is a government department with roles and responsibilities in the following key areas:

Regulatory Responsibilities	LINZ Regulatory Groups
National spatial reference system and cadastral survey infrastructure	Office of the Surveyor-General
Topographic and hydrographic information	National Topographic/Hydrographic Authority
Land Titles	Office of the Registrar-General of Land
Setting rules for rating valuations	Office of the Valuer-General
Crown Property	Office of the Chief Crown Property Officer (Crown Property)
Assisting the government address land related aspects of Treaty of Waitangi issues	Office of the Chief Crown Property Officer (Crown Property)

The main role of the department is a regulatory one, to set guidelines and standards and manage contracts for carrying out the day to day business associated with each of the key areas.

LINZ also offers a range of services to customers related to land titles, survey plans and Crown property. Land Titles and Survey services are carried out by the Operations Group based in LINZ regional offices throughout New Zealand.

LINZ overarching objective is to be recognised as a world leader in providing land and seabed information services.

Chief Executive:

Dr Russ Ballard

Land Information NZ

P O Box 5501

Wellington

Phone: 0-4-460 0110

Fax: 0-4-472 2244

Email: info@linz.govt.nz

Internet <http://www.linz.govt.nz/><http://www.linz.govt.nz/>

DISCRETIONARY ACTIONS

1 Scope

1.1 *Discretionary Actions*

This standard applies to the discretionary actions in section 15 and 16 of the Crown Pastoral Land Act 1998 (CPL Act) to be taken by the Commissioner of Crown Lands pursuant to section 18(3) of the CPL Act. This standard covers the functions of the Agent in assisting the Commissioner of Crown Lands (CCL) to exercise any discretion under section 15 or section 16 of the CPL Act in relation to pastoral land.

All consents will be for a term of five years unless the CCL decides that a shorter term is appropriate.

There are separate standards for easements (section 60(1) Land Act), recreation permits (section 66A Land Act), stock limitations, and applications for consent under section 100 Land Act (preservation of timber).

The CCL must take into account the following matters in taking a discretionary action:

- the desirability of protecting the inherent values of the land concerned (other than the 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
- the desirability of making it easier to use the land concerned for farming purposes.

So that the CCL can take discretionary actions in accordance with the CPL Act, the Agent must, in providing the CCL with the assistance referred to in this standard, ensure that:

- The CCL's instructions are properly followed;
- Any contact by the Agent with the person seeking consent, or any persons consulted about a request for consent, does not prejudice the CCL in making his or her decision;
- Where an interpretation of the applicable statutory provisions or this standard is required, the Agent refers those interpretative matters to the CCL;
- The Agent does not take any actions which are not covered by this standard or otherwise expressly authorised by the CCL; and
- The Agent exercises professional judgement and provides services relating to the discretionary actions with due care and diligence.

1.2 *Statutory functions of CCL*

The Agent, in providing services to the CCL relating to this standard, must ensure that the CCL can fulfil his or her statutory functions and must therefore undertake all actions on behalf of the CCL referred to in this standard with due and proper regard to the statutory functions of the CCL in the CPL Act.

In carrying out the instructions of the CCL, the Agent will only act on requests from, and advice or information provided by, those DoC officials with the appropriate delegations notified to the Agent by the CCL.

The Agent will only act on the instructions of the CCL or any delegates of the CCL advised to the Agent by the CCL.

1.3 *Date of effect*

This standard takes effect from 23 June 1998, being the date of enactment of the Crown Pastoral Land Act 1998. Any variation from the clauses in this standard from 23 June 1998 may only be permitted with the express written authority of the Commissioner of Crown Lands.

2 **Related Standards**

This standard should be read in conjunction with the following:

- Crown Pastoral Land Act 1998
- Land Act 1948

3 **Term(s) and Definition(s)**

Affected party	Any party who, in the opinion of the Agent, has a right of rehearing under section 17 Land Act 1948
Agent	Any Agent, contracted by the Commissioner of Crown Lands to undertake work associated with the management of Crown Pastoral land for LINZ including: <ul style="list-style-type: none"> ▪ an agent contracted on the basis of core competencies ▪ an accredited agent (for particular relevant processes) ▪ a LINZ Crown Property Contracts officer
Holder	in relation to a lease or licence of pastoral land, means the person named as the lessee or licensee in the lease or licence
Pastoral Land	Crown land for the time being so classified under section 51 of the Land Act 1948
Requests for consent	Requests received in respect of the exercise of discretions under sections 15 and 16 Crown Pastoral Land Act 1998

4 Symbols (& Abbreviated Terms)

CCL	Commissioner of Crown Lands and includes authorised delegates
CPL Act	Crown Pastoral Land Act 1998
DGC	Director-General of Conservation and includes authorised delegates
DoC	Department of Conservation
LINZ	Land Information New Zealand, a department of State under the State Sector Act 1988 and includes the Chief Executive of the department

5 Receiving the request for consent

5.1 *Introduction*

Requests for consent will be made directly to the Agent who receives them on behalf of the CCL.

