

**Note that the recommendations in this paper were altered by Cabinet – see
CBC Min (03) 10/3 (also on the internet)**

Chair
Cabinet Policy Committee

GOVERNMENT OBJECTIVES FOR THE SOUTH ISLAND HIGH COUNTRY: REPORT BACK

Proposal

1. This paper reports on the Government's South Island high country objectives and signals intentions for the 2004 Budget bid.

Executive Summary

2. On 11 August 2003 Cabinet agreed to objectives for the South Island high country that include conservation, social and productive land-use outcomes. Cabinet also approved a work programme and invited the Minister of Agriculture and for Rural Affairs, the Minister for Land Information, and the Minister of Conservation to report to the Cabinet Policy Committee by 1 December 2003 [CAB Min (03) 27/3 and POL Min (03) 19/7 refer].
3. Tenure review under the Crown Pastoral Lands Act 1998 (CPLA) is the predominant method by which the Crown achieves productive economic land-use and conservation outcomes in the South Island high country.
4. Tenure review is a negotiated agreement between the Crown and the lessee. As a result of the negotiation process, some land with inherent values recommended for protection may not be protected, and some land with productive economic land-use values is returned to full Crown ownership as public conservation land.
5. A second method to achieve objectives is through whole property purchase, which enables the Crown to achieve conservation outcomes over most of a property and for the balance to become available for productive economic land-use.
6. Two parks have been created to date. There is potential, through tenure review and whole property purchases, to achieve 15 – 20 parks and a reserves network in the high country. *[Next sentence withheld – section 9(2)(f)(iv) Official Information Act 1982]*
7. Productive economic land-use outcomes have been achieved on properties tenure reviewed under the Land Act 1948 and will continue to be achieved as properties complete tenure review under the CPLA.

8. There are likely to be social and economic effects in the high country in achieving the objectives. These effects will be caused by changes in land use and corresponding employment patterns. There will be destocking of sheep in some of the high country, new businesses will develop and there will be new employment in conservation management and tourism. Social and economic outcomes for high country communities can be predicted in general terms. Preliminary research on the economic outcomes for New Zealand is incomplete but there will be a loss of income from pastoral farming and a negative impact on the merino textile industry.
9. Tenure review is a voluntary process and some lessees may choose not to complete the programme. The paper presents reasons for non-participation and proposes that Ministers consider incentives if it can be established in the future that lessees are not participating in, or completing tenure review.
10. The Minister for Land Information and the Minister of Conservation intend to submit a budget bid as part of the 2004 Budget process to seek appropriation for achieving outcomes for the high country.

Background

11. The Crown owns 2.37 million hectares (m.ha) of high country land, mostly above 600 metres in altitude, located from Marlborough to Southland, which is leased or licensed. There are: 304 high country leases (2.17m.ha), granted on a perpetual basis with 33-year rights of renewal; five pastoral occupation licences (0.02m.ha) issued for a maximum of 21 years with a possible extension of 5 years; and one special lease (0.18m.ha, at Molesworth Station¹).
12. Much of the high country has been grazed since the mid-19th century and is environmentally sensitive. The Land Act 1948 (Land Act) aimed to give leaseholders greater incentive to look after the land by granting them more secure rights to it, especially by making leases perpetually renewable. Other rights held by leaseholders are exclusive occupation rights, rights to use the land for pastoral purposes (pasturage), and fixed rentals. These rights were carried over into the CPLA, although the Crown was given greater powers to control land use. The discretionary consent of the Commissioner of Crown Lands (the Commissioner) is required to maintain stock numbers, for farming activities that disturb soil or vegetation, and for non-pastoral economic activities (e.g. forestry or commercial recreation).
13. Tenure review under the CPLA results in a pastoral lease being split into land to be protected as public conservation land and land to be freeholded. The use of other land designations is very rare.

¹ Cabinet recently agreed that Molesworth should become a recreation reserve administered by DoC and farmed by Landcorp Farming Ltd, subject to a special lease under the Land Act. [CAB Min (03) 38/4 and POL Min (03) 30/9 refer].

14. Tenure review is a voluntary process that is administered by the Commissioner and other officials in Land Information New Zealand (LINZ). The Department of Conservation (DoC) advises LINZ about significant inherent values (SIVs)², and what land should be protected. DoC manages land transferred into full Crown ownership as public conservation land. Currently 174 leases are in the tenure review programme, with sixteen reviews at or near completion. Details about the tenure review process is described in an earlier paper [EDC (03) 40] refers].
15. On 11 August 2003 Cabinet agreed to objectives for the South Island high country that include conservation, social and productive land-use outcomes. Some of the objectives were derived from the Crown Pastoral Lands Act 1998 and others were complementary to it. Cabinet also approved a work programme to explore how best to achieve the objectives [CAB Min (03) 27/3 and POL Min (03) 19/7 refer].
16. As part of the work programme, Cabinet invited the Minister of Agriculture and for Rural Affairs, the Minister for Land Information, and the Minister of Conservation to report to the Cabinet Policy Committee by 1 December on the following topics:
- Freeing of land capable of economic use from current management constraints;
 - Protection of SIVs;
 - Identification of biodiversity values;
 - Priorities for a network of high country parks and reserves;
 - Public access;
 - Socio-economic implications;
 - Fair financial return to the Crown;
 - The impact of rising land prices;
 - The range of tools for achieving the objectives; and
 - Review the consultation process.

² Section 2 of the CPLA provides:

“Significant inherent value”, in relation to any land, means inherent value of such importance, nature, quality or rarity that the land deserves the protection of management under the Reserves Act 1977 or the Conservation Act 1987:”

“Inherent value”, in relation to any land, means a value arising from -

- (a) A cultural, ecological, historical, recreational or scientific attribute or characteristic of a natural resource in, on, or forming part of, or existing by virtue of the conformation of, the land; or*
- (b) A cultural, historical, recreational, or scientific attribute or characteristic of a historic place on or forming part of the land:”*

“Natural resources” means -

- (a) Plants and animals of all kinds; and*
- (b) The air, water, and soil in or on which any plant or animal lives or may live; and*
- (c) Landscape and landform; and*
- (d) Geological features; and*
- (e) Ecosystems; -*

and “natural resource” has a corresponding meaning:”

Stakeholder Consultation

17. As part of the preparation for this paper, officials from LINZ, DoC, MAF and the Treasury met with the lessee representatives (i.e. the High Country Accord) and ENGOs (i.e. the High Country Coalition) on 20 and 21 November 2003. Officials from DoC and LINZ also discussed issues with Ngai Tahu and members of the New Zealand Conservation Authority. DoC and LINZ will attend a hui organised by Ngai Tahu in February 2004 to discuss the objectives further.
18. The key points raised by the groups were:

Lessee representatives:

- support current voluntary tenure review process and whole property purchase or land swaps;
- wish to see greater transparency over the criteria defining SIVs, while retaining sufficient flexibility to allow for negotiation;
- believe there should be a greater emphasis on the use of protective mechanisms on freeholded land, rather than restoration to full Crown ownership and control;
- want assurance that DoC will be at least as good a land manager as the lessees have been;
- believe that a high proportion of lessees that are currently in the programme will not complete tenure review, unless there is more frequent use of covenants and less land is returned to the Crown;
- comfortable with the parks and reserves network concept provided this is achieved through negotiation and the Crown remains patient;
- believe that the assessment of SIVs needs to be on a catchment or district basis, rather than on a property by property basis, because this would enable a better overall assessment of the natural and cultural values needing protection.

ENGOs:

- concerned that SIVs, particularly lowland or valley floor habitats/ecosystems and landscapes, are not being adequately protected;
- they prefer the Crown to either withdraw from a tenure review (and find ways to protect SIVs while they remain under a pastoral lease) or to adopt a moratorium on tenure review rather than the above situation continuing;
- wish to retain SIV definition that is sufficiently flexible to allow for negotiation;
- believe that land capable of restoration should also be restored to Crown ownership;
- support the high country parks and reserves network concept, but only if this is not seen as a substitute for the protection of other SIVs on a property;
- concern that parks may be established without prior public consultation;
- want greater security of public access than is currently being provided;
- support whole property purchases;
- oppose the use of protective mechanisms, except in limited situations;
- favour covenants for landscape protection or for properties to remain as pastoral leases;
- believe that equality of exchange payments to the lessees are sometimes excessive; and

- note there is a requirement to report on SIVs but there is no equivalent requirement to report on the land for its economic-use value.

