Toitū Te Whenua
Land Information
New Zealand

Submission form

Crown Pastoral Land Reform Act: Proposed regulations and standards

Once you have completed this form, email it to CPLC@linz.govt.nz

Alternatively, you can post your submission to: Crown Pastoral Land Consultation, Land Information New Zealand, PO Box 5501, Wellington 6145, New Zealand.

Submissions must be received no later than 5pm Friday 19 August 2022.

Anyone may make a submission, either as an individual or on behalf of an organisation. Please ensure all sections of this form are completed. You may either use this form or prepare your own but if preparing your own please use the same headings as used in this form.

Submitter details

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Official Information Act 1982

All submissions are subject to the Official Information Act and can be released (along with personal details of the submitter) under the Act. If you have specific reasons for wanting to have your submission or personal details withheld, please set out your reasons in the submission. LINZ will consider those reasons when making any assessment for the release of submissions if requested under the Official Information Act.

Submission

Please refer to the following pages for the detailed submission from Fish and Game New Zealand.

19 August 2022

Submission on the 'proposed new regulations and standards to support the implementation of the Crown Pastoral Land Act Reform 2022'

This feedback is provided by Fish & Game New Zealand (referred to subsequently as **Fish and Game**), which is comprised of the 13 Fish and Game Councils.

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Summary

1. Fish and Game welcomes the opportunity to comment by the Land Information New Zealand (LINZ) on the proposed new regulations and standards to support the implementation of the Crown Pastoral Land (CPL) Reform Act 2022.

2. Fish and Game supports:
   - the overarching intent of the CPL regulation and standards to address public concern about the management of Crown pastoral land, including degradation of biodiversity and landscape values on current and former Crown pastoral land over time; and

   - implementing an outcomes-based approach that considers adverse effects on inherent values (including cumulative effects) on Crown pastoral land

   - additions and clarifications of terminology including indigenous vegetation, indigenous wetlands, wetlands and vegetation clearing as these have significant potential to involve land / landscapes of importance to Fish and Game, and our statutory responsibilities.

   - Consideration of the need for ongoing monitoring of any adverse effects of activities on Crown land, as well as continued access to areas for recreational angling and hunting.

About Fish and Game

3. Fish and Game is the statutory manager for sports fish and game, with functions conveyed under the Conservation Act 1987. The organisation is an affiliation of 13 separate Fish and Game Councils – 12 regional Councils and one national Council. Together, these organisations represent roughly 140,000 anglers and hunters.

4. The sports fish and game resource managed by Fish and Game is defined and protected under the Conservation Act and the Wildlife Act 1953. The species within include introduced sports fish and a mix of native and introduced waterfowl and upland game.[1] These species are also recognised within the NZ Biodiversity Strategy – Te Mana o te Taiao as 'valued introduced species' with significant cultural, economic and recreational contributions within New Zealand.

5. Wetlands and their health play a key role in Fish and Game's operations as the primary habitat for the majority of game birds and we have a statutory mandate to maintain and enhance this habitat. Nationally, Fish and Game manage a number of freshwater ecosystems as well as routinely operating restoration programmes to enhance the quantity and quality of theses habitats including wetlands. These operations have a dual benefit, creating increased habitat for game birds and sports fish and accordingly increased opportunity for anglers and hunters as well as providing increased habitat for a number of critically endangered or at risk/declining indigenous species.

[1] Most New Zealanders refer to these species as 'game birds', distinguishing them from other types of game, such as deer or pigs. The Wildlife Act 1953 defines these birds simply as 'game' and this phrase is used in the context of this submission.

6. Currently $4 per game bird licence issued by Fish and Game goes to the Game Bird Habitat Trust, which oversees a grant programme for wetland restoration and construction – representing millions of dollars invested in freshwater habitat restoration activities to-date by Fish and Game. Since its inception in 1990 Fish and Game has been one of the strongest voices for freshwater in New Zealand.

7. Fish and Game is entirely funded by licence holder fees and private contributions, meaning the delegated function of managing the species for the public good is funded entirely by the users. It is a democratic 'user pays, user says' organisation. Using this system, the organisation funds public good research to ensure fisheries and game bird populations are managed sustainably; undertakes compliance with the licencing system and regulations; and contributes to public planning processes.

8. In relation to planning, the Councils share a similar function to advocate on behalf of anglers and hunters and to advocate in the Councils' interest, including their interest in habitat and acees to land. Overwhelmingly, the advocacy sought by anglers, hunters and their elected Council representatives has been to seek environmental protection and restoration of degraded ecosystems, while preserving the ability of recreational access to these landscapes.