5.2 *Requirements of Commissioner*

The Agent must acknowledge receipt of the request on behalf of the CCL within 5 working days of receipt by the Agent and advise that the request is being treated as being made on behalf of the holder. If additional information is required from the person seeking consent, the acknowledgement must state what is required and advise that the statutory consultation cannot commence until the additional information is received.

5.3 *Written requests for consent*

The Agent must ensure that all requests for consent are in writing and any information requested subsequently is confirmed in writing by the person requesting consent and includes all the information referred to in the all-purpose request form in Appendix A necessary to enable the request to be processed. Preliminary inquiries or incomplete requests for consent must not be treated as requests for consent.

5.4 *Proposals to vary requests for consent*

The Agent must advise any person requesting consent that a variation of a request already receipted and being processed will be treated as a new request. A new request for consent must be made. When the new request is receipted, the Agent will stop processing the original request for consent.

5.5 Termination of request for consent

5.5.1 Agent to seek instructions

The Agent must seek the instructions of the CCL before terminating any request for consent which has been initiated by the person requesting consent. Any information accumulated by the Agent in processing the request for consent will be retained by the Agent and may be referred to should any further request for consent be made regarding the same activity.

5.5.2 New requests

When any new request for consent is made in respect of a request that has been terminated on the instructions of the CCL, the Agent must specifically address, in processing the request, that the person requesting consent has addressed any change in circumstances since the first request was made.

6 Consultation

6.1 Introduction

The CCL must consult with the DGC before taking a discretionary action. The CCL may instruct the Agent to undertake additional consultation with affected parties and other bodies or persons.

6.2 Referral to DGC

6.2.1 Agent to refer requests to DGC

The Agent must ensure that all requests are referred to the DGC using the form of letter in Appendix B for the purpose of consulting with delegated DoC officers. Referral must occur within 5 working days of receipt of the request for consent or, where additional information is requested from the person seeking consent, within 5 working days of receipt of that additional information.

6.2.2 Period of consultation

The standard consultation period with the DGC is 20 working days unless otherwise agreed in writing between the CCL and the DGC.

6.3 Consultation with additional parties

The Agent must recommend whether the CCL should consult with any additional persons/bodies, including affected parties, within 5 working days of receipt of the request or receipt of additional information. In making any recommendation for further consultation, the Agent must provide reasons. Any consultation with additional persons/bodies can only commence with the written instruction of the CCL. The consultation must be completed before the Agent's submission is finalised.

6.4 Consultation process to be followed

Consultation must be undertaken by the Agent in accordance with the following procedure:

6.4.1 Available information

All information relating to the request for consent must be in writing. The Agent will ensure that such information is sufficient to enable consultation on the request for consent. If any additional information becomes available after the consultation is initiated, that information must be made available for the consultation process. The Agent must supply to the DGC and any other party consulted all information held by the Agent in respect of the request for consent for the purposes of consultation.

The Agent must be able to verify when any additional information sought from the person requesting consent has been received and acknowledged.

The Agent must decide whether, in its professional opinion, a property inspection is required for the subject lease or licence. If the DGC wishes to undertake a property inspection, the Agent will contact the lessee or licensee to arrange that on behalf of the DGC.

6.4.2 Copies to those being consulted

- The Agent will provide copies of all available information to those being consulted and seek their views.
- If relevant information becomes available after the consultation commences, that information must also be made available to those being consulted.

6.4.3 Extension of standard consultation period

The DGC may request an extension of the standard consultation period in writing or by e-mail. The Agent will immediately communicate any request received from the DGC to the CCL. The standard consultation period can only be extended with the express permission of the CCL. The Agent must advise the person seeking consent of the CCL's decision accordingly. Any action to extend the standard consultation period must be taken before expiry of the standard consultation period.

6.5 If the DGC does not respond

Should the DGC not respond to the referral of the request for consent for consultation by the Agent within either the standard consultation period or any extended period agreed to between the CCL and the DGC, the Agent must proceed to prepare and present the submission to the CCL, noting that no response has been received from the DGC within the agreed time frame.

6.6 Agent to manage contact with person seeking consent and persons consulted

The Agent will keep written records of all contact with or from the persons seeking consent and persons being consulted, including the provision of any additional information required.

6.7 Advise if request withdrawn

The Agent will advise those being consulted if the request for consent is withdrawn. The time frame for the Agent to advise those being consulted is within 5 working days of being told by the person seeking consent that the request for consent is withdrawn.