Ngai Tahu:

- prefer full Crown ownership of areas with significant inherent values, in preference to covenants;
 - support the high country parks and reserves network as a good method that has the flexibility to protect cultural sites; and
 - believe we need to consider links in the landscape between parks, even though these may not have SIVs in their own right.
19. Members of the New Zealand Conservation Authority (NZCA) were also consulted. They:
- support the parks and reserves network concept;
 - agree that the parks should be located from Marlborough to Southland; and
 - anticipate that the high country parks will provide a range of activities not generally allowed in national parks, such as mountain biking and horse riding.

Freeing of land capable of economic use from management constraints (objective derived from the CPLA)

20. Cabinet asked MAF to review the achievement of this objective and evaluate the impact of it on SIV protection policies. Promoting ecologically sustainable management and enabling the protection of SIVs are the principal objects of the CPLA.
21. Freehold lands capable of economic use are lands where productive use is the primary activity, e.g. through pastoral farming³. Land that has been freeholded may be used for a range of purposes that were not permitted as of right when the land was pastoral lease. Recent examples in Otago include viticulture, commercial recreation, deer farming, commercial vehicle testing, a lifestyle subdivision, and a proposed hydro-electric scheme.
22. Not all properties, however, will have the potential for alternative economic use. There are limited areas in the high country that have the soil and climatic conditions to support high value forms of production (e.g. grapes), and there are few opportunities for new cropping operations. MAF considers that the current forms of land use will continue, with a gradual intensification of production. In a number of areas, intensification will be dependent upon improving access to water resources.
23. Caution should be taken in assessing the opportunities high country run holders have to subdivide their land for lifestyle blocks and residential tourism. Not all locations combine the landscape features, favourable climatic conditions and transport networks that will attract retirement and lifestyle investors. These forms of development will also be restricted by district plans, which are likely to tightly control proposals for new development.

³Public conservation land acquired through tenure review also contributes to economic outcomes both directly (through tourism and concessions for grazing and other activities) and indirectly (e.g. through recreation services).

Achievement of the objective

24. Tenure review initially commenced under the Land Act 1948, where approximately 0.175m.ha were reviewed, and the process continued under the CPLA (2.19m.ha eligible for review). 195,000ha⁴ of high country pastoral lease land will have become freehold by 30 June 2004⁵. Under the CPLA, 54% of pastoral lease land has been freeholded and 46% returned to full Crown ownership (as public conservation land). By the end of the tenure review programme, officials estimate that the split will more likely be 50% freeholded and 50% conservation land.
25. Prior to the CPLA under the Land Act, 36 reviews were completed. Under the CPLA, freehold titles have been issued over parts of 3 former pastoral leases, agreements are being implemented for 16 other pastoral leases, and 158 are in various stages of tenure review. 130 properties are not yet in tenure review.
26. The key method for achieving the economic land-use objective is by freeholding land that is subject to a pastoral lease or licence. This will continue to be achieved while individual lessees agree that the tenure review process results in a net benefit for them.

Potential barriers to achieving the objective

27. Tenure review is voluntary and lessees may choose not to participate, although nearly two-thirds of lessees have entered the programme. The reasons for non-participation include that lessees may:
- want to wait and see the results that tenure review is able to deliver on other properties;
 - anticipate that tenure review will not yield enough land for a viable economic unit;
 - be unwilling to replace the exclusive use rights of recreation permits under the Land Act (e.g. for commercial activities such as trophy hunting or heli-skiing over their pastoral lease) with non-exclusive concessions under the Conservation Act 1987;
 - lack financial capital or business skills to take advantage of the opportunities that freeholding presents. Such lessees may wish to continue as pastoral farmers under current arrangements⁶;
 - lack sufficient information on which to assess the value of tenure review to them; and
 - simply have no desire to freehold due to a strong attachment to the land.
28. There is a risk that some lessees may withdraw from a tenure review but so far only one lessee has done so, because the Crown's substantive proposal was unacceptable. Another has not agreed with the substantive proposal, but does not wish to withdraw from the process.

⁴ By way of comparison, Molesworth Station is 181,000ha.

⁵ About 107,000 ha under the Land Act 1948, 48,000ha under agreements reached under the CPLA and 40,000ha expected to be confirmed by 30 June 2004.

⁶ Developing new or intensified forms of land use activity can be an extended process (up to five years), during which time, landowners will need to fund both capital and operational expenses, off a reduced land area. This takes careful planning, and the support of the banks.

29. Officials propose to continue to monitor the achievement of this objective including lessee participation in tenure review. It is proposed to report to Cabinet on progress and issues each year in October [POL Min (03) 19/7 refers]⁷.

Impact of achievement on SIV protection policies

30. ENGOs and, less frequently, DoC have expressed concern that SIVs, particularly those that are lowland or valley floor habitats and ecosystems (i.e. below 900m) and landscapes, are not being adequately protected through tenure review. Officials propose to increase their efforts to ensure that completed tenure reviews protect vulnerable lowland SIVs and significant landscape values.
31. Tenure review is a negotiated process and there is expected to be some flexibility on the Crown's part in coming to an agreement. A decision that a SIV should be protected is a matter of professional judgement. This requires some flexibility in the criteria used by DoC for assessing SIVs. Officials have also agreed to transitional arrangements, such as the granting of grazing permits over former pastoral lease to enable farming activity to remain viable over a set time period.
32. The voluntary basis on which any tenure review proceeds is an approach that has been previously endorsed by the Crown and lessees. This approach is a strong basis for the development of a good neighbour relationship between future freehold landowners and DoC. While it is possible to acquire land on a compulsory basis for conservation purposes using the Public Works Act 1981, officials caution against initiating any compulsory mechanisms at this time as it would jeopardise the relationship between the Crown and the farming community. There is also no need to consider a compulsory regime at this time.

Protection of significant inherent values (SIVs) (objective derived from the CPLA)

33. Cabinet asked DoC to review whether SIVs can be ranked in priority order (so that the circumstances for when different protection mechanisms should be used can be identified) [CAB Min (03) 27/3 and POL Min 19/7 refer]. Promoting ecologically sustainable management and *enabling* the protection of SIVs are the principal objects of the CPLA. SIVs are defined in the Act as being values “of such importance, nature, quality or rarity that the land deserves the protection of management under the Reserves Act 1977 or the Conservation Act 1987”. SIVs are widespread in Crown pastoral lands. Every pastoral lease has a unique range of sites containing one or more SIVs, often found in different parts of the property. On some properties the SIVs are extensive, but on others they are limited in extent.

Ranking significant inherent values

34. The inherent values on each property under the tenure review programme are described under the main headings of landscape, species, ecosystems, historic/cultural and recreational opportunity. Each value is assessed for its relative importance using standard methodologies that are applicable to that type of value. Certain values are readily identifiable as significant in their own right, and other values or combinations of values may be identifiable as significant. Protection proposals are developed for them, taking practical considerations into account such as continuity and buffering.

⁷ Note the POL Minute directs a report back as part of the October Baseline Update (OBU) process. Officials consider that the report should be directly to Cabinet rather than in an appendix to the OBU.

35. It is sometimes possible to rank an attribute of a specific component of landscape, species, ecosystems, historic/cultural and recreational opportunity. For example, it is possible to rank different bird species according to their threat status—i.e. from “nationally critical” to “not threatened.” DoC considers that it is not possible, however, to explicitly and consistently rank different kinds of values in priority order. To do so would be to say that, for example, historic/cultural values are worth more than landscape or ecosystem values. Each “trade-off” needs to be considered on a case by case basis.
36. The most practical approach to tenure review is to identify the inherent values on a property, form a view as to their relative importance, and where necessary allow an informed discussion between the lessee, the public and the Crown to influence the nature of the protection mechanism chosen to protect the values. Where inherent values proposed for protection and lessee freeholding aspirations coincide, achieving an agreement will require flexibility and negotiation. DoC considers that it is not possible to comprehensively apply standards for determining whether the inherent values are SIVs.

