

# Departmental Disclosure Statement

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Crown Pastoral Land Reform Bill
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The departmental disclosure statement for a government Bill seeks to bring together in one place a range of information to support and enhance the Parliamentary and public scrutiny of that Bill.

It identifies:

- the general policy intent of the Bill and other background policy material;
- some of the key quality assurance products and processes used to develop and test the content of the Bill;
- the presence of certain significant powers or features in the Bill that might be of particular Parliamentary or public interest and warrant an explanation.

This disclosure statement was prepared by Land Information New Zealand.

Land Information New Zealand certifies that, to the best of its knowledge and understanding, the information provided is complete and accurate at the date of finalisation below.

24 June 2020.

## Contents

Contents.....	2
Part One: General Policy Statement.....	3
Part Two: Background Material and Policy Information .....	7
Part Three: Testing of Legislative Content.....	12
Part Four: Significant Legislative Features .....	17

## Part One: General Policy Statement

### Overall purpose and objectives

The Crown owns approximately 1.2 million hectares of Crown pastoral land, largely in the South Island high country, making up five per cent of New Zealand's total land area. Most of this land is leased by the Crown for pastoral farming. This land encompasses some of New Zealand's most iconic landscapes and is a taonga for New Zealanders.

In administering this land, Land Information New Zealand (LINZ) works closely with leaseholders who farm and live on the land, and have a strong connection to it. Some of these families have lived on the land for multiple generations.

The land also has particular significance for Māori - in particular Ngāi Tahu, as the majority of Crown pastoral land sits inside the takiwā of the iwi. Ngāi Tahu's Treaty settlement acknowledged their rangatiratanga or right to retain their full tribal authority and control over their lands and all other valued possessions, including in relation to Crown pastoral land. Ngāi Tahu are kaitiaki (steward) of their takiwā, based on the principle of "ki uta ki tai" or "mountains to the sea" – the integrated management of all the iwi's resources.

There has been increasing public concern about the administration of Crown pastoral land by LINZ, and a loss of biodiversity and landscape values on current and former pastoral land over time.

This Bill makes changes to the Crown Pastoral Land Act 1998 (CPLA) and the Land Act 1948 to ensure that LINZ will administer this land in a way that maintains or enhances the ecological, landscape, cultural, heritage and scientific values of Crown pastoral land for present and future generations, while providing for ongoing pastoral farming of Crown pastoral land.

In effect, these changes are intended to better manage and control any further development or intensification of pastoral farming activity on Crown pastoral land and encourage sustainable ongoing use of the land for pastoral farming and recreation.

The changes include:

- ending the tenure review process, which has resulted in much former Crown pastoral land being freeholded and subject to more intensive farming
- moving towards an outcomes-based approach to encourage pastoral farming that is sustainable, and to better recognise impacts on inherent values in decision-making
- providing a clearer, more transparent statutory decision-making process, with stronger accountability mechanisms and more opportunity for public to have input
- supporting strong and enduring Crown-Māori relationships and recognising the relationship of tangata whenua with their ancestral lands.

The Bill also outlines arrangements to provide for an efficient and fair transition for leaseholders.

### Ending tenure review

Tenure review is a voluntary process that provides for land with significant conservation values to be returned to full Crown ownership; and for land that has economic value to be freehold to the pastoral leaseholder.

The Bill ends the tenure review process by repealing the relevant sections of the CPLA.

### **Redesigning the regulatory system to deliver improved Crown pastoral land outcomes**

#### *Outcomes of the Bill*

The Bill introduces a set of outcomes that anyone exercising powers under this Bill and the Land Act must seek to achieve.

In particular, the Commissioner of Crown Lands must seek to achieve the outcomes when making decisions on applications made by leaseholders to undertake certain activities on the land. The Bill sets out a process that the Commissioner must follow to do this.

The process set out in the Bill comprises two main parts – a classification of pastoral activities that leaseholders may want to undertake, according to the impact of those activities on inherent values, and a statutory decision-making process which applies to those activities classified as ‘discretionary.’

#### *Classification of activities*

The Bill includes a schedule classifying pastoral farming activities into:

- permitted pastoral activities – leaseholders may undertake these activities without applying for consent
- discretionary pastoral activities – leaseholders must apply for a consent to undertake these activities
- prohibited pastoral activities – leaseholders may not undertake these activities.