Note: This may occur at any time during the consultation process

6.8 Consultation statement

The Agent must carry out consultation with regard to the Consultation Statement in Appendix C in all cases. The Agent will monitor the receipt of views from those being consulted and ensure that the views are obtained in terms of agreed timelines. The Agent must also retain a record of the information, suggestions, and/or views received during the consultation process

6.9 Consultation with DGC

The Agent, in reporting on consultation in the submission, is required to consider and assess the views provided by the DGC, but is not required to pursue the availability of any resource materials used by the DGC in formulating its views, unless DGC offers that material.

6.10 Further consultation

The Agent may recommend to the CCL, as a consequence of the consultation with the DGC, or with additional parties (see clause 6.3), that further consultation be undertaken. In making that recommendation the Agent must also advise the CCL of any necessary changes to the timeline in this standard for making a decision. If the CCL instructs the Agent to undertake the further consultation, the Agent will in carrying out the CCL's instructions:

- Advise the person requesting consent that further consultation is being undertaken, and the amended timeline for decision making as a result of the further consultation;
- Advise the DGC that further consultation is being undertaken, and the amended timeline for decision making as a result of the further consultation;
- Follow the CCL's instructions regarding the further consultation and amended timeline.

7 Submission to CCL

7.1 Introduction

The Agent is responsible for completing a submission to the CCL in respect of each request for consent. Submissions which do not contain the specified contents will not be processed by the CCL.

7.2 Preparation of Submission

The Agent must use the submission in the form in Appendix D and ensure that the submission is accompanied by the following:

- A copy of the original request for consent;
- Confirmation of referral and details provided for consultation;
- Full response from those consulted; and
- Any information compiled by the Agent for a previous request for consent and submission to the CCL which, in the opinion of the Agent, is relevant in a consideration of the current request for consent.

7.3 Time frame for preparation of submission

The submission is to be available to the CCL within 7 weeks of the receipt by the Agent of the request for consent or the additional information (subject to any extension approved by the CCL).

7.4 Advice of Agent

In making the submission, the Agent will provide the CCL with professional advice regarding the request for consent. The Agent will:

- i. Itemise and assess the available information;
- ii. Identify the relevant matters to be considered under the CPL Act;
- iii. Confirm, with references to the contents of the submission, that the Agent has fully accounted for the matters to be taken into account by the CCL when taking the discretionary actions in section 18(3) of the CPL Act. The matters to be taken into account are :-

Section 18(2)(a) - the desirability of protecting the inherent values of the land concerned (other than the attributes and characteristics of a recreation value only) and in particular the inherent values of indigenous plants and animals and natural ecosystems and landscapes; and

Section 18(2)(b) - the desirability of making it easier to use the land concerned for farming purposes.

- iv. Confirm that, in making the submission, the Agent has taken full account of any other simultaneous statutory land administration activities, and that the proposal in the submission is consistent with those activities;

- v. Ensure that the CCL can take into account the relevant views expressed by the DGC and any other bodies/person consulted and/or any affected parties;
- vi. Have all file papers relevant to the submission as an appendix;
- vii. Recommend, on the basis of the request for consent from the person seeking consent, whether the CCL undertake the discretionary action requested or applied for and attach a draft notice of decision in the form attached to the submission in Appendix D;
- viii. Include reasons for the recommendation(s) which would, if provided to the person seeking consent, properly and fairly inform the person seeking consent of the basis for the CCL's decision (if the CCL decides to follow the recommendation(s));
- ix. Where irrelevant material has been considered by the Agent as part of the request for consent, advise that the material is irrelevant and provide reasons why it has not been taken into account in making the recommendations;
- x. Where the recommendation is to grant the request for consent, state whether the recommended term of consent is to be five years or less. If a term of less than five years is recommended the Agent must state reasons, taking into account the requirement that the CCL must act reasonably and fairly;
- xi. Attach the completed checklist in Appendix E (If there are any 'no' answers the Agent must provide reasons); and
- xii. Be signed off by the Agent and sent to LINZ for the attention of the LINZ officer nominated by the CCL.

7.5 Availability of Agent

The Agent must be available to the CCL for discussion of any aspect of the submission during the CCL's processing of submissions.

7.6 Tenure Review activity

Any tenure review activity in respect of the lease or licence is not a relevant consideration in the decision-making process for the CCL.

8 Redoing submission

The Agent will redo the submission and carry out any actions required by the CCL as a result of the need to redo the submission if the CCL advises the Agent that the submission:

- Does not fully address the matters which are relevant to the decision to be made;
- Does not provide reasons for the recommendations in the submission;
- Introduces new material in the recommendations in the submission; or

- For any other reason does not make it possible for the CCL to make a decision on the basis of the recommendations in the submission.

9 Notification

9.1 Introduction

Once the CCL has made a decision in reliance upon the information and recommendations provided by the Agent in the submission, that decision must be communicated to the person requesting consent and the holder within 5 days.