Protection mechanisms

37. Tools available under the CPLA for the protection of SIVs through tenure review are either to return the land to full Crown ownership or protective mechanisms such as covenants and easements. The former has statutory preference in the CPLA. Note that the tools in the CPLA can only be used as part of a tenure review agreement between the Crown and the lessee.
38. Cabinet (CAB Min (03) 27/3 and POL Min (03) 19/7) asked DoC to recommend guidance for determining when to use protective mechanisms and when to return the land to full Crown ownership as public conservation land. DoC advises that:
- a. each case needs to be considered on its own merits;
 - b. full Crown ownership is preferable:
 - where active conservation management requires the sustained exercise of rights associated with ownership: For example to carry out the pest control that is required to achieve the desired conservation outcomes. Ownership also enables this to be achieved far more efficiently and effectively than having to negotiate access and management proposals with a third-party on an ongoing basis;
 - when public interest in the land is high, such as for secure and free access to enjoy recreational opportunities, or for involvement in management decisions; and
 - where doing so will facilitate public enjoyment and use through appropriate activities provided by competing provider concessionaires (rather than the single provider approach of recreation licenses under the Land Act);

- c. covenants may be more appropriately used for:
- i. discrete areas surrounded by land to be disposed of as freehold, where:
 - the conditions of the covenant will provide protection for the SIVs;
 - the SIVs of the area do not require active conservation management;
 - where public interest in access is low; and
 - it is more cost-effective to use a covenant than full Crown ownership;
 - ii. for larger areas where the SIVs are sufficiently robust not to require any conservation management (e.g. certain landscape features);
- d. easements are generally only appropriate to provide rights of way for public access only through land to be disposed of as freehold.
39. Some lessees believe that there should be a greater emphasis on the use of covenants on freeholded land, rather than restoring the land to full Crown ownership. Under a covenant, the landowner gives away certain rights of use, and retains other rights (such as undisturbed occupation). On pastoral leases the Crown is the landowner and the lessee has no rights to the natural values except to the extent that they can be used for grazing or occupation. The principle of tenure review is that the lessee gets more secure rights to productive values (e.g. grazing) and the Crown gets more secure rights to the SIVs. It is appropriate that the Crown retain unfettered ownership of those values.
40. Farmers appear to favour covenants because they often allow a greater amount of grazing than normally allowed in conservation areas or reserves. This may be appropriate in some situations, but in most situations grazing prevents the regeneration or restoration of taller denser indigenous cover. Covenants are therefore more likely to maintain a set state, rather than allow natural recovery of a site. Where grazing will continue, covenanted areas are also likely to require greater monitoring effort by the Crown. Even so, it may take only one act (e.g. burning or mob-stocking) to damage the natural values.
41. Covenants are also less likely to provide for unrestricted public access, partly because the landowner may consider that such use will interfere with his/her own use (e.g. grazing) and partly because such use may affect the landowners quiet enjoyment of the area.
42. Covenants are generally best suited for freehold land, where the landowner wishes to make a commitment to long-term protection. Covenants could be appropriate on freeholded land in the high country to:
- to prevent the establishment of trees (plantation or wilding), tracks or buildings on areas with high scenic values that have no other natural (biological or natural landscape) values; or
 - to protect features constructed by the landowner which have some wider recreation or historic value (e.g. family graves or plantings).

New Zealand Biodiversity Strategy (objective complimentary to the CPLA)

43. Cabinet asked DoC to review current methods for identifying “significant inherent values” to ensure that they are consistent with the New Zealand Biodiversity Strategy 2000 (NZBS) [CAB Min (03) 27/3 and POL Min (03) 19/7 refer]. DoC has reviewed current identification methods and believes that these are consistent with the NZBS, but the tools for achieving biodiversity protection can be improved upon.
44. The Crown pastoral lands contains key habitats and populations of indigenous species that are acutely threatened or are in serious decline, e.g. black stilt/kaki, blue duck/whio, orange-fronted parakeet/kakariki, kea, Otago skink, grand skink, and a range of plants, freshwater fish and other animals. Discoveries of new species continue to be made. Crown pastoral lands also contain examples of a wide range of ecosystems—i.e. 13 out of the 20 level one environments/ecosystems identified in the Land Environments of New Zealand classification system—which are relatively unmodified by human activity.
45. Current practice is to identify threatened indigenous species and their habitats and examples of ecosystems that have been significantly modified elsewhere as having priority for protection. This is consistent with the NZBS goal to: “maintain and restore a full range of remaining natural habitats and ecosystems to a healthy functioning state, enhance critically scarce habitats, and sustain the more modified ecosystems in production and urban environments; and do what else is necessary to maintain and restore viable populations of all indigenous species and subspecies across their natural range and maintain their genetic diversity”. The NZBS does not require, however, that every threatened species population, habitat or ecosystem example be protected.
46. The protection of lowland or valley floor habitats and ecosystems has been difficult to achieve under tenure review. Lowland areas are generally the most modified parts of pastoral properties and generally have the best potential for alternative or more intensive land uses. They are therefore the places that the lessee wants to freehold unencumbered. Recent tenure reviews in Canterbury, however, have achieved some good lowland protection outcomes through equality of exchange payments to lessees.
47. It has been even more difficult to achieve protection for complete altitudinal sequences from the lowlands to the alpine zone, but has been relatively easy to protect the highest altitude ecosystems. Alternative tools such as whole property purchase are needed for the adequate protection of lowland systems and altitudinal sequences.
48. Until a tenure review is completed, pastoral leases remain under the administration of the Commissioner. The Commissioner must take into account the desirability of protecting the biodiversity inherent values of the land concerned but must also take into account the desirability of making it easier to use the land for farming purposes. This set of issues is due for reporting to Ministers by 31 March 2004.

Network of parks and reserves (objective complementary to the CPLA)

49. Cabinet asked DoC to identify priorities for land suitable for inclusion in a network of high country parks and reserves [CAB Min (03) 27/3 and POL Min (03) 19/7 refer]. In general, the network of high country parks and reserves should protect the natural character and biodiversity of the eastern South Island high country, its scenic and landscape character, its contribution to the nation's historic and cultural heritage, and its

many sites of scientific importance. The network, along with its associated access easements, marginal strips and public roads should ensure that the public have access to and the full measure of enjoyment of their high country heritage.

Parks

50. Existing public conservation land and conservation land that will be acquired through the tenure review process could be recategorised as “high country conservation park” where it generally meets the criteria that it:
- is at least 10,000 ha in size;
 - has a distinct ecological character;
 - is contiguous, of an appropriate shape for long-term ecological viability;
 - is accessible to the public, by car in dry weather or within a one-hour walk from a road end in wet weather;
 - provides for a range of recreational opportunities, including opportunities that can be provided by concessionaires; and
 - contributes to the full range of large scale landscape/ecology that is found in the rain shadow eastern South Island high country from Marlborough to Southland.
51. In the long-term, DoC envisages a network of 15-20 new high country parks, including extensions to existing conservation parks and national parks. Two high country parks have already been created: Korowai/Torlesse and Te Papanui Conservation Parks.
[Next sentence withheld – section 9(2)(f)(iv) Official Information Act 1982]
52. The new high country parks will complement the existing South Island network of seven national parks, eight conservation parks and Molesworth Station. DoC proposes that this network of high country parks will total about 1.8m.ha, comprising 0.85m.ha of existing public conservation land and 0.95m.ha of Crown pastoral land returned to full Crown ownership mostly by tenure review but with some strategic purchases. The majority of this land will be at high altitude, and about 50% of it is already retired from grazing or is not grazeable (e.g. shrub land, beech forests, bare rock, scree, fellfield⁸ and glaciers). The network will develop progressively. Properties that are needed for parks nearing completion will either be given priority for tenure review processing or whole property purchase, or invited to join the tenure review programme.
53. DoC has identified pastoral leases that could contribute areas to the envisaged network of parks. Two-thirds of these leases are currently in tenure review (but with no certainty of an outcome). Some whole property purchases could be required.
54. Where whole properties are acquired, there will be some opportunity to establish a land bank of surplus blocks that have limited conservation value. This land, if it has productive value, could be utilised to facilitate land exchange with neighbouring leasehold / freehold properties, on a willing buyer – willing seller basis. This tool may allow the high country park objective to be achieved, while facilitating the economic viability of the neighbouring properties.