This classification is intended to improve the timeliness and efficiency of the decision-making process. It will enable LINZ to focus its resources on higher-risk activities, while allowing leaseholders to undertake activities that are part of day-to-day farming and have no more than minor impacts.

The Bill also includes provisions setting out the criteria used to classify activities. The schedule itself can be amended by Order in Council following public consultation, and will be reviewed regularly.

Activities are considered discretionary and remain so unless they meet the criteria to be permitted or prohibited.

#### *Statutory decision-making process*

The Bill sets out the decision-making process that the Commissioner must follow when making decisions on applications to undertake discretionary pastoral activities. The process includes:

- the application of an effects-based test aimed at both assessing the level of adverse effects of an activity, and minimising those effects as far as possible
- a ‘pastoral farming’ test to establish if an activity that has more than minor adverse effects on inherent values is necessary to enable the leaseholder to exercise their rights and obligations under the lease
- a final decision-making stage where the Commissioner can make a range of further considerations before approving the application in full or in part, with or without conditions, or declining it.

During the process, the Commissioner will be required to consult with the Director-General of Conservation and engage with Māori. The specific points at which this would occur will be worked through operationally with DOC and relevant iwi.

There is no obligation on the Commissioner to approve any discretionary pastoral consent application.

The Bill also sets out a decision-making process in relation to applications for easements and recreation permits, to ensure these decisions are consistent with the outcomes.

#### *Monitoring and enforcement*

The Bill provides for more effective monitoring and enforcement to help ensure the regulatory system is delivering on the outcomes over time.

### **Increasing transparency, accountability and public involvement**

The Bill includes changes aimed at increasing public confidence by improving the transparency of the Commissioner’s decision-making and holding LINZ more clearly to account for its administration of Crown pastoral land.

This includes clarifying roles and responsibilities, in particular LINZ’s responsibility for the overall regulatory system and the Commissioner’s role of statutory decision-maker within that system.

Other changes are aimed at:

- strengthening accountability for roles and responsibilities
- increasing transparency by requiring publication of the Commissioner’s decisions and the rationale behind them
- providing for increased public involvement.

### **Supporting the Crown-Māori relationship**

The Bill aims to support the Crown in its relationships with Māori under the Treaty of Waitangi, including by:

- requiring the Crown to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, mahinga kai, wāhi tapu and other taonga in relation to considering discretionary consents and any protection mechanisms over Crown pastoral land
- requiring the Crown to consult with iwi in developing the Crown Pastoral Land Strategic Intentions document, regulatory instruments and a monitoring framework for Crown pastoral land.

The Bill also reflects that obligations under the Treaty of Waitangi sit with the Crown, rather than with leaseholders.

### **Rights and responsibilities of leaseholders**

The stewardship role of leaseholders will continue to be a core feature of the regulatory system. The Bill contains no changes to the leaseholders' tenure, right to pasturage, quiet enjoyment of their leasehold properties, their rights of renewal, or their responsibilities for weed and pest control.

### **Transitional arrangements**

Transitional mechanisms in the Bill are intended to provide an efficient and fair transition to the updated regulatory regime for leaseholders. The Bill's key transitional mechanisms clarify that:

- discretionary consent applications in process when the new law comes into force will be considered under the new system
- that all tenure reviews will cease – except where the Commissioner has put a substantive proposal to the leaseholder.

## Part Two: Background Material and Policy Information

### Published reviews or evaluations

<b>2.1. Are there any publicly available inquiry, review or evaluation reports that have informed, or are relevant to, the policy to be given effect by this Bill?</b>	<b>YES</b>
<p>The policy to be given effect by this Bill has been informed by the findings from Land Information New Zealand's (LINZ) review of the Crown pastoral land regulatory system. The review can be found on LINZ's website, published in February 2019: <a href="https://www.linz.govt.nz/regulatory/regulatory-stewardship-and-strategy/our-regulatory-systems">https://www.linz.govt.nz/regulatory/regulatory-stewardship-and-strategy/our-regulatory-systems</a>.</p> <p>The policy to be given effect by this Bill was also informed by a public consultation process (see 3.6). Documents relating to this consultation process – including the discussion document, <i>Enduring Stewardship of Crown pastoral land</i>, and the summary of consultation meetings which LINZ facilitated – may be found on LINZ's website: <a href="https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/consultation-enduring-stewardship-crown-pastoral-land">https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/consultation-enduring-stewardship-crown-pastoral-land</a></p> <p>In addition, the summary of public submissions – alongside the individual submissions from NGOs, other organisations, and individuals – can be found on LINZ's website: <a href="https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/consultation-enduring-stewardship-crown-pastoral-land/submissions-enduring-stewardship-crown-pastoral-land">https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/consultation-enduring-stewardship-crown-pastoral-land/submissions-enduring-stewardship-crown-pastoral-land</a></p>	