9.2 Communication of decision

Once the CCL has made a decision and communicated it to the Agent, the Agent must then communicate the decision and reasons for the decision in writing to the person requesting consent, the holder and any affected party instructed by the CCL within 5 days of receiving the notice of decision from the CCL. The Agent's advice must refer the recipient to section 17 of the Land Act 1948 and the recipient's right to a rehearing. The Agent must ensure that a written record of the advice of the decision, and the notification are kept.

9.3 Notification to any other party consulted

After the period for seeking a rehearing has elapsed, or after any rehearing has been completed if applied for, the Agent must advise any other party consulted, including the DGC, of the CCL's decision, enclosing a copy of the notice of decision of the CCL provided to the person requesting consent and the holder.

9.4 Address for notification

The Agent shall send notifications to:

- individuals in the manner set out in section 183 Land Act 1948; and
- companies at the registered office of the companies noted in the Companies Registry.

10 DoC Standard Operating Procedures

The Agent must advise the CCL if aware of any departure by DoC from the approved DoC standard operating procedures for discretionary actions.

11 Official Information

Any information gathered in the process of assisting the CCL to take discretionary actions under section 18 of the CPL Act is official information for the purposes of the Official Information Act 1982. In some circumstances the Privacy Act may also apply Any request for information relating to discretionary actions should be dealt

with by the Agent in accordance with the Crown Pastoral Land Standard 24 – *Official Information Act and Privacy Act*.

12 Reporting

Every two weeks, the Agent will provide the CCL and his or her delegates acting in pastoral work and the Department of Conservation High Country Tenure Review Managers with a report listing all requests for consent received and the status of each request with reference to the actions referred to in this standard.

Appendix A - General Request for Consent

REQUEST TO BURN VEGETATION

ON PASTORAL LEASE LAND

Form B1

Consent from the Commissioner of Crown Lands is required *before* burning of vegetation is carried out on pastoral lease land (*Crown Pastoral Land Act 1998 Section 15*).

To enable the Commissioner's agent to process this application, please provide the following information if not previously given.

Name of Pastoral Lease: _____

Name of Registered Lessee: _____

Please Note:

- The Commissioner is required to consult with the Director-General of Conservation before deciding whether to consent to a request or grant an application.
- In deciding whether to consent to a request or grant an application, the Commissioner is required to take into account the following:
 - (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.

What are your reasons for burning and how does it benefit your farming operation?

Could there be any adverse effects on the environment as a result of burning vegetation? (soil, water, vegetation, conservation or other natural values). If so, what are they and how do you plan to negate these effects?

In making this request do you seek consent for this activity or these activities on an ongoing basis? If so, explain your ongoing programme in terms of the consent you are seeking.

Is there any other relevant information that should be considered with this application? (If so, please outline):

PLEASE COMPLETE DETAILS ON THE ATTACHED TABLE

SETTING OUT BURNING REQUEST DETAILS

Signed by person requesting consent:

_____ ***Date:*** _____

Please post:

- *Application with all details completed*
- *Attached table setting out burning request details*
- *Farm map and*
- *Completed cover sheet*

to the relevant office of the Commissioner's agent [Agent].

[set out contact details of agent]

BURNING REQUEST DETAILS

Please use separate pages if the requested areas are different in type therefore have different details

AREAS APPLIED FOR		
Block Name (or vegetation type)		
Area (ha) to be burned		
Altitude (range)		
Aspect/slope		
Rainfall		
If oversown: - when was area last oversown and topdressed?		
% Cover of hawkweeds (if any)		
Target vegetation to be burned (briar matagouri, bracken)		
Date area last burned		
Alternatives to burning		
INTENDED POST-BURN MANAGEMENT		
Spelling period		
Class of livestock, numbers and duration of grazing		
Oversowing cultivars and timing		
Fertiliser type / rate		

**REQUEST TO CLEAR OR FELL BUSH OR SCRUB
PASTORAL LEASE LAND
Form B2**

Consent from the Commissioner of Crown Lands is required *before* clearing or felling is carried out on pastoral lease land (*Crown Pastoral Land Act 1998 Section 16 (1) (a)*).

To enable the Commissioner's agent to process this application, please provide the following information if not previously given.

Name of Pastoral Lease: _____

Name of Registered Lessee: _____

Describe the type of bush or scrub that you are applying to clear or fell:

How do you plan to clear or fell the bush or scrub? (Will it be removed, if so how):

Do you intend to sell any timber? _____

What is the purpose of removal of this bush or scrub? (Please explain any development programme planned for the area following removal of the vegetation?):

Is this also a request for on-going clearing of any re-growth on this area?

Please Note:

- If this programme includes draining, cultivation, sowing with seed, application of fertiliser, planting trees, making tracks or any other activity that is "disturbing the soil"; further applications to the Commissioner for consent to do that work will also be required.

- The Commissioner is required to consult with the Director-General of Conservation before deciding whether to consent to a request or grant an application.
- In deciding whether to consent to a request or grant an application, the Commissioner is required to take into account the following:
 - (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.