⁸ an environment characterised by sparse, prostrate or dwarf flowering plants and flat, stony soil.

Reserves

55. The term “reserves” in this context is used to describe public conservation land of various classifications, such as reserves under the Reserves Act, and conservation area and marginal strips under the Conservation Act. The investigations of pastoral leases under tenure review and other knowledge of the high country suggests to officials that all pastoral lease properties are likely to contribute to the network of high country reserves.

Achieving the network of parks and reserves

56. The high country parks and reserves network will not be achieved unless tenure review agreements include payments to buy out lessee interests in land, where necessary, and tenure review is supplemented with whole property purchases.

Barriers to achieving the parks and reserves network

57. If the network of parks and reserves is unable to be achieved by whole property purchase or tenure review then Cabinet may wish to consider other options in the future, including:
- a introducing market rentals⁹ (see paragraphs 89-94);
 - b reviewing the recreation permit regime (see paragraphs 103-107);
 - c initiating compulsory land acquisition for conservation purposes; and
 - d more active management of SIVs by the landlord.
58. The options referred to above will require further consideration by officials and Cabinet’s agreement before they may be taken further.
59. The Minister for Land Information and the Minister of Conservation intend to submit a budget bid as part of the 2004 Budget to seek funding for the initial phase of creating the network of high country parks and reserves (among other things).
60. It is proposed to monitor how well tenure review and whole property purchases are achieving the high country park and reserves objective and report to Cabinet by 31 October each year.

Public access (objective derived from the CPLA)

61. Cabinet asked MAF to explore options to better achieve secure public access to and enjoyment of high country land. An object of the CPLA is to “secure public access to and enjoyment of reviewable land”. This may be done by way of an easement under the Reserves Act 1977, the Conservation Act 1987, or the New Zealand Walkways Act 1990. Secure access cannot be addressed while the property remains in pastoral lease. Cabinet asked for:
- interpretation of access provisions in the CPLA, including access to adjoining conservation land;
 - review of practice to identify solutions to access problems without needing legislative change;
 - identification of marginal strips;

⁹ Note that even at market rates the rents may still be too low to be a sufficient incentive.

- overall access requirements for the high country, in relation also to the work of the Land Access Ministerial Reference Group (LARMG); and
- identification of present and future opportunities for public use and enjoyment.

Interpretation of access provisions in the CPLA

62. DoC and ENGOs are concerned that the access provisions of the CPLA were being interpreted by the Commissioner in a way that access easements could only be provided across private land to land on the property that was either restored to full Crown ownership or to freehold land that was subject to a protective mechanism. Access would not be provided under the CPLA across freehold land to an adjacent pastoral lease property in the expectation that it would be reviewed and part of it returned to full Crown ownership at a later time. Neither would access be provided across freehold land to existing conservation land.
63. LINZ legal advice is that the CPLA allows the provision of access to conservation land that adjoins a pastoral lease and it also supports the general provision of access across freehold land. It is proposed that Ministers direct officials to consider access adjoining lease properties and to adjoining conservation land where appropriate.

ENGO concerns about easements

64. ENGOs are concerned that tenure review is not achieving the objective of secure public access to and enjoyment of high country land and to rivers and lakes (e.g. Lake Wanaka). They have proposed that reserves and paper roads are more secure tools for providing access than easements. Reservation is a tool that is available under the CPLA to provide access to land restored to full Crown ownership. ENGOs consider that for access ways to be practical, they require a survey to determine their location. This is necessary to ensure that access ways are practical and people can use them (i.e. they are free of barriers such as bluffs, shingle, boulders or dense scrub). In addition, a reserve could separate a title and thereby create land-locked land, which could create a demand for and need to provide an easement (to the lessee) to cross the reserve. This latter restriction would not apply in the case of a legal road because the road would provide access on either side along its length.
65. The overall tenor of the CPLA raises questions about whether the CPLA can be legitimately used for creating legal roads. In this regard, the CPLA does not require the Commissioner to establish paper roads but the ability to designate land as land to be restored to or remain in Crown control for some Crown purpose (refer s 35(2) CPLA), may be able to be applied to roads or pathways. These may be able to be limited as to class of user (e.g. foot, cycle, horse, motorised vehicle or a combination of these) through the designation process. The legality of these issues has not been fully explored for the purposes of this paper.
66. Some local bodies are not keen to acquire new paper roads because this might lead to an expectation that they would form the road at some stage in the future. ENGOs disagree and recognise that no such obligation arises. While ENGOs note that many paper roads exist elsewhere to provide legal access, councils are under no legal obligation to form these roads. Officials note, that the costs of survey for paper roads are usually significantly more expensive than survey for easements.

67. The process for revoking an easement is admittedly not a public process. In reality, however, easements are very rarely revoked, and the revocation of an easement for public access will always involve the participation of a public interest agency. ENGOs also note there is a different power relationship when exercising access by easement over freehold land rather than over Crown land.
68. The concerns expressed by the ENGOs in respect of access are consistent with concerns expressed to DoC and LINZ by the local Member of Parliament for Otago.

Identification of marginal strips

69. The identification of marginal strips has been a feature of the public consultation undertaken by the LAMRG, and this will be reported on in early 2004. It is expected that the issues raised below will also be addressed.
70. When a pastoral lease is freeholded, Part 4A of the Conservation Act 1987 makes provision for the reservation from sale of a marginal strip of at least 20 metres, unless the creation of a marginal strip is explicitly exempted. The marginal strip provisions apply along the banks of all rivers over 3 metres in average width that cross or abut the land being disposed of. Marginal strips are “laid off” by operation of law without any particular intervention being required.
71. Marginal strips, however, are not routinely surveyed as part of the tenure review process and therefore do not always appear on survey plans. Identifying marginal strips on a survey plan is not a legal requirement and may have little practical benefit because average stream width may change, as may the location of a watercourse (and hence the location of the marginal strips will also change). To remain current, location information about marginal strips would need to be reviewed on a regular basis. However, a note to the effect that Part 4A of the Conservation Act applies will appear on the survey plan and on a title, which indicates that marginal strips apply to qualifying rivers. For pastoral leases that have not completed tenure review a statement that Part 4A of the Conservation Act applies may be recorded in the applicable plans and records of the land registration district. Regardless of whether the information is recorded or not, Part 4A still applies.
72. Users oppose the practice of simply noting that Part 4A applies because it is uninformative. The identification of marginal strips during a tenure review provides crucial information to help identify recreation and access options. Concern has been expressed that if marginal strips are not identified and surveyed, it is difficult for the parties to be sure whether those strips will provide legal or practical access though freehold land to conservation land, rivers and lakes.
73. The general issue of public access to information about marginal strips is being considered in the work of the LAMRG.

Identification of present and future opportunities for public use and enjoyment.

74. Access requirements will be considered in the context of achieving the parks and reserves network. The policy direction sought in paragraph 63 will enable future recreation requirements to be considered when properties are tenure reviewed.

Review of practice to identify solutions to access problems without needing legislative change; and overall access requirements for the high country, in relation also to the work of the LARMG

75. Further findings relating to access problems and issues, including the identification of marginal strips, will be reported by 31 March 2004, with reference to the findings of the LARMG. In the interim, there is no reason why access to DoC land, rivers and lakes should not be achieved during tenure review using existing mechanisms.

Consequences of land use change for social and economic outcomes (objective complimentary to the CPLA)

76. Cabinet asked MAF to report on the consequences of land use change for rural infrastructure, society and economy, and for the national economy [CAB Min (03) 27/3 and POL Min (03) 19/7 refer].