### Relevant international treaties

<b>2.2. Does this Bill seek to give effect to New Zealand action in relation to an international treaty?</b>	<b>NO</b>
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## Regulatory impact analysis

<b>2.3. Were any regulatory impact statements provided to inform the policy decisions that led to this Bill?</b>	<b>YES</b>
<p>The policy decisions that led to the Bill were informed by two regulatory impact statements:</p> <p><b>First RIS – Decision to end tenure review</b></p> <p>The decisions relating to ending tenure review were informed by the <i>Regulatory impact statement: Proposed changes to tenure review</i>, prepared by LINZ (January 2019).</p> <p>This regulatory impact statement was proactively released on LINZ's website in April 2019, following the release of the Cabinet paper <i>Delivering better outcomes for Crown pastoral land</i>, and the Discussion Document <i>Enduring Stewardship of Crown pastoral land</i> in February 2019. <a href="https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/high-country-advice">https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/high-country-advice</a></p> <p><b>Second RIS – Final policy decisions (redesigning the regulatory system)</b></p> <p>Final policy decisions – relating to redesigning the regulatory system to deliver improved Crown pastoral land outcomes – were informed by the <i>Improving the administration of Crown pastoral land: Regulatory impact statement</i>, prepared by LINZ (December 2019).</p> <p>This was proactively released on LINZ's website in February 2020, following release of the Cabinet paper, <i>Delivering better outcomes for Crown pastoral land: Final decisions</i> in December 2019. <a href="https://www.linz.govt.nz/delivering-better-outcomes-for-crown-pastoral-land-final-decisions">https://www.linz.govt.nz/delivering-better-outcomes-for-crown-pastoral-land-final-decisions</a>.</p>	

<b>2.3.1. If so, did the RIA Team in the Treasury provide an independent opinion on the quality of any of these regulatory impact statements?</b>	YES
<p>The RIA Team in the Treasury provided an independent opinion on the second RIS (final policy decisions) but we used an independent internal quality assurance assessor for the first RIS (decision to end tenure review).</p> <p><b>First RIS – Decision to end tenure review</b></p> <p>The regulatory impact statement that informed the decision to end tenure review was assessed by an independent quality assurance assessor within LINZ.</p> <p><i>Quality Assurance Assessment:</i> The assessor considered that the information and analysis summarised in the Regulatory Impact Assessment partially meets the Quality Assurance criteria.</p> <p><i>Reviewer comments and recommendations:</i> We do not have a good understanding of the impacts on leaseholders of the proposal to end tenure review because they have not been consulted on this proposal. Given that the Minister is proposing to consult broadly on managing the implications of ending tenure review, it would not be unfeasible to also consult on the impacts of the decision.</p> <p><b>Second RIS – Final policy decisions (redesigning the regulatory system)</b></p> <p>A Quality Assurance Panel with representatives from LINZ and the Treasury Regulatory Quality Team reviewed the <i>Improving the administration of Crown pastoral land</i> Regulatory Impact Assessment (RIA), produced by LINZ, and dated November 2019.</p> <p><i>Quality Assurance Assessment:</i> The Panel considered that the RIA partially meets the Quality Assurance criteria.</p> <p><i>Reviewer comments and recommendations:</i> LINZ has clearly and completely described the status quo including the regulatory system, identified a wide range of options, and undertaken comprehensive consultation.</p> <p>A clear understanding of the underlying causes and significance of the issues, and the likely impact of options to address them, is inhibited by insufficient quantitative data. To assess the effectiveness and efficiency of the proposals in achieving Government’s objectives, and to enable adjustment and corrections, it will be critical for LINZ to build thorough monitoring and post-implementation review into its on-going stewardship of the Crown Pastoral land regulatory system. Ministers could invite LINZ officials to report back on the effect of the proposals within two years of them being incorporated into the legislation.</p>	