In your view, how the work applied for would make it easier to farm:

Could there be any adverse effects on the environment as a result of this work? (soil, water, vegetation, conservation or other natural values). If so, what are they and how do you plan to negate these effects?

Is there any other relevant information that should be considered with this application? (If so, please outline):

Signed by person requesting consent:

Date: _____

Please post:

- *Application with all details completed*
- *Farm map and*
- *Completed cover sheet*

to the relevant office of the Commissioner's agent [Agent]

[set out contact details of agent]

**REQUEST TO CROP, CULTIVATE, DRAIN
ON PASTORAL LEASE LAND
Form B3**

Consent from the Commissioner of Crown Lands is required *before* cropping, cultivation, or drainage work is carried out on pastoral lease land (*Crown Pastoral Land Act 1998 Section 16 (1) (b)*).

Consent is also required if the area has been cropped, cultivated, drained or ploughed **previously** *unless* express prior consent has been given by the Commissioner for the maintenance for that particular work on that particular area.

To enable the Commissioner's agent to process this application, please provide the following information if not previously given:

Name of Pastoral Lease: _____

Name of Registered Lessee: _____

Please describe the nature of the consent(s) you are seeking (refer to the guidelines accompanying the Cover Sheet) and fully explain the work you wish to do:

Describe the type of land and the type of vegetation cover on which you apply to crop, cultivate, drain or disturb the soil:

Is also a request for continuing (or the maintenance of) this activity? If so, explain what the longer term programme is likely to be in terms of the consent you are seeking.

Please Note:

- The Commissioner is required to consult with the Director-General of Conservation before deciding whether to consent to a request or grant an application.
- In deciding whether to consent to a request or grant an application, the Commissioner is required to take into account the following:
 - (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.

What is the general purpose for doing this work and where are the expected benefits to your farming operation?

Could there be any adverse effects on the environment as a result of this work? (soil, water, vegetation, conservation or other natural values). If so, what are they and how do you plan to negate these effects?

Is there any other relevant information that should be considered with this application? (If so, please outline):

Signed by person requesting consent:

Date: _____

Please post:

- *Application with all details completed*
- *Farm map, and*
- *Completed cover sheet*

to the relevant office of the Commissioner's agent [Agent]

[set out contact details of agent]

**REQUEST TO
TOPDRESS AND/OR SOW SEED
ON PASTORAL LEASE LAND
Form B4**

Consent from the Commissioner of Crown Lands is required *before* topdressing and/or sowing seed is carried out on pastoral lease land (*Crown Pastoral Land Act 1998 Section 16 (1) (c) and (d)*).

To enable the Commissioner's agent, to process this application, please provide the following information if not previously given.

Name of Pastoral Lease: _____

Name of Registered Lessee: _____

Please outline the previous (over) sowing and fertiliser history for the areas (hill country and paddocks) applied for and describe the type of vegetation cover:

"Topdressing" refers to the aerial or ground application of both lime and all fertiliser. Please explain the expected (aerial and/or drill) sowing and topdressing programme on the paddocks and hill country (eg liming? type of fertiliser and frequency of application, pasture species,):

Will the area applied for be part of an ongoing maintenance programme and is this also therefore a request for the on-going sowing of seed and application of maintenance fertiliser?:

Please Note:

- The Commissioner is required to consult with the Director-General of Conservation before deciding whether to consent to a request or grant an application.
- In deciding whether to consent to a request or grant an application, the Commissioner is required to take into account the following:
 - (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.

Please outline the expected benefits from the sowing and topdressing programme (eg, carrying capacity, production, vegetation cover):

Could there be any adverse effects on the environment resulting from this work? (soil, water, vegetation, conservation or other natural values). If so, what are they and how do you plan to negate these effects?

Is there any other relevant information that should be considered with this application? (If so, please outline):

Signed by person requesting consent:

Date: _____

Please post

- *Application with all details completed*
- *Farm map and*
- *Completed cover sheet*

to the relevant office of the Commissioner's agent [Agent]

[set out contact details of agent]

**REQUEST FOR PLANTING TREES ON
PASTORAL LEASE LAND
Form B5**

Consent from the Commissioner of Crown Lands is required *before* tree planting is carried out on pastoral lease land (*Crown Pastoral Land Act 1998 Section 16 (1) (e)*).

To enable the Commissioner's agent to process this application, please provide the following information if not previously given.

Name of Pastoral Lease: _____

Name of Registered Lessee: _____

What is the purpose of tree planting (*commercial forest, shelter belt, conservation, amenity, blanking existing plantings*)?

Please briefly describe the site(s) where the trees are to be planted (*contour, ground cover, altitude*):

Species to be planted: _____

What is the area or length to be planted (*approximately*)?

Is this also a request for replanting and on-going tree planting?

What is the potential for the proposed trees to spread as wilding trees?

