



Cabinet

CAB Min (09) 26/7C

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Minute of Decision

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Crown Pastoral Land: 2009 and Beyond

Portfolios: Agriculture / Conservation / Land Information

On 27 July 2009, following reference from the Cabinet Economic Growth and Infrastructure Committee, Cabinet:

Background

- 1 **noted** that:
 - 1.1 the tenure review process for South Island high country Crown pastoral leases is conducted under Part 2 of the Crown Pastoral Land Act 1998 (CPLA), and enables land to be returned to full Crown ownership and control (usually as public conservation land), and land being freeholded to leaseholders, with protective covenants if appropriate;
 - 1.2 as tenure review is a voluntary process, and only a certain number of reviews can be completed each year, it is likely that the Crown will be a long-term owner and administrator of pastoral land;
- 2 **noted** the Land Information New Zealand (LINZ) policy work programme for Crown pastoral land for the next two years, as outlined in Appendix A to the paper under EGI (09) 115;

A government strategic direction for Crown pastoral land

- 3 **noted** that the Commissioner of Crown Lands (CCL) must fulfil statutory obligations under the CPLA and the Land Act 1948, and can have regard to government policy and strategic direction;
- 4 **noted** that changes to the objects in Part 2 and Part 3 of the CPLA are not required in order to give effect to the strategic direction for Crown pastoral land;
- 5 5.1 **noted** that in August 2003, the previous government agreed that the government's objectives for the South Island high country are to:
 - 5.1.1 promote the management of the Crown's high country land in a way that is ecologically sustainable;

- 5.1.2 enable reviewable land that is capable of economic use to be freed of current management constraints;
- 5.1.3 protect significant inherent values of reviewable land by the creation of protective measures, or preferably by restoration of the land concerned to full Crown ownership and control;
- 5.1.4 secure public access to and enjoyment of high country land;
- 5.1.5 take into account the principles of the Treaty of Waitangi;
- 5.1.6 take into account any particular purpose for which the Crown uses, or intends to use, the land;
- 5.1.7 ensure that conservation outcomes for the high country are consistent with the New Zealand Biodiversity Strategy;
- 5.1.8 progressively establish a network of high country parks and reserves;
- 5.1.9 foster sustainability of communities, infrastructure and economic growth, and the contribution of the high country to the economy of New Zealand;
- 5.1.10 obtain a fair financial return to the Crown on its high country land assets;

[POL Min (03) 19/7]

6 **rescinded** the decision referred to in paragraph 5.1 above; and instead

7 **agreed** that the strategic direction for Crown pastoral land be comprised of:

- 7.1 an end outcome;
- 7.2 objectives that attempt to address all of the major issues with Crown pastoral land;
- 7.3 principles which apply in achieving the end outcome and the objective;

8 **agreed** that the government's end outcome for Crown pastoral land is that Crown pastoral land is put to the best use for New Zealand;

9 **noted** that this end outcome statement for Crown pastoral land means that Crown pastoral land is put to its best use for economic, environmental, and cultural purposes;

10 **agreed** that the government's objectives for Crown pastoral land are:

- 10.1 stewardship – effective stewardship of Crown pastoral land ensures that:
 - 10.1.1 ecologically sustainable management is promoted;
 - 10.1.2 pastoral and inherent values, including the natural character of lakesides and landscapes, are maintained and protected;
- 10.2 economic use:
 - 10.2.1 the contribution of Crown pastoral land to the New Zealand economy is promoted;
 - 10.2.2 lessees of Crown pastoral land will be charged rent on the basis of the earning capacity of the property;

10.3 relationships:

10.3.1 the iconic nature of high country farming and its contribution to New Zealand culture is valued;

10.3.2 viable rural high country communities are valued;

11 **agreed** to the following principles to apply in achieving the end outcome and objectives:

11.1 the Crown and lessees endeavour to manage issues, including acting as a good neighbour for those issues that transcend property boundaries;

11.2 the Crown acts as a good lessor;

11.3 the Crown engages appropriately with South Island high country parties;

12 **agreed** that lessees and other parties not be consulted on the strategic direction;

The Minister's role in approving funding for tenure review proposals

13 **noted** that in June 2007, the previous government:

13.1 agreed that, before any tenure review proposal can proceed:

13.1.1 it must receive funding approval from the Minister for Land Information, whose consent will be sought in principle at the preliminary proposal stage, and confirmed at the substantive proposal stage;

13.1.2 the approval will be sought at the same time as the CCL reports to the Minister for Land Information on the proposed outcomes of the tenure review;

13.1.3 the Minister for Land Information will consult the Minister of Conservation on both the proposed outcomes and funding;

13.2 directed LINZ to give effect to the funding approval requirement referred to above for appropriations in Vote Lands to be expended (or in some cases revenue received) on the financial settlement for a tenure review;

[CBC Min (07) 10/12, paragraphs 22 and 23]

14 **rescinded** the decisions referred to in paragraph 13 above; and instead

15 **agreed** that, before any tenure review substantive proposal can proceed:

15.1 it will be provided to the Minister for Land Information to enable his comment on the proposed outcomes, and to obtain funding approval from the Minister for the tenure review substantive proposal to proceed;