<b>2.3.2. Are there aspects of the policy to be given effect by this Bill that were not addressed by, or that now vary materially from, the policy options analysed in these regulatory impact statements?</b>	NO
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### Extent of impact analysis available

<b>2.4. Has further impact analysis become available for any aspects of the policy to be given effect by this Bill?</b>	NO
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<b>2.5. For the policy to be given effect by this Bill, is there analysis available on:</b>	
<b>(a) the size of the potential costs and benefits?</b>	<b>YES</b>
<b>(b) the potential for any group of persons to suffer a substantial unavoidable loss of income or wealth?</b>	<b>YES</b>
<p><b>The size of the potential costs and benefits</b></p> <p>Analysis on the potential costs and benefits of ending tenure review can be found in the <i>First RIS (decision to end tenure review)</i>. See page 29 for a summary of the costs and benefits:  <a href="https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/high-country-advice">https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/high-country-advice</a></p> <p>Analysis on the potential costs and benefits to redesign the regulatory system can be found in the <i>Second RIS (final policy decisions)</i>. See page 65 for a summary of the costs and benefits:  <a href="https://www.linz.govt.nz/delivering-better-outcomes-for-crown-pastoral-land-final-decisions">https://www.linz.govt.nz/delivering-better-outcomes-for-crown-pastoral-land-final-decisions</a></p> <p><b>The potential for any group of persons to suffer a substantial unavoidable loss of income or wealth</b></p> <p>Both regulatory impact statements have identified the potential impacts on both leaseholders and the Crown.</p> <p>For the potential impacts relating to the ending of tenure review, see pages 1-3 of the <i>First RIS (ending tenure review)</i>:  <a href="https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/high-country-advice">https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/high-country-advice</a></p> <p>For the potential impacts relating to redesigning the regulatory system (to deliver improved Crown pastoral land outcomes), see pages 3-4 of the <i>Second RIS (final policy decisions)</i>:  <a href="https://www.linz.govt.nz/delivering-better-outcomes-for-crown-pastoral-land-final-decisions">https://www.linz.govt.nz/delivering-better-outcomes-for-crown-pastoral-land-final-decisions</a></p>	

<b>2.6. For the policy to be given effect by this Bill, are the potential costs or benefits likely to be impacted by:</b>	
<b>(a) the level of effective compliance or non-compliance with applicable obligations or standards?</b>	<b>YES</b>
<b>(b) the nature and level of regulator effort put into encouraging or securing compliance?</b>	<b>YES</b>

Non-compliance by a lessee or licensee to fulfil their obligations relating to activities on pastoral land could adversely impact on the benefits sought.

However, as identified in the second RIS, a range of mid-level enforcement tools focusing on remediation and encouraging compliance will be introduced to effectively and efficiently manage compliance and support the delivery of system outcomes – refer to pages 35-40, and page 44.

<https://www.linz.govt.nz/delivering-better-outcomes-for-crown-pastoral-land-final-decisions>

Similarly, the potential benefits could be enhanced by the effort of the Commissioner and Department of Conservation to work in partnership and inform management decisions by leaseholders.

In evaluating the impact of compliance on overall costs and benefits, the second RIS determined that the enforcement tools would not place an extra cost on leaseholders – because they are only to enforce compliance with existing obligations – refer to page 65. However, use of compliance tools is a relevant factor in delivering the benefit of increased public trust in the Crown’s administration of the estate – refer to page 67-68.

<https://www.linz.govt.nz/delivering-better-outcomes-for-crown-pastoral-land-final-decisions>

## Part Three: Testing of Legislative Content

### Consistency with New Zealand's international obligations

<b>3.1. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with New Zealand's international obligations?</b>
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New Zealand is party to the United Nations Framework Convention on Climate Change Treaty. As a signatory to this, it has ratified the Paris Agreement on Climate Change 2016 and the Kyoto Protocol 2002. These agreements capture New Zealand's commitment to reducing greenhouse gases. The Bill considers how Crown pastoral land can contribute to this in the discretionary decision-making process in the Bill – see <i>new section 11(3)(e)</i> .
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## Consistency with the government’s Treaty of Waitangi obligations

### 3.2. What steps have been taken to determine whether the policy to be given effect by this Bill is consistent with the principles of the Treaty of Waitangi?