What steps would you take to manage wildings if a weed problem develops from these plantings?

Please Note:

- The Commissioner is required to consult with the Director-General of Conservation before deciding whether to consent to a request or grant an application.
- In deciding whether to consent to a request or grant an application, the Commissioner is required to take into account the following:
 - (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.

Please outline the benefits of the potential plantings (stock shelter, soil stability, water quality, amenity, timber):

Could there be any adverse effects on the environment resulting from this work? (soil, water, vegetation, conservation or other natural values). If so, what are they and how do you plan to negate these effects?

Is there any other relevant information that should be considered with this application? (If so, please outline):

Signed by person requesting consent

_____ ***Date:*** _____

Please post:

- *Application with all details completed*
- *Farm map and*
- *Completed cover sheet*

to the relevant office of the Commissioner's agent [Agent].

[set out contact details of agent]

Where this is a request to build a new track:

- ***What are the reasons for building a new track? (How would a new track make it easier to farm?):***

- ***Please describe the type of track you wish to put in (for stock or vehicles, grade, width of the carriageway excluding batters and water table):***

- ***Please describe the site factors (eg, contour, aspect, vegetation, waterway crossings):***

- ***What is the estimated length of the new track?***

Please Note:

- The Commissioner is required to consult with the Director-General of Conservation before deciding whether to consent to a request or grant an application.
- In deciding whether to consent to a request or grant an application, the Commissioner is required to take into account the following:
 - (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.

Are there landscape issues to address? If so, how have you planned to minimise any effects of tracking and maintenance on landscape?

Could there be any adverse effects on the environment resulting from this work? (soil, water, vegetation, conservation or other natural values). If so, what are they and how do you plan to negate these effects?

Is there any other relevant information that should be considered with this application? (If so, please outline):

Signed by person requesting consent:

_____ ***Date:*** _____

Please post:

- *Application with all details completed*
- *Farm map and*
- *Completed cover sheet*

to the relevant office of the Commissioner's agent [Agent]

[set out contact details of agent]

**REQUEST TO CARRY ON ACTIVITY AFFECTING
OR CAUSING DISTURBANCE TO THE SOIL
ON PASTORAL LEASE LAND
Form B7**

Consent from the Commissioner of Crown Lands is required before carrying out any activity affecting or involving or causing disturbance to the soil on pastoral lease land (Crown Pastoral Land Act 1998 Section 16(1)(g))

Name of Pastoral Lease: _____

Name of Registered Lessee: _____

Please ensure that the attached farm map shows:

- *The location of existing tracks where maintenance work is requested.*
- *Where this is an application for a new track, separately identify the planned route of the new track.*
- *The name of the block or paddocks.*

Fully explain the work you wish to do:

Describe the types of land (or sites) this request involves (vegetation cover, contour, altitude range, aspect):

If applicable, please outline the previous development history of the area:

In making this request do you seek consent for this activity or these activities on an ongoing basis? If so, explain your ongoing programme in terms of the consent you are seeking.

Please Note:

- The Commissioner is required to consult with the Director-General of Conservation before deciding whether to consent to a request or grant an application.
- In deciding whether to consent to a request or grant an application, the Commissioner is required to take into account the following:
 - (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.

What is the purpose for this activity and how does it benefit your farming operation?

Could there be any adverse effects on the environment as a result of this activity? (soil, water, vegetation, conservation or other natural values). If so, what are they and how do you plan to negate these effects?

Is there any other relevant information that should be considered with this application? (If so, please outline):

Signed by person requesting consent:

_____ ***Date:*** _____

Please post:

- *Application with all details completed*
- *Farm map and*
- *Completed cover sheet*

to the relevant office of the Commissioner's agent [Agent]

[set out contact details of agent]

Appendix B - Model Letter

Our Ref:

[date]

[Delegate of Director-General of Conservation]

Department of Conservation

Office

PO Box

[LOCATION]

RE: *[NAME]* PASTORAL LEASE/*[OCCUPATION LICENCE]* - REQUEST FOR COMMISSIONER OF CROWN LAND'S CONSENT

We advise that we act as agent for the Commissioner of Crown Lands with respect to the above matter.

A request has been received regarding the Commissioner's consent to undertake [activity] [state name of pastoral lease/occupation licence]. The Commissioner is required to consider each request and determine a response to the request.

The Commissioner's action in considering each request is a discretionary action subject to the provisions of Section 18 of the Crown Pastoral Land Act 1998 (CPLA 1998).

In terms of Section 18(1) the Commissioner is required to consult with you before taking any action described in Section 18(3).

In taking the action the Commissioner, to comply with Section 18(2) CPLA 1998, is required to take into account the following:

- (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 Commissioner is also required to take into account the views expressed by any person or body who is consulted.

The Commissioner has delegated us to act to initiate certain elements of the consultation process.

We hereby advise that we wish to consult with you relating to these matters.