15.2 the Minister for Land Information will consult with the Minister of Conservation on the proposed substantive proposal outcomes and funding;

16 **directed** LINZ to give effect to the funding approval requirement referred to in paragraph 15 above for appropriations in Vote Lands to be expended (or in some cases revenue received) on the financial settlement for tenure review;

Exclusion of “lakeside” properties from tenure review

17 **noted** that in June 2007, the previous government invited the Minister for Land Information not to fund tenure review for properties adjoining, or within 5 kilometres and visible from, identified lakes, as follows (the lakeside policy):

- 17.1 agreed that high country pastoral lease properties with highly significant lakeside, landscape, biodiversity or other values, that are unlikely to be protected to the satisfaction of the Crown by the tenure review process, be excluded from the process;
- 17.2 agreed that the default assumption for lakeside properties is that they should be excluded from tenure review and that other means should be used to protect their landscape, biodiversity, access and other values, unless it is clear now or in the future that tenure review would:
 - 17.2.1 not significantly impact on those values;
 - 17.2.2 demonstrably be in the public interest;
- 17.3 agreed that the Minister for Land Information:
 - 17.3.1 ask the CCL to report to the Minister on all new properties due to enter into tenure review before the CCL makes a decision about whether or not to undertake the review;
 - 17.3.2 consult with the Minister of Conservation before providing comment to the CCL;

[CBC Min (07) 10/12, paragraphs 11, 14 and 16]

- 17.4 agreed that the conditions to be complied with in any tenure review would include:
 - 17.4.1 lakeside land being retained in Crown ownership (preferably) or covenanted to restrict subdivision;
 - 17.4.2 lakeside views being protected;
 - 17.4.3 no large artificial structures, barriers or subdivision within five kilometres of a lake;
 - 17.4.4 no significant alterations of the lakeshore;
 - 17.4.5 no pollution or significant impact on the lake’s aquatic ecosystem;
 - 17.4.6 due care being taken of historically important lakeside structures/foundations;
- 17.5 noted that the default assumption for lakeside properties is that they should be excluded from tenure review and that other means should be used to protect their landscape, biodiversity, access and other values (the default assumption), unless it is clear now or in the future that tenure review would not significantly impact on those values and would demonstrably be in the public interest (the reinclusion test);
- 17.6 agreed that for the purposes of the default assumption, a “lake” is a South Island high country lake greater than 5 square kilometres in area;
- 17.7 noted that the relevant lakes (from largest to smallest) are Wakatipu, Wanaka, Pukaki, Hawea, Tekapo, Benmore, Ohau, Coleridge, Aviemore, Dunstan, Sumner, North Mavora, Heron, Alexandrina, Waitaki, and Roxburgh;
- 17.8 agreed that, in application of the default assumption, the Minister for Land Information not fund tenure review for properties adjoining, or within 5 kilometres and visible from, the relevant lakes referred to above;

17.9 agreed that, in order for the default assumption to be displaced and the Minister for Land Information to consider approving funding of a tenure review proposal for a lakeside property, the reinclusion test referred to in paragraph 16.5 above would have to be met by the proposal complying with the conditions set out in paragraph 16.4 above;

[CBC Min (07) 23/19, paragraphs 5.1-5.6 and 6-10]

18 **noted** that the lakeside policy means that 43 of the current Crown-owned lakeside properties listed in Appendix D to the paper under EGI (09) 115 are currently excluded from tenure review;

19 **noted** that the lakeside policy is inflexible, has arbitrarily excluded properties from tenure review, and has adversely affected relationships between the Crown and lessees;

20 **rescinded** the decisions referred to in paragraph 17 above; and instead

21 **noted** that concerns around lakesides can be mitigated by:

21.1 the CCL's current obligation under the CPLA to consult the Director-General of Conservation on all proposed tenure reviews;

21.2 including a specific reference to lakesides and landscapes within the objectives in the strategic direction for Crown pastoral land;

21.3 retaining the Minister for Land Information's role in approving funding for each tenure review substantive proposal;

21.4 the robust checks provided by the Tenure Review Quality Assurance Board;

22 **directed** officials to report back to the Minister for the Environment, Minister of Conservation, the Minister for Agriculture and Forestry, and the Minister for Land Information on the consideration of options, such as:

22.1 creating time-limited covenants, for example preventing subdivision for a specified period, to allow sufficient time for district plans to be amended where they do not anticipate issues associated with the freeholding of land formerly held in pastoral leases;

22.2 creating permanent covenants to prevent subdivision;

22.3 addressing gaps in district plans around preventing unsustainable or inappropriate development on pastoral land freeholded through tenure review;

22.4 the Crown to submit on the 8 to 10 district plans on matters relating to pastoral leases;

- 23 **agreed** that the CCL be requested to give consideration to current controls in district plans and their ability to protect significant inherent values on pastoral lease land that is to be freeholded, when conducting tenure review, until the report referred to in paragraph 22 has been considered.

Secretary of the Cabinet

Reference: CAB (09) 394; EGI Min (09) 14/5; EGI (09) 115

Secretary's note: This minute replaces EGI Min (09) 14/5. A Cabinet minute has been issued for this item as it involves rescinding previous Cabinet decisions (paragraphs 6, 14 and 20).