The Bill aims to support the Crown in its relationships with Māori under the Treaty of Waitangi, including by:

- requiring the Crown to recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, mahinga kai, wāhi tapu and other taonga in relation to considering discretionary consents and any protection mechanisms over Crown pastoral land – see *new Part 1, section 5(a)*
- requiring the Crown to consult with iwi in developing the Crown Pastoral Land Strategic Intentions document, regulatory instruments and a monitoring framework for Crown pastoral land – see *new Part 1, section 5(b)*

The Bill also reflects that obligations under the Treaty of Waitangi sit with the Crown, rather than with leaseholders – see *new Part 1, sections 4(1)(b) and 5(a)*.

LINZ has worked with mana whenua, Te Arawhiti, Te Puni Kōkiri, and the Department of Conservation to reflect the Crown’s relationship with Māori under the Treaty of Waitangi. The Bill recognises the interests of Māori, particularly Ngāi Tahu, in the Crown pastoral estate, and includes cultural values as one of the five inherent values of the land to be maintained or enhanced – see *amended section 2*.

Ngāi Tahu (within whose takiwā the majority of Crown pastoral leases falls) were consulted throughout the process of developing the policy proposals and this Bill.

LINZ also discussed its approach with Te Tau Ihu iwi – Rangitāne o Wairau and Ngāti Apa ki te Rā Tō – within whose rohe a minority of Crown pastoral leases fall.

This is referred to in the December 2019 Cabinet paper *Delivering better outcomes for Crown pastoral land: Final decisions* (<https://www.linz.govt.nz/delivering-better-outcomes-for-crown-pastoral-land-final-decisions>) (see paragraphs 104-107).

## Consistency with the New Zealand Bill of Rights Act 1990

### 3.3. Has advice been provided to the Attorney-General on whether any provisions of this Bill appear to limit any of the rights and freedoms affirmed in the New Zealand Bill of Rights Act 1990?

YES

The Ministry of Justice is undertaking an assessment of whether the Bill is consistent with the Bill of Rights Act 1990 (BORA) and will provide advice to the Attorney-General. If the Attorney-General agrees to waive legal privilege, advice on the Bill’s compliance with BORA will be published shortly after the Bill’s introduction at:

<https://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/bill-of-rights-compliance-reports/advice/>

## Offences, penalties and court jurisdictions

<b>3.4. Does this Bill create, amend, or remove:</b>	
<b>(a) offences or penalties (including infringement offences or penalties and civil pecuniary penalty regimes)?</b>	<b>YES</b>
<b>(b) the jurisdiction of a court or tribunal (including rights to judicial review or rights of appeal)?</b>	<b>NO</b>
<p>The Bill provides for issuing infringement notices in <i>section 100D</i>.  An infringement offence is set out as the undertaking of an activity that would otherwise require consent on Crown pastoral land: <i>sections 100D – 100J of the Bill</i> sets out these activities.  Independent appeal and review rights are set up under the Summary Proceedings Act 1957 and the Summary Proceedings Regulations 1958.</p>	

<b>3.4.1. Was the Ministry of Justice consulted about these provisions?</b>	<b>YES</b>
<p>The Ministry of Justice was consulted on the development of an administrative penalty system or an infringement notice. The Ministry of Justice recommended the use of an infringement notice as it grants the right to independent review and appeal as set up under the Summary Proceedings Act 1957 and the Summary Proceedings Regulations 1958.</p>	

## Privacy issues

<b>3.5. Does this Bill create, amend or remove any provisions relating to the collection, storage, access to, correction of, use or disclosure of personal information?</b>	<b>NO</b>
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## External consultation