Enclosed please find copies of *[all relevant information relating to the request]*.

We wish to meet with you or receive from you your views and thoughts relating to the Commissioner's action. In particular the Commissioner wishes to identify any inherent values on the property concerned as set out in Section 18(2)(a) and the likely affect of the activities applied for on such inherent values. You may wish to comment on any other matters you think appropriate.

If you wish to inspect the area concerned, please contact *[consultant's name]* in the *[location]* of *[Agent]*, who will convey the request to the lessee/*[licensee]*. Please note that if you wish to discuss this request for the Commissioner's consent with the lessee/*[licensee]*, this should be done with *[consultant's name]* present.

Would you please provide your views and advice to *[consultant's name]* in the *[location]* of *[Agent]* in accordance with the timelines set down in your Department's Standard Operating Procedure. Upon receipt of your advice, we will convey such advice to the Commissioner for consideration.

We thank you for your assistance.

Yours faithfully
[AGENT]

Appendix C - Consultation Statement

What is consultation

Consultation is:

- Gathering information
- Having an open mind on the outcome before going into consultation
- Putting forward proposals that are not yet finalised
- Seeking the opinion on those proposals
- Informing affected parties and/or interested parties of all relevant information upon which those proposals are based
- Not promoting, but listening with an open mind to what those being consulted have to say
- Being prepared to alter any original proposal
- Providing feedback both during the consultation process and after the decision has been made

Consultation Method

Consultation may be carried out by these means:

- Written submissions
- Discussions with DGC or other persons authorised by the Commissioner of Crown Lands

Statutory Framework

In deciding on the method of consultation, the identity of those parties to be consulted, and the timing of the consultation, the Commissioner must have regard to his statutory responsibilities under the Crown Pastoral Land Act, and the objectives set out in that Act.

(This statement was drafted on the basis of the draft OCCPO Consultation with Maori - Technical Policy Standard and takes into account a variety of authorities about consultation in the context of judicial review. It has not been formulated as a standard. If the OCCPO produces a standard on consultation, this statement may be reviewed.)

Appendix D - Submission

SUBMISSION IN ACCORDANCE WITH CROWN PASTORAL LAND STANDARD 1: DISCRETIONARY ACTIONS

Request for Consent pursuant to Section [15/16], Crown Pastoral Land Act 1998

ACTIVITY FOR WHICH CONSENT REQUESTED

File Ref:	Submission No:	Submission Date:
Office of Agent:	Date sent to LINZ:	LINZ Case No:

RECOMMENDATION(S)

1. That, in accordance with the provisions of Section 18 Crown Pastoral Land Act and pursuant to Section [15/16], the Commissioner of Crown Lands or his delegate **grant** consent to the request for consent recorded in Submission Number [submission number] per the recommendations and reasons outlined in the draft Notice of Decision attached to that submission.

or

That, in accordance with the provisions of Section 18 Crown Pastoral Land Act and pursuant to Section [15/16], the Commissioner of Crown Lands or his delegate **decline to grant** consent to the request for consent recorded in Submission Number [submission number] per the recommendations and reasons outlined in the draft Notice of Decision attached to that submission.

or

That, in accordance with the provisions of Section 18 Crown Pastoral Land Act and pursuant to Section [15/16], the Commissioner of Crown Lands or his delegate **grant in part and decline in part** consent to the request for consent recorded in Submission Number [submission number] per the recommendations and reasons outlined in the draft Notice of Decision attached to that submission.

Signed by Agent:

Name:

**Approved/Declined (pursuant to a delegation from the Commissioner of Crown Lands)
by:**

Name:

Date of decision: / /

1. Details Of Lease

Lease Name:

Location:

Lessee:

2. Details Of Request

Date of request:

Brief description:

3. Consultation With DGC

Date referred to DGC:

Information provided to DGC:

Comment from DGC:

Further Consultation with DGC:

4. Consultation With Affected Parties And Other Bodies Or Persons

Affected parties:

(Information provided to affected parties:)

(Comment:)

Other bodies/persons:

(Information provided to other bodies/persons:)

(Comment:)

5. Consideration of matters to be taken into account by the Commissioner of Crown Lands

Desirability of protecting inherent values:

Desirability of making it easier to use the land concerned for farming purposes:

6. Discussion and Conclusion

We confirm that, to the best of our knowledge and based on the information available to us, we have fully accounted for all matters to be considered by the Commissioner of Crown Lands in taking an action under section 18 Crown Pastoral Land Act 1998.

APPENDICES

1. Copy of request for consent dated / / ; received / / .
2. Copy of letter to DGC requesting consultation dated / / .
3. Copy of response from DGC dated / / ; received / / .
4. Copy of letter to affected parties/other bodies or persons dated / /)
5. Copy of response from affected parties/other bodies or persons dated / / ; received / / .)
6. Other relevant information (provide details)
7. Draft Notice of Decision
8. Copy of Checklist.

