

Chair  
Cabinet Economic Development Committee

## **GOVERNMENT OBJECTIVES FOR THE SOUTH ISLAND HIGH COUNTRY**

### **Purpose**

1. This paper proposes objectives for the South Island high country. Ministers are responding to an invitation to report back on the Government's objectives for the high country and how they relate to the Land Tenure Review Programme [EDC Min (03) 5/3; CAB Min (03) 11/5 refer].

### **Executive summary**

2. Land tenure review is controversial because it involves the last major allocation of Crown land. It is characterised by:
  - the Crown having the underlying property right in the land but the leaseholders having a property right through the perpetual leases on this land as well as the improvements on the land; and
  - the need in allocation decisions to weigh up various costs and benefits relating to environmental, economic, and social and cultural outcomes.
3. The tenure review process, set out in the Crown Pastoral Land Act 1998 (CPLA), was the outcome of lengthy analysis, debate and negotiation, to meet both production and conservation objectives for the South Island high country. Tenure review allows high country pastoral leases to be split into land to be protected as public conservation land and land to be freeholded.
4. The objectives for tenure review were set originally in 1994 and have been modified and added to over the years so that there is currently no one consolidated set of policy objectives. The tenure review process has the potential to be divisive and various objectives need to be carefully managed to achieve the best outcomes for New Zealand.
5. The objectives for tenure review outlined in the CPLA broadly align with the range of outcomes (environmental, social, cultural and economic) that the Government might wish to achieve in the South Island high country. The paper proposes that Cabinet affirm the CPLA derived objectives as Government objectives for the high country, and consider agreeing to a number of complementary objectives informed by more recent policy initiatives. Implementation principles are also outlined. A work programme is proposed to address relevant issues.

6. Background to the tenure review programme was set out recently in a previous paper [EDC (03) 40 refers]. Problems identified with tenure review included the cost being higher than originally forecast, capacity issues for participants, and the programme being unlikely to cover all pastoral leases. This paper provides some further background on policy relevant to high country objectives.

## **Background**

7. The Crown owns 2.37 million hectares (m.ha) of South Island high country land under lease (or licence), comprising 304 high country leases (2.17m.ha), five Pastoral Occupation Licences (0.02m.ha), and Molesworth Station (0.18m.ha). This land is located from Southland to Marlborough (see map *attached*). Much of the land has been grazed since the mid 19<sup>th</sup> century and is environmentally sensitive. Some is sub-alpine. The pastoral leases are granted on a perpetual basis with 33-year rights of renewal and 11-year rent reviews. Rentals are fixed by the Crown Pastoral Land Act 1998 (CPLA) at between 1.5 and 2.25 % of unimproved land value. Pastoral Occupation Licences are for a maximum of 21 years, with a possible further term of 5 years to allow, for example, a mandatory review to be completed. (Note that lease and licence land is referred to in the CPLA as “reviewable land”.) Molesworth is a “special lease” that expires on 30 June 2005, the future of which is currently being considered. Officials intend to report on options for the future of Molesworth by 15 September 2003.
8. At the time of European settlement, the high country was regarded as “waste lands” suitable only for extensive grazing. From the 1850s a succession of rights of pastoral occupation was granted by the provincial governments and, later, by the Crown. Tenure arrangements varied over time.
9. There was widespread land degradation (overgrazing, burning, erosion, rabbits) in the 19<sup>th</sup> and early 20<sup>th</sup> centuries, although there have been more recent and successful initiatives by the government and lessees to implement sustainable land management practices<sup>1</sup>.
10. The Land Act 1948 (Land Act) created the current perpetual pastoral lease tenure to provide occupiers with the confidence to invest in long-term management strategies, and to enable the Crown to exercise control over leased lands for soil conservation and erosion control purposes. Leaseholders were granted exclusive occupation rights and fixed rentals but no right of freehold.
11. Pastoral lease arrangements were comprehensively reviewed by the Clayton Committee of Inquiry in 1982. The Committee recognised that there are wider values attached to pastoral lands and proposed a process of tenure review, and concluded that pastoral lease tenure had “outlived its usefulness”. The Committee’s recommendations, those of the 1992 Martin Report, and subsequent government policy proposals underwent lengthy analysis, debate and negotiation among the Crown and stakeholders, with the eventual outcome being the CPLA.
12. The package of leaseholders rights under the Land Act was carried over into the CPLA, but leaseholders had to accept the concept of “significant inherent values”

---

<sup>1</sup> Such as the Rabbit and Land Management Programme (1986-1992).

and a greater role for the Department of Conservation (DoC). Also, additional to Resource Management Act requirements, the Crown was given greater powers to control land use through the “discretionary consent” process. Discretionary consent is required from the Commissioner of Crown Lands (the Commissioner) for soil or vegetation disturbing activities, for non-pastoral economic activities (eg. forestry or commercial recreation), and the control of stock numbers. Thus leaseholders rights are significantly circumscribed.

13. Tenure review under the CPLA allows pastoral leases to be split into land to be protected as public conservation land and land to be freeholded. Where the land has either definite conservation or economic value, the process works well. However, the decision is less clear when a piece of land has both conservation and economic value or when it has neither, and so there is some flexibility in practice in the negotiation process. This will mean that at times neither the environmental nor lessee interests are completely happy with the outcome.
14. Tenure review is a voluntary process which is administered by the Commissioner and other officials in Land Information New Zealand (LINZ). DoC advises LINZ about significant inherent values (SIVs)<sup>2</sup>, and what land should be protected. Where land is protected as public conservation land, DoC becomes the manager post-review. [For more detail on the tenure review process, see EDC (03) 40.]
15. Although it has taken two to three years to bed-down the tenure review process, results are now being achieved with twelve reviews at or near completion of the 162 leases currently in the tenure review programme. The large number of leases under potential review does, however, create problems for stakeholders, including the ability of environmental stakeholders to participate in the public consultation process.

#### *The Government’s current objectives*

16. Current objectives for tenure review derive from three sources, namely Cabinet decisions in 1994-95, the 1998 CPLA, and a 2001 Cabinet decision relating to

---

<sup>2</sup> 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:*

public access. There is no formally agreed Government policy for the “high country”.

17. Tenure review was developed in the mid 1990s. The then government’s objectives for tenure review were agreed by Cabinet in 1994 [CAB (94) M 46/23-25 (paragraphs 3c and 3d)], and have continued to be referred to in reports to Cabinet and Ministers about the tenure review programme. The objectives were to:
  - promote sustainable land management;
  - release the State’s productive assets where these can be more efficiently used by the private sector;
  - safeguard the long term public interest in nature conservation, recreation, access, landscape, cultural and historical values;
  - take account of other Crown purposes including the Treaty of Waitangi