9. At the direction of its licence holders, Fish and Game has become one of the nation's best-known advocates for freshwater ecosystems. A detailed list of recent achievements led by Fish and Game is listed in the appendices.

10. To achieve this, Fish and Game staff includes ecology, planning and policy specialists. The local-facing structure of the organisation, combined with generally low turn-over rates and a focus on freshwater means that these staff are experts in freshwater policy and its implementation.

11. This submission has been developed using the combined expertise and experience of Fish and Game's environmental policy staff.

Detailed submission

Section 100R(1)(a)- Discretionary pastoral activity, Commercial recreation permits and Stock limitation exemption

Commercial recreation permits

It is not clear from the discussion document how public access will be recognised in this process of commercial reactional permit applications. For commercial activities, it appears that there is an incentive for the permit holder to have exclusive rights to the area, which could lead to the lessee of

the property denying discretionary access to other recreational users. This needs further clarification and elaboration on how the granting of permits will affect other users and the access to land.

Stock Limitation Exception

A description of the area affected by the activity, including the size and scale of effects as well as identifying any inherent values affected is required. Detailed mapping should be included to identify features such as waterbodies, critical source areas, fence lines, etc. The map should also indicate where stock will be located and at what intensity.

The mapping and description should include any indigenous vegetation assessments and onsite or neighbouring SNAs. If the property has not been surveyed, there should be a requirement to survey the property to fully inform the description of the area prior to permitting relating to stock.. This would allow for better consideration of the activity on the landscape and ecosystem scales and would help determine whether the proposal will contribute to achieving Part 4 outcomes.

It is noted that the proposed Chief Executive Standards at 7(1) includes criteria to determine if the inherent values likely to be affected by the proposed activity have been identified. The point above could be picked up there; however, the direction to seek this information contains the wording 'where relevant'. It is not clear how relevancy is determined in these cases. This is discussed again below.

Adverse Environmental Effects (AEE's)

It is advised that there should be included a description of how any adverse effects will be monitored and by whom, if consent is granted for the activity. Ongoing monitoring will be essential to determining if compliance is achieved and to enable actions if adverse environmental effects are being generated by an activity. Monitoring will also ensure success in the goal of minimising AEE's and improving environmental performance.

Proposed monitoring timeframes such as frequency should also be included with the monitoring proposal. Additionally, it is unclear what is being monitored and why. Monitoring without a clear process to address any unanticipated outcomes is a pointless exercise. Will thresholds be stipulated to indicate that if effects are greater than anticipated, a response mechanism will then be triggered? What is monitoring to achieve and what is the feedback loop mechanism in response to monitoring outcomes?

Further detail around what is to be monitored, why it is taking place and what it is to achieve to meet the Part 4 outcomes of the Act. Is strongly suggested.

Section 100R(1)(b)- Matters the Commissioner must take into account

Scale and extent of activity-

It is not clear if the example provided for 'scale' limits what can be considered. For instance, can the scale i.e., intensity of a farming operation be considered? Intensive beef farming in sensitive high-country areas can adversely impact on inherent values. The examples given for scale are related to structure size, not scale/intensity of an activity.

Cumulative effects-

This concept is supported and should be included but it is uncertain how this will be assessed given that the activities are applied for individually, particularly if individually, they are assessed as 'no more than minor' but overall, the cumulative effect of these may not meet Part 4.

Commissioner of Crown Land's Standard on Easements, Transfers and Subleases affecting Crown pastoral land

Section 100S(1)- Standards in relation to the administration of pastoral land and its inherent values, including monitoring the state of the land.

Within clause 6 Easement Applications, how can public access be considered here? Currently the consultation process reads as being only required to consult with Director-General under 60(6) Land Act. Consultation with the public is strongly supported to facilitate a comprehensive consultation process.

Section 100S(1)-Clause 10(2)(b)-

Clause 10(2) is for the purpose of determining whether any past request for public access over the land was unreasonably refused under 89(2A) of the Land Act. Subclause (b) directs that the Commissioner will seek from the Crown agency a summary of views from a number of parties, agencies and iwi. Fish and Game is not included in this list but could fall under subclause (b)(v)- Any other group the Commissioner has requested.

Fish and Game has a specific function under the Conservation Act to maintain and improve access. Fish and Game works on access issues across the country and each Fish and Game Region is intimately familiar with access, including receiving complaints from both licence holders and the general public about access issues. It is considered that Fish and Game holds relevant and helpful information about access including historical issues. Fish and Game requests that included in the list of parties under 10(2)(b), that a (vi) be included; the relevant Fish and Game Regional Council.