Our Ref: [File Ref], [Lease Name]

[date]

[lessee/licensee]

[name of person making request]

[address]

**NOTICE TO LESSEE/LICENSEE OF DECISION OF COMMISSIONER OF CROWN
LANDS OR HIS DELEGATE**

With regard to your request of [date of request], the Commissioner of Crown Lands (or his delegate) has, in accordance with the provisions of section 18 and pursuant to section [15/16], made the following decision(s) on [date of decision] by Case No. [LINZ Case No];

1. (a) To grant/decline to [name of lessee/licensee] consent to [details of activity requested] [insert details of conditions to apply if consent to be granted]
- (b) Term of consent
This consent will remain valid for a period of [insert number of years] years from [date of decision].
- (c) Reasons for decision [to include reasons for recommended term if term to be less than 5 years]

Permission under other enactments still needed

Your attention is drawn to the provisions of section 17 Crown Pastoral Land Act 1998. This section provides that the Commissioner of Crown Lands may grant consent to an activity specified in sections 15 or 16 of the Crown Pastoral Land Act for the purposes of the Crown Pastoral Land Act notwithstanding that consent may also be required under another enactment. However, the consent of the Commissioner of Crown Lands does not authorise the activity to be undertaken without the required permission.

Right of rehearing

Please note that under the provisions of Section 17, Land Act 1948 the lessee has the right to apply for a rehearing of the Commissioner's decision. Section 17 provides that:

17. Application for rehearing - (1) Any person aggrieved by any decision of the Commissioner or any determination of an administrative nature by the Commissioner may, within 21 days after being notified of that decision or determination, apply to the Commissioner for a rehearing, and the Commissioner may, at any time within one month after receiving the application, grant a rehearing of the case if he/she thinks that justice requires it, and on the rehearing may reverse, alter, modify, or confirm the previous decision or determination in the same case:

If the lessee wishes to apply for a rehearing, then an application must be submitted to [details of Agents office] within 21 days of receipt of this letter. The application should clearly state the grounds on which an application for a rehearing is made.

Yours sincerely
[Agent]

Appendix E - Checklist

Request for consent – file reference: _____

Name of Pastoral Lease/Occupation Licence: _____

Purpose of Checklist

This Checklist is to be used as a tool to prompt the Agent when reviewing its actions in preparing submissions so that the ability of the CCL (or delegate) to make a fair, reasonable and lawful decision is not compromised. However, the completion of this Checklist is not intended to replace the duty of the Agent to bring any other relevant matters not covered by this Checklist to the attention of the CCL (or delegate).

A copy of the completed Checklist is to be appended to each submission when forwarded for consideration by the CCL (or delegate).

If the Agent is unable to answer yes to each question the matter may need be referred to the CCL (or delegate) for further instructions.

The submission and recommendation(s)	Yes
1 Is the application/request for consent for an activity which is contemplated by the Land Act/CPL Act?	
2 Have you identified the specific statutory authority that the CCL (or delegate) will be acting under?	
3 Are you satisfied that you have no personal interest in the application/request for consent or its outcome?	
4 Are you satisfied that you have viewed this application/request for consent objectively and with an open mind and that your analysis and recommendations have not been affected by personal prejudice or bias?	
5 Have you considered whether there are any persons who would be prejudicially affected by the outcome of a decision on this application/request for consent?	
6(i) If you have identified persons prejudicially affected, have you sought the CCL's (or delegate's) consent to consult with them?	
6(ii) If instructed by the CCL (or delegate) to consult, have you consulted with them in accordance with the standard?	
6(iii) Have you fully considered their views in the preparation of your submission and is this clear from your recommendation?	
7(i) Are you satisfied that all the facts considered in the course of preparing your submission are accurate and if not have you identified any discrepancies between your facts and the facts provided by others?	
7(ii) Are any such discrepancies apparent from your submission?	
8 To the best of your knowledge, have you taken into account all	

	relevant matters?	
9(i)	Are you satisfied that no irrelevant matters have been included in information provided by persons being consulted?	
9(ii)	If irrelevant matters were included, is it clear from your submission that you did not take them into consideration when forming your recommendation(s)?	
10	Are you satisfied that you have not given any indication of the likely outcome to the applicant/person requesting consent?	
11(i)	Have you genuinely considered this application/request for consent and not just applied a pre-determined view?	
11(ii)	Is this apparent from your submission and recommendation(s)?	
12	Have you provided reasons which justify the recommended decision?	
13	Are all your reasons for the recommended decision set out in the draft Notice of Decision?	

Name of Agent

Name of person completing on behalf of Agent

Certified for Release

Discretionary Actions

D J GULLEN
Commissioner of Crown Lands

S D BROWN
Chief Crown Property Officer
National Office
Land Information New Zealand
PO Box 5501
WELLINGTON

Date / /2000