Impacts on rural communities

77. MAF has undertaken an analysis of the demographic structure of the high country community, to assess the response to changes resulting from tenure review. The effect of tenure review is uncertain and the social and economic impacts are correspondingly uncertain¹⁰. The following general observations are able to be made:
- a. The high country (including the 304 leasehold properties) supports a working population conservatively estimated at 10,500¹¹ (usually resident population).
 - b. Apart from the centres of tourism growth, the high country has a stable to declining population. Nearly 45% of Census meshblocks have experienced population growth, particularly in areas that have had the greatest tenure review activity. Almost 45% of meshblocks have experienced out-migration in the past ten years.
 - c. The high country has had the greatest population losses where the least tenure review activity has taken place.
 - d. There has been a general ageing of the population over the 1991 – 2001 period of 4 years (avg. 35.1 years). The average maximum age in the meshblocks was 10.6 years higher (avg. 62.6 yrs). Population loss and an aging population may limit workforce flexibility and the responsiveness of individuals, and households, to economic drivers;
 - e. There is a wide income spread across the high country and so there is variation in the financial ability of the population to adapt to negative economic change.
 - f. Marked changes to rural communities and economy in a particular locality may occur when a group of properties in a location becomes conservation land in a short time period. This is likely to occur when a number of adjacent properties are converted into a park or where there is intense tenure review activity

¹⁰ Predicting the socio-economic effect is also compounded because tenure review is currently forecast to be completed in 2008 and hence will take place over a time period. DoC on the other hand does not anticipate completing the parks and reserves network before 2014.

¹¹ This population estimate was derived from a desk top analysis of the Census meshblocks which are included within the pastoral lease properties or which intersect these properties. Adjustments have been made for the tourist and transport centres within the high country.

focussed on a particular area, such as around a lake. When properties are being converted on a property by property basis in an ad-hoc manner, and the tenure review activity is not concentrated in any particular region, the socio-economic impacts will probably be less.

Employment

78. The high country has an employment profile dominated by agriculture, and agricultural servicing activities. While some of the labour displaced from this sector could be absorbed in other employment areas, inevitably some agricultural labour is likely to search for similar employment in other regions.
79. It is anticipated that a proportion of the labour made surplus through tenure review will be retained, as landowners are expected to intensify production on the remaining area, and to develop alternative land use activities. On an individual property, these new jobs may take some time to emerge and some labour will need to find transitional employment.
80. A lower proportion of the high country population is without qualifications than the national average and 61.3% are qualified above school certificate level. This provides some assurance that residents have the skills and educational capacity to adapt to a changing economic environment. However, less qualified people may experience difficulties in finding employment.
81. The conservation management requirements of the network of new conservation parks and reserves in the high country will provide opportunities for employment. Some conservation jobs could be drawn from within the high country, as is already the case for management of existing public conservation land, while others will migrate from elsewhere. Former agricultural and forestry workers are already being contracted by DoC to maintain huts and tracks and control wilding conifers in the Mackenzie Basin. There are also expected to be an increase in jobs in the tourism, accommodation and related service industries as new parks are established and visitor numbers increase.
82. The new jobs created in tourism and conservation management may mean that individuals and households may live some distance from their employment (i.e. a neighbouring town), hence there may be a decline in the number of people who actually reside in the high country.

Tourism

83. There are significant opportunities for increasing commercial tourism in the high country. MAF's consultants estimate that commercial tourist activities, on pastoral lease properties generated \$2.9 million during 2002. The activities ranged from guided tours through to ski fields. 60% of these approved ventures were operated by third party interests, rather than the lessee. The opportunities for tourism development are not evenly spread across the high country. Current recreational permits are concentrated in the vicinity of the major tourist routes and destinations. Five of the seventeen districts with pastoral lease properties generated 86% of the estimated tourist revenue in 2002 (Ashburton, Mackenzie, Queenstown-Lakes, Selwyn and Timaru).
84. The focus for high country tourist investment is likely to be on properties that are in close proximity to the major transport routes and tourist centres. This is because the

travel patterns of domestic and international tourists are constrained by vacation length and mobility.

85. Opportunities for tourist investment away from the mainstream tourist areas are likely as a proportion of the travelling public is attracted to more isolated locations. There may also be niche developments, such as lodges, that take advantage of outstanding landscape features and natural amenities.

National economy consequences

86. Work is still being undertaken to form a view of the potential economic impact of the tenure review programme. MAF commissioned a study of the economic impacts of the removal of stock from the land likely to be returned to full Crown ownership. The subsequent impacts of diversification or intensification on newly freeholded land were beyond the scope of the study. There was considerable difficulty in obtaining good data: Departments, Landcare Research, consultants and farmers had differing data. The study assessed *potential* changes should tenure review proceed as described in this paper.
87. Interim results (which are challenged by DoC) suggest that if all properties complete tenure review there may be a significant decline in stock units in the high country with particular negative impacts on the merino industry and associated export and domestic markets for merino wool products.
88. The final results of the study will be formally peer reviewed, and reported to Cabinet to tie in with the 2004 Budget bid.

Fair financial return (objective complementary to the CPLA)

89. Cabinet asked LINZ to explore options to better obtain a fair financial return to the Crown on its high country land assets, including rental return on leases, valuation for freeholding, return on discretionary consents, effect of achieving market rates on other objectives, and fiscal consequences [CAB Min (03) 27/3 and POL Min (03) 19/7].

Rental return on leases

90. A rent review valuation¹² of a pastoral lease is constrained by the provisions of the CPLA and the Land Act 1948, which require that certain matters are not included in a rent review valuation. In particular potential for subdivision for building purposes, or the potential for commercial or industrial use may not be considered. Valuations for rent also recognise the decisions of the Land Valuation Tribunal, and are based on the value of land exclusive of improvements (LEI). Under the CPLA, the rental is fixed at rates of either 1.5% or 2% (*net*) of the LEI and reviewed every 11 years.
91. A registered valuer contracted to LINZ with considerable experience of high country pastoral land¹³ believes rents to be 25% - 33% of a normal rent for a freehold property in the market place. It should be noted, however, that pastoral leases cannot easily be compared to other land types and there are few comparable freehold properties rented

¹² A tenure review valuation by comparison is not constrained by legislation and should at all times reflect all aspects of the market that may apply to the interests of either party. This will often lead to a significantly higher valuation.

¹³ Ken Taylor, Alexandra (2003).

out on which to estimate a current market rental value. The case for a concessionary rent was argued in the 1970s on the basis of the restrictions that apply (i.e. stock limitations, burning, soil disturbance, in response to concerns about land degradation—the concessionary rents were an incentive for sustainable management of the land). These restrictions, however, are essentially good husbandry provisions and may not justify the disparity between current and market rents.

92. More than 33% of lessees have not entered tenure review. Part of the reason for non-participation may be that the low rents under the CPLA are an incentive for lessees to continue in pastoral lease tenure, where the benefits of freeholding are perceived to be marginal.

Table 1: Analysis of annual rent payment on pastoral leases

Rent p.a	< \$1000	\$1000 - \$4999	\$5000 - \$9999	\$10,000 - \$19,000	\$20,000 - \$29,999	>\$30,000
No. leases	18	154	94	31	6	1

93. Table 1 demonstrates that more than 50% of all pastoral leases pay less than \$5000 per year in rent. More than 66% pay less than \$10,000. If these rents were quadrupled or tripled to meet market rates it is uncertain whether this would be an incentive for lessees to enter tenure review. The financial viability of a lease depends much less on the pastoral lease rents than on the size and robustness of the farming operation. Farmers who are marginally profitable may not be able to sustain their operation if introducing market rents significantly increase their costs. If market rents result in a significant dampening of sale prices for leases then there could be an incentive to enter tenure review. The market is untested as to what effect higher rents may have and the effect of market rents on the “special” market for sought after properties (the Otago Lakes district is particularly difficult to predict).
94. Achieving market rates for rental will require amendments to the CPLA and the Land Act 1948. If Ministers wish to pursue this option, further consideration will need to be given to the impact this might have on lessees and the optimum way to introduce market rentals. Officials propose that market rents only be considered if ongoing monitoring shows that insufficient numbers of lessees are completing tenure review.