Chief Executive Crown Pastoral Land Standard

Section 100S(2)- standards in relation to the framework for determining applications for discretionary pastoral consents, commercial recreation permits, or stock limitation exemptions.

Clause 5(1)(c)- The ability for the Commissioner to consider the matters under (c) is helpful to determine whether the information is sufficient to enable assessment of the application. It is not clear how all of the information will be obtained as different entities/organisations hold this. For example, Fish and Game are the statutory managers of the sports fish and game resource but it is not clear how these values are considered as part of this process or what the avenue is for these important values to be considered.

Clause 7(1)- Identification of Inherent Values

The aspects included are supported; however, the inclusion of the term 'where relevant' in (1) is unclear. How is relevance determined? It is considered that all the information should be sought and if there is not a particular value associated with a site, this should be made known.

The discussion document states "This clause sets out the different types of information that the Commissioner must source and receive to ensure that inherent values likely to be affected by the proposed activity have been identified. In some cases, there will be no inherent values affected or only some types of inherent values, but the Commissioner will receive information to confirm this when considering an application under new sections 10 to 12." This gives a different interpretation as to what is required than the proposed drafting, which inserts the words 'where relevant'.

Suggested action: Amend to delete the relevance test and direct that information on all matters is collected.

Clause (8)- No more than minor adverse effects on inherent values

This clause sets out to determine how 'no more than minor' and 'more than minor' are assessed. This ties back to 100R(1)(b) and types of effects to be assessed. There is still the concern around incremental loss of inherent values (ie cumulative effects) where a discretionary consent is issued where activities may be considered 'no more than minor' but over time, the whole of these activities have adverse effects that degrade inherent values.

Clause (9)- Reasonable Alternatives

Fish and Game support this clause as it outlines the criteria to help determine what a 'reasonable alternative' to a proposed activity is. This helps provide clarity around appropriateness, in particular subclause (c).

Appendix

Advocacy and freshwater ecosystems protection achievements by Fish and Game.

Since 1991, when the RMA came into effect, Fish and Game has:

I. protected the Hakataramea River from overallocation[2];

II. protected the Nevis River from damming (via an amendment to the Kawarau Water Conservation Order);

III. set minimum flow on select rivers, and allocation limits and water quality standards on all rivers in Otago through environment court processes;

IV. participated in the deemed permit process in Otago to restore ecosystems degraded by historic abstraction, including the Lindis High Court process, the Kyeburn Environment Court appeal and the Environment Court Plan Change 7 first instance hearing;

V. secured enhancement requirements for regionally significant wetlands in Otago, including recognising game hunting as a reason for protection;

VI. successfully sought an Environment Court declaration that Horizons Regional Council was not implementing the One Plan in a lawful manner by issuing multiple consents for intensive farming with nitrogen leaching figures significantly over those identified as necessary to achieve the Plan's water quality outcomes;

VII. lead the evidence which provided for the protection of the Tukituki catchment and established nitrogen limits in the Tukituki waterways, and preventing the building of the proposed Ruataniwha Dam;

VIII. secured recognition and provisions for the protection of salmon spawning sites in the Canterbury Land and Water Regional Plan;

IX. secured a prohibition on damming the Hurunui River due to the presence of the outstanding trout fishery;

X. increased the minimum flow in the Hurunui River based on salmon passage requirements;

XI. worked with environmentally aligned parties to secure incontrovertible recognition that agricultural land use was a significant contributor to degraded water quality in Southland's rivers, lakes and estuaries;[3]

[2] *Infinity Investment Group Holdings Ltd v Canterbury Regional Council* [2017] NZEnvC 36.

[3] https://www.stuff.co.nz/southland-times/southland-top-stories/113363858/federated-farmers-admits-its-time-to-start-cleaning-up-southland-rivers

XII. maintained a hydrological periodicity for wetlands such as Pukepuke Lagoon, Lake Omanu and the eastern Lake Wairarapa shore wetlands – the latter under the Lake Wairarapa Water Conservation Order;

XIII. successfully opposed a 35-year resource consent application, which was declined as a result, [4] by Open Country Dairy to more than double the amount of wastewater it discharges year round into the degraded Wairoa River;

XIV. secured 13 out of the total of 15 current Water Conservation Order's;

XV. provided feedback / written submissions as an affected party to thousands of consents affecting freshwater habitat and ecosystems nationally;

XVI. advocated for an active program to identify and remove fish passage barriers;

XVII. instigated research to place limits on discharges which increase instream water temperature to assist with the health of trout and native fish species population; and

XVIII. worked with flood protection management through the resource consent process to protect and preserve the geomorphological characteristics of rivers.

[4] Dairy company seeks to double its river discharge (newsroom.co.nz)