<b>3.6. Has there been any external consultation on the policy to be given effect by this Bill, or on a draft of this Bill?</b>	<b>YES</b>
<p><b>Public consultation process</b></p> <p>The policy proposals to be given effect by this Bill were informed by a public consultation process.</p> <p>In February 2019, LINZ invited the public to make submissions on the policy proposals set out in discussion document <i>Enduring Stewardship of Crown pastoral land (see 2.1)</i>. To facilitate public engagement, the discussion document also set out the findings from the regulatory system review, the existing law, and the proposed policy options. The period for public submissions ran from February 2019 to April 2019.</p> <p>Over this time, LINZ also held consultation meetings in the South Island, supported by the Department of Conservation, to facilitate public discussion on the proposals. In total, LINZ received 3248 submissions.</p> <p>More information regarding the public consultation process LINZ undertook – including a summary of the submissions received – can be found on LINZ’s website: <a href="https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/consultation-enduring-stewardship-crown-pastoral-land/submissions-enduring-stewardship-crown-pastoral-land">https://www.linz.govt.nz/crown-property/crown-pastoral-land/crown-pastoral-land-management/consultation-enduring-stewardship-crown-pastoral-land/submissions-enduring-stewardship-crown-pastoral-land</a>.</p> <p><b>Testing proposals with an advisory group</b></p> <p>LINZ engaged with the High Country Advisory Group throughout the development of the policy proposals. The Advisory Group is made up of a broad range of representatives, including those of leaseholders, environmental NGOs, iwi, and government.</p> <p>More information on the High Country Advisory Group can be found on LINZ’s website: <a href="https://www.linz.govt.nz/news/2018-08/high-calibre-candidates-for-high-country-advisory-group">https://www.linz.govt.nz/news/2018-08/high-calibre-candidates-for-high-country-advisory-group</a></p> <p><b>Further targeted engagement</b></p> <p>Further targeted engagement was undertaken during January and February 2020. This engagement was focused on ensuring the workability of the new statutory test for decision making (new Part 1, sections 11-13) and the new schedule classifying pastoral activities on Crown pastoral land (new Schedule 1AB). The High Country Accord Trust, Federated Farmers policy team, Te Rūnanga o Ngāi Tahu, Forest and Bird, and the Environmental Defence Society were provided with some detailed policy proposals and invited to provide feedback on the workability of both in practice.</p> <p>LINZ also worked closely throughout the policy process with the Department of Conservation and the Ministry for Primary Industries. LINZ also received support from the Ministry for the Environment and Te Arawhiti.</p>	

## Other testing of proposals

<b>3.7. Have the policy details to be given effect by this Bill been otherwise tested or assessed in any way to ensure the Bill’s provisions are workable and complete?</b>	<b>YES</b>
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The Bill reflects the advice and options developed by LINZ, informed by its consultation with iwi and stakeholders.

As discussed in 3.6, LINZ worked closely with the Department of Conservation, the Ministry for Primary Industries, the Ministry for the Environment, Te Arawhiti, iwi, leaseholder, and stakeholders to ensure that the proposed reforms to the Crown pastoral land regulatory system are workable and will work cohesively within the wider regulatory landscape.

The Legislation Design and Advisory Committee (LDAC) were consulted throughout the policy process and the drafting process. Its advice has informed policy decisions, including those made in relation to the statutory decision-making test, enforcement options, and reporting and advisory requirements for the Commissioner.

## Part Four: Significant Legislative Features

### Compulsory acquisition of private property

4.1. Does this Bill contain any provisions that could result in the compulsory acquisition of private property?	NO
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### Charges in the nature of a tax

4.2. Does this Bill create or amend a power to impose a fee, levy or charge in the nature of a tax?	NO
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### Retrospective effect

4.3. Does this Bill affect rights, freedoms, or impose obligations, retrospectively?	NO
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## Strict liability or reversal of the usual burden of proof for offences

<b>4.4. Does this Bill:</b>	
<b>(a) create or amend a strict or absolute liability offence?</b>	<b>NO</b>
<b>(b) reverse or modify the usual burden of proof for an offence or a civil pecuniary penalty proceeding?</b>	<b>NO</b>

## Civil or criminal immunity

<b>4.5. Does this Bill create or amend a civil or criminal immunity for any person?</b>	<b>NO</b>
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## Significant decision-making powers