Valuation for Freeholding

95. ENGOs have expressed concern that the Crown’s interest in pastoral lease land is undervalued and this has resulted in a poor financial return from tenure review.
96. The assessment of the Crown’s interest in pastoral lease properties includes the rental flow derived from the lease, control of non-pastoral commercial uses of the land, control of additional property rights such as sub-division and the right to protect inherent values on the land. The assessment of the lessee’s interests includes the right to pasturage, the right to quiet enjoyment, exclusive possession, a perpetual renewal lease, and the right to on-sell the lease.
97. From a legal or economic perspective, the nature of these rights is such that the lessee has the greatest interest in the property. The common misconception that pastoral lease

land is “public land” may have contributed to a belief that the Crown’s interest is undervalued.

98. The rental element of the Crown’s interest is based on the capitalised value of the rental stream as provided for in the CPLA. The CPLA provides for rents that are less than market rates and this contributes to the lower interest of the Crown. A shift to market rentals would increase the relative interest of the Crown but as the rental value is only one factor in assessing the Crown’s interest the effect may not be pronounced.
99. Prior to 2001, valuations were based on the probable present condition of the land assuming improvements had never existed and referencing that to the market for similar land in similar condition. This methodology was difficult to apply due to the low number of sales of unimproved land.
100. The valuation methodology was reviewed in 2001 and a current market value (CMV) approach was adopted. Under the CMV approach, the starting point for negotiating the exchange of interest is the valuation of the interests to be exchanged (being the lessee’s interest in the property to be retained by the Crown and the Crown’s interest in the property to be freeholded).
101. CMV helps to ensure that the relative values being taken by the Crown and lessees are transparent to the parties. Nevertheless, financial details are not disclosed publicly on a property by property basis and this may be leading to some misconceptions.
102. CMV is preferred as a valuation methodology because it is the most common approach taken among valuers, is generally understood by leaseholders, provides a more dependable base for consultation, and is a more accurate reflection of the values being taken by each party.

Return on discretionary consents

103. Section 66A of the Land Act 1948 provides for the Commissioner to issue a recreation permit to use land subject to a pastoral lease or pastoral occupation licence for recreation, tourism, accommodation, safari or other purposes.
104. Holders of recreation permits are generally required, as a condition of the permit, to pay fees for the use of Crown land for commercial recreation purposes. These fees are in addition to any fee payable as an application fee¹⁴.
105. The amount of fees payable under the recreation permit varies considerably depending on the nature of the activity authorised by the permit. Recommendations as to the appropriate level of fee payable are prepared in accordance with a Crown Pastoral Land Standard, and advice is sought from a registered valuer. The valuer takes into account the apportionment of interests between the lessee and the Crown, as well as the current market applicable to the activity being undertaken.
106. Fees payable may comprise a single ‘one-off’ payment (for short-term permits), a single annual payment, or a payment comprising a fixed annual component combined with a variable component calculated on a usage basis (e.g., as a percentage of gross

¹⁴ The current application fee recreation permit is \$112.50.

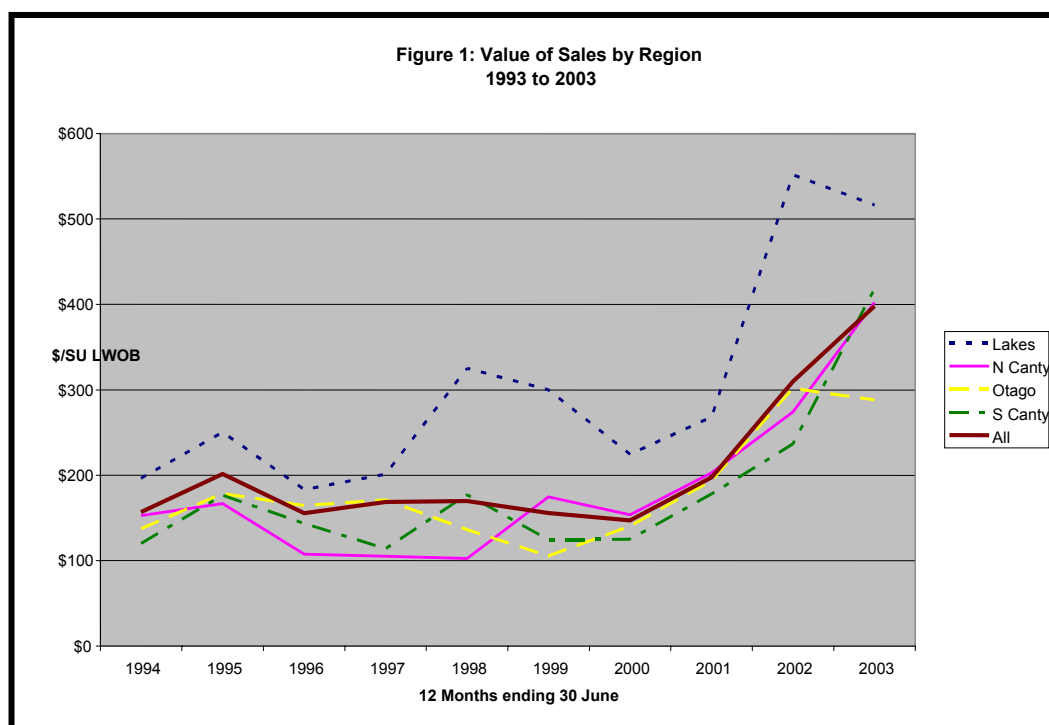
turn-over). The latter fee structure tends to be used for recreation permits that involve a fluctuating turn-over (e.g., heli-skiing).

107. As discussed in paragraph 27, lessees may be unwilling to replace the exclusive use rights of recreation permits under the Land Act with non-exclusive concessions under the Conservation Act 1987. Some lessees are concerned that lending institutions are unwilling to support concession developments on public conservation land and of the potential cost of operating under the concessions provisions of the Conservation Act 1987, which is seen as a disincentive for investment. There are, however, significant developments on public conservation land, including ski fields and development at Milford, Mt Cook and the Kawerau Bridge Historic Reserve. If as a result of future monitoring it is found that lessees are unwilling to enter tenure review because of the private benefits that can be achieved by Land Act recreation permits, it is proposed that the fee structure for recreation permits be reviewed. As pastoral leases are a tenure in transition, it is not recommended that fees for recreation permits be reviewed at this stage.

Impact of rising land prices (implementation principle)

108. Cabinet (CAB Min (03) 27/3 and POL Min (03) 19/7) asked LINZ to report on the impact that rising land prices is having on the ability of the Government to achieve its high country objectives, whether this impacts on the choice of tool, and whether the Government should pursue ways of dealing with rising prices.
109. In the past 10 years the average increase in sale price for all rural land has been in the vicinity of 30%, whereas freehold pastoral properties have increased by 115% and pastoral leases by some 179%. Even more dramatic has been the increase in value of some land adjoining pastoral leases. Good viticultural land has doubled in value in the last four years and the value of rural residential land close to tourist resorts has fluctuated widely over the ten year period and in prime areas has more than doubled in the last three years. The current situation is that there are a small number of properties on the market, all with asking prices that are speculative. This situation applies across the market, regardless of tenure. There is little pressure for sales due to poor economics at this point, but with falling produce commodity prices this may change.
110. The market is being fuelled by well resourced corporate purchasers (both New Zealand and internationally based) purchasing at the “top end” and a subsequent re-investment in other parts of the market as vendors who have been paid well seek to increase scale or reduce debt by purchasing in lower value localities.
111. Demand for pastoral properties is greater on those properties with special features such as location, history and other SIVs. Desire to own land with these values has a significant impact on the market in two ways. First, there is an increasing market fuelled by people who desire a “slice of nature” and wish to apply their own resources to obtaining and protecting natural areas. Second, there is the public desire to protect natural values creating a market for public acquisition of such areas.
112. There is a spectrum of land prices paid for pastoral leases, from the highest prices paid in the Otago Lakes District, through to those paid in the area of Lake Dunstan through to Alexandra. Sales in the Lakes District have been focussed on Queenstown and Wanaka, where the sale prices reflect an investment in real estate, rather than the

economics of pastoral farming, although there have been occasional sales of this type in the other regions (see Figure 1).