<b>4.6. Does this Bill create or amend a decision-making power to make a determination about a person's rights, obligations, or interests protected or recognised by law, and that could have a significant impact on those rights, obligations, or interests?</b>	<b>YES</b>
<p>Leaseholders have rights, obligations and interests under their pastoral lease (with some of the terms of the lease being provided for in the Crown Pastoral Land Act and the Land Act). The new considerations under the Bill could change the rights, obligations and interests leaseholders have under the lease by modifying the two Acts identified above.</p> <p>Leaseholders have the right to seek consent from the Commissioner of Crown Lands to burn vegetation and carry out activities that affect or disturb the soil. They also have a right to seek an exemption from a stock limitation. The Commissioner must determine whether to grant consent to the leaseholder - taking into account the factors set out in section 18 of the Crown Pastoral Land Act (the desirability of protecting inherent values and the desirability of making it easier to use the land concerned for farming purposes).</p> <p>The Bill repeals section 18 of the Crown Pastoral Land Act and provides a new decision-making process that the Commissioner must adhere to - set out in clauses 10-12 of the Bill. These clauses require the Commissioner to consider effects of the proposed activity on inherent values, whether the activity is necessary to enable the leaseholder to exercise their rights and obligations under their lease, and the factors listed in clause 11(3). The Commissioner's discretion is more limited under the Bill compared with the existing process in the Crown Pastoral Land Act.</p> <p>Clauses 4 and 5 of the Bill will also have an impact on decisions made by the Commissioner with respect to activities leaseholders are able to carry out. Clause 4 provides a set of outcomes that the Commissioner must seek to achieve and clause 5 provides that the Commissioner must recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, mahinga kai, wāhi tapu, and other taonga.</p> <p>Amending this decision-making process has the potential to impact on the exercise of leaseholder's existing rights. Any possible impact is mitigated by the requirement in the Bill for the Commissioner of Crown Lands to be satisfied that the activity is necessary to enable the leaseholder to exercise their rights and obligations under their lease where the adverse effects on inherent values are more than minor. For the avoidance of doubt, the Bill includes a clause (<i>section 6, schedule 1</i>) to make it clear that the Crown is not liable to pay compensation to lessees arising from the amendments or their lawful application.</p>	

## Powers to make delegated legislation

<b>4.7. Does this Bill create or amend a power to make delegated legislation that could amend an Act, define the meaning of a term in an Act, or grant an exemption from an Act or delegated legislation?</b>	<b>YES</b>
<p>New section 100L enables Schedule 1AB of the Bill to be amended by Order in Council. This schedule is intended to improve the timeliness and efficiency of the decision-making process. It will enable LINZ to focus its resources on higher-risk activities, while allowing leaseholders to undertake activities that are part of day-to-day farming and have no more than minor impacts. It must be kept current to remain effective.</p> <p>Schedule 1AB of the Bill classifies activities described in new sections 7 to 9 of the Crown Pastoral Land Act, and section 100 of the Land Act, as permitted, discretionary or prohibited. If an activity is classified as discretionary, consent can only be granted by the Commissioner if the process in new sections 10-12 is followed.</p> <p>The Governor-General can only amend, replace or delete any of the activities classified in Schedule 1AB on the recommendation of the Minister for Land Information. Before making any recommendation, the Minister for Land Information must consult the Minister of Agriculture, Minister of Conservation, and Minister for the Environment. In making any such recommendation, the Minister must be satisfied that the re-classification meets the test set out in section 100L, which involves consideration of whether an activity would have more than minor effects on inherent values in all foreseeable circumstances and whether it is required for pastoral farming or contributes to leaseholders' obligations under their leases.</p>	

<b>4.8. Does this Bill create or amend any other powers to make delegated legislation?</b>	<b>YES</b>
<p>For the administration of the Crown pastoral land regulatory system, powers to make delegated legislation are necessary for detailed matters of the regulatory system – for example, to support officials and leaseholders to understand and comply with the requirements of the new decision-making process.</p> <p>New section 100N of the Bill provides for regulations to be made by Order in Council, on the recommendation of the Minister, for the purposes listed in subsections 100N(1)(a)-(j).</p> <p>Regulations will be subject to the Acts and Regulations Publication Act 1989, disallowance under the Regulations Disallowance Act 1989, and subject to review by the Regulations Review Committee under the Standing Order 314.</p> <p>Section 100O of the Bill provides for the Commissioner of Crown Lands and Chief Executive of LINZ to set standards and issue directives. This power is designed to reflect the Chief Executive's responsibility for the overall regulatory system, and the Commissioner of Crown Lands' statutory functions within that system (as set out in the Land Act 1948 and the Crown Pastoral land Act 1998).</p>	

## Any other unusual provisions or features

<b>4.9. Does this Bill contain any provisions (other than those noted above) that are unusual or call for special comment?</b>	<b>NO</b>
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