Implication or rising prices for achieving objectives

113. Current trends in land prices in some regions means that acquisition of the lessee's interest over time will become progressively more expensive for the Crown. If the Crown does not meet these rising prices this could mean that the key objective to establish a network of parks and reserves will only be achieved in part.
114. To address rising prices, the options are to:
- seek an appropriation for the achievement of the Government's objectives based on current market prices and review achievement in the October report backs (it will take at least 3 years to know if the amount appropriated is sufficient in the light of rising prices);
 - consider market interventions to dampen price movements. The possible market interventions include:
 - tightening the rules on foreign investment¹⁵;
 - introducing market rents; and
 - enforcing Land Act constraints.

Review appropriation for property purchase

115. For this option, the appropriation approved for property purchase in the Budget is reviewed in 2007 to evaluate the effect of rising prices in achieving the objectives.

¹⁵ On 10 November 2003, the Minister of Finance announced a 'first principles' review of the Overseas Investment Act to better reflect economic policy priorities while also providing greater protection to iconic sites of special historical, cultural or environmental significance.

116. The key advantages of reviewing the appropriations are that:
- it uses a standard appropriation process;
 - Ministers can adjust appropriation levels if desired; and
 - it will encourage processes to maximise value from available funding;
117. The key disadvantage is that there is a risk that the parks and reserves outcome appropriated for may only be achieved in part.
118. It is proposed that a review of appropriations is the preferred option for addressing the effect of rising land prices.

Market rents

119. Market rents are discussed in more detail in paragraphs 90-94. Introducing rents may result in a significant dampening on price trends for leases, however this is more likely to occur at the bottom of the market. Introducing market rents in order to dampen prices is not recommended. The result on prices is difficult to predict and market rentals are likely to cause lessee dissatisfaction.

Outcome of the review of the Overseas Investment Commission

120. The outcome of the review of the OIC is unknown as to its potential effect on pastoral sales. If price pressures are being driven by foreign investors and the review restricts sales of lands with high conservation value to New Zealanders then this may dampen an upward trend in price on properties most desired by the Crown and consequently lower government expenditure on properties. As the review is currently underway it is not considered further in this paper.

Land Act Constraints

121. Since the late 1970s pastoral land has been progressively moved into a more open market. In that time the requirements of ‘ownership’ have changed dramatically with the removal of constraints on aggregation and also foreign ownership. Previously a number of restrictions limited the number of purchasers eligible to acquire pastoral land. The restrictions have not been exercised since the 1980s as they are seen as being contrary to efficient land use. When they were enforced, however, they reduced the demand for pastoral land and tended to restrict purchasers to those intent on pastoral farming. These restrictions are still in the Land Act 1948 and include:
- requirement to hold a lease for ones own benefit (S72, 89(3A) Land Act 1948);
 - discretionary requirement to reside on the lease (Section 98); and
 - power to refuse transfer, including in the public interest (Section 89 (2)).
122. Implementing Land Act constraints is not recommended because it fundamentally contradicts a broader Government policy of not intervening in the market to control prices.

Range of possible tools for achieving the Government's high country objectives (implementation principle)

123. Cabinet (CAB Min (03) 27/3 and POL Min (03) 19/7) asked LINZ to report on the range of possible tools for achieving the Government's high country objectives including whole property purchases, other voluntary approaches and non-voluntary approaches.
124. The range of tools available to meet the objectives are:

Table 2: The range of tools able to meet the Government's high country objectives

Objective	Tools
Promote the management of the Crown's high country land in a way that is ecologically sustainable;	<ul style="list-style-type: none"> • Sustainable Management Covenants • Soil Conservation and Rivers Control Act 1941 • Farm Plans • Pastoral leases
Enable reviewable land that is capable of economic use to be freed of current management constraints;	<ul style="list-style-type: none"> • Freeholding • Special lease arrangements • Outright purchase followed by lease or sale • Promote tenure review • Land exchanges
Protect significant inherent values on reviewable land by the creation of protective measures; or preferably by restoration of the land concerned to full Crown ownership and control;	<ul style="list-style-type: none"> • QE II covenants • Historic Places Act covenants • Reserves Act covenants • Conservation Act covenants • Gazettal as Conservation land status • Gazettal as Reserve • Pastoral leases • Special leases • Promote tenure review
Secure public access to and enjoyment of high country land;	<ul style="list-style-type: none"> • Reserves Act easements • Conservation Act easements • New Zealand Walkways Act easements • Paper roads • Marginal strips
Take into account the principles of the Treaty of Waitangi;	<ul style="list-style-type: none"> • Nga Whenua Rahui covenants (Conservation Act) • Historic Places Act covenants
Take into account any particular purpose for which the Crown uses, or intends to use, the land;	<ul style="list-style-type: none"> • CPLA
Ensure that conservation outcomes for the high country are consistent with the New Zealand Biodiversity Strategy;	<ul style="list-style-type: none"> • CPLA • Conservation Act • Reserves Act • pastoral leases
Progressively establish a network of high country parks and reserves;	<ul style="list-style-type: none"> • CPLA tenure review • Land Act (s.167; s.117) • whole Property Purchase • land exchange • compulsory acquisition
Foster sustainability of communities, infrastructure and economic growth and the contribution of the high country to the economy of New Zealand;	<ul style="list-style-type: none"> • freeholding • special leases • pastoral leases • grazing permits on conservation land

Objective	Tools
	<ul style="list-style-type: none"> • conservation outcomes • Government subsidies • retraining incentives
Obtain a fair financial return to the Crown on its high country land assets;	<ul style="list-style-type: none"> • market rentals • market prices from sale of lessees' interest

125. Officials consider that the list of tools identified above is comprehensive. It is proposed that officials consider the full range of tools, as appropriate, when implementing the Government's high country objectives.

Review the consultation process with a view to improving it (implementation principle)

126. Cabinet (CAB Min (03) 27/3 and POL Min (03) 19/7) asked LINZ to report on the consultation process with a view to improving it. The CCL has a statutory requirement to invite and consider written submissions on a 'preliminary proposal' when the proposal is advertised¹⁶. Public submissions play an important part in tenure review and are considered carefully to identify any issues not included in the 'preliminary proposal'.
127. ENGOs have expressed concern about the process used to consider submissions, in particular they are concerned that:
- submissions are disregarded;
 - there is a lack of feedback on submissions; and
 - the lessee is consulted on the submissions before the CCL makes a decision.
128. In the light of ENGO concerns, LINZ has undertaken a review of the statutory consultation process and changed its process in November 2003, so that:
- all submissions that fall within the ambit of the CPLA are considered;
 - the submissions and the LINZ analysis are published on the internet; and
 - submitters are informed about process issues.
129. LINZ also conducts a relationship meeting with ENGOs every 6 months outside of the statutory consultation process where issues may be raised and responded to. A recent initiative is that in developing each preliminary proposal and each substantive proposal, LINZ service providers must consult and take account of the views of the lessee, DoC, Ngai Tahu, the Fish & Game Council and any other party advised by LINZ. LINZ intends that the views of ENGOs be sought in this pre-consultation process.
130. ENGOs are unhappy that the lessee may be consulted on a submission. Tenure review is a negotiated agreement from which either party may withdraw at any time. It is therefore essential that the lessee be consulted before a preliminary proposal for tenure review is adjusted as the result of the content of a submission and resubmitted to the lessee as a substantive (final) proposal.

¹⁶ S43 CPLA

131. Lessees are concerned that there is no real opportunity to critique the Conservation Resources Report undertaken by DOC. They want to know who the assessors are, to judge whether they need to bring in their own expert advisors to assess the points made. It is also important for the assessments to be explained to lessees in plain (i.e. not scientific) language. Officials are looking into the matter.

Financial Implications

132. Funding will be required to achieve the Government's objectives for the South Island high country. DoC and LINZ intend to submit a joint budget bid as part of the 2004 Budget seeking appropriation for:
- a. LINZ to lead the programme of tenure review under the CPLA supported by DOC;
 - b. LINZ to make equality of exchange payments to lessees;
 - c. LINZ and DoC, to implement agreements;
 - d. DoC to acquire a small number of whole properties that are important to establish a network of high country parks;
 - e. DoC to carry out (i) priority control of plant and animal pests, and (ii) provide access and establish and maintain structures over the network of high country parks and reserves;

Consultation

133. This paper has been prepared by LINZ, DoC and MAF in consultation with the Treasury, and DPMC;
134. The Ministry of Agriculture makes the following comment:
- “Recent research and analysis on the potential economic impact of tenure review points to very significant negative impacts for individual properties, the high country merino industry and the national economy. This research is yet to be reviewed. MAF considers that Ministers should factor in these impacts when considering the costs and benefits of tenure review. It is proposed that MAF participate and be consulted in the development of the LINZ/DOC budget bid to ensure that socio-economic data and considerations are recognised and incorporated into the bid.”
135. Lessee representatives (i.e. the High Country Accord), ENGOs (i.e. the High Country Coalition), Ngai Tahu and members of the New Zealand Conservation Authority were consulted. Their views are set out in paragraphs 17-19;

Recommendations

Note that these recommendations were altered by Cabinet – see CBC Min (03) 10/3.

136. It is recommended that the Cabinet Policy Committee:
1. **note** that Cabinet has agreed to objectives for the South Island high country that include conservation, social and productive economic land-use outcomes [CAB Min (03) 27/3 and POL Min (03) 19/7 refer];
 2. **note** that Cabinet invited the Minister of Agriculture and for Rural Affairs, the Minister for Land Information, and the Minister of Conservation to report to the

Cabinet Policy Committee on the objectives as set out in the work plan forming part of the paper referred to in recommendation 1;

3. **note** that achieving an agreement about reviewable land under the CPLA requires flexibility and negotiation by the Crown;
4. **note** that as a result of the negotiation referred to in recommendation 3, some inherent values recommended for protection by DoC are not able to be protected through tenure review, and some land with productive economic use value is returned to full Crown ownership (as public conservation land);

Productive economic land use

5. **note** that the key method for achieving the productive economic land-use objective is by freeholding pastoral land by way of the tenure review process under the Crown Pastoral Land Act 1998 (CPLA);
6. **note** that a secondary method for achieving the productive economic land-use objective is for the Crown to purchase pastoral land as a whole property and making parts of the purchased land available for productive economic land-use by way of exchange with other pastoral land;
7. **note** that funding will be sought in the 2004 Budget to enable pastoral land to continue to undergo tenure review and thereby be freed of constraints that prevent the productive economic land-use objective from being achieved;
8. **note** that funding will be sought in the 2004 Budget to enable a limited number of properties to be purchased as whole properties to be used, in part, to achieve productive economic land-use outcomes;

Conservation objectives

9. **note** that the Department of Conservation (DoC) has identified 15 – 20 areas in the high country that could be recategorised as conservation parks in the long term;
10. **note** that to be categorised as a conservation park, the area generally should:
 - a. be at least 10,000 ha in size;
 - b. have a distinct ecological character;
 - c. be contiguous, of an appropriate shape for long-term ecological viability;
 - d. be accessible to the public, by car in dry weather or within a one-hour walk from a road end in wet weather;
 - e. provide for a range of recreational opportunities, including opportunities that can be provided by concessionaires;
 - f. contribute to the full range of large scale landscape/ecology that is found in the rain shadow eastern South Island high country from Marlborough to Southland.

11. **note** that the Department of Conservation has identified pastoral leases that could contribute to the high country parks network either through tenure review or as whole property purchases;
12. **note** that based on tenure review outcomes so far and knowledge of the high country, the Department of Conservation considers that all pastoral lease properties have potential to contribute to the network of high country reserves;
13. **note** that further details about the creation, maintenance and location of the network of high country parks and reserves will be included in a 2004 Budget bid, and in briefing notes for Ministers;
14. **note** that in response to concerns raised during the consultation phase of this paper, officials will increase efforts to ensure that completed tenure reviews and whole property purchases:
 - a. protect vulnerable significant inherent biodiversity values, (e.g. in the lowlands and on valley floors);
 - b. protect vulnerable significant inherent landscape values;
 - c. provide adequate access to enable the public to enjoy in full measure the high country, including rivers and lakes, through easements and marginal strips; and
 - d. enable land having productive economic use to be freeholded;
15. **direct** officials to consider the full range of tools, as appropriate, when implementing the Government's high country objectives;

Access

16. **note** that secure access cannot be addressed while the property remains under pastoral lease;
17. **note** that under tenure review access easements may be agreed across pastoral land to adjoining land, including conservation adjoining land;
18. **direct** officials to consider access easements to adjoining lease properties, to adjoining conservation land, and to lakes and rivers, where appropriate;
19. **note** that general access issues, including the identification of marginal strips, will be reported by the Minister for Rural Affairs' Land Access Ministerial Reference Group to Cabinet Policy Committee before 31 March 2004;

Barriers to achieving the economic and conservation objectives

20. **note** that some lessees may choose not to participate in tenure review in the future;

21. **note** that more than one-third of (130) lessees have not entered the programme and that some lessees currently in the programme may withdraw at a later stage;
22. **note** that the Department of Conservation considers that as a result of the non-participation or withdrawal from tenure review of lessees, SIVs on the affected properties will continue to decline;
23. **note** that the Department of Conservation considers that management of SIVs on land subject to pastoral lease or licence should be actively managed by the landlord;
24. **note** that the matters raised in recommendations 22 and 23 will be the subject of a further report to Cabinet in March 2004;
25. **note** that in the short term, officials intend to manage this risk by promoting tenure review “success stories” to encourage lessees with properties that are key to achieving the parks and reserves objective to consider entering tenure review;
26. **note** that if non-participation and withdrawal from tenure review proves to be a barrier to the Government achieving its objectives then Ministers may wish to consider other options in the future;
27. **note** that the options referred to in recommendation 26 include:
 - a. introducing market rentals;
 - b. reviewing the recreation permit regime;
 - c. initiating compulsory land acquisition for conservation purposes;
 - d. more active management of SIVs by the landlord;
28. **note** that the options referred to in recommendation 27 will require further consideration by officials and Cabinet’s agreement before they may be taken further;

Socio-economic effects

29. **note** that implementing the Government’s high country objectives is likely to have both positive and negative effects on high country employment, high country communities, the high country economy and the national economy;
30. **note** that the effects noted in recommendation 29 will continue to be researched by officials and reported to Ministers in October each year (see recommendation 39);

31. **direct** officials to report back on the effect of tenure review on the national economy to inform the joint LINZ/DoC 2004 Budget bid referred to in recommendation 40 (MAF lead);

Fair Financial return

32. **note** that rentals on pastoral leases may be 25% - 33% of a rent on comparable freehold land;
33. **note** that due to the small number of freehold rented properties in the high country, and the particular restrictions on pastoral leases, the calculation of what a market rent for a pastoral lease should be is very difficult;
34. **note** part of the reason for non-participation in tenure review (see recommendation 21) may be that the low rents under the CPLA are an incentive for lessees to remain in pastoral lease tenure;
35. **note** that even if rents were quadrupled or tripled to meet market rates it is uncertain whether this would be a sufficient incentive for lessees to complete tenure review;

Rising Land Prices

36. **note** that in the past 10 years the average sale price for pastoral leases has increased by about 180%;
37. **note** that if current trends continue the acquisition of the lessee's interest over time will become progressively more expensive for the Crown as will achieving in full the key objective to establish a network of parks and reserves;
38. **agree** to consider the effect of trends in pastoral lease price movements on the achievement of the parks and reserves network objective as part of the 2007 Budget;

Monitoring

39. **direct** officials to report to Cabinet on progress and issues each year in October against the Government's objectives for the high country and to specifically report on:
- a. stakeholder responses to progress;
 - b. lessee participation in tenure review; and
 - c. socio-economic effects of specific park proposals.

Financial implications

40. **note** that LINZ and DoC intend to submit a joint bid as part for the 2004 Budget seeking appropriation for:
- a. the departmental cost of undertaking tenure reviews;
 - b. acquisition of lessees' interest in pastoral leases through tenure review;
 - c. acquisition of interests in high country through whole property purchase; and
 - d. management of the network of high country parks and reserves.

Hon John Tamihere
Minister for Land Information

Hon Chris Carter
Minister of Conservation

Hon Jim Sutton
Minister of Agriculture and for Rural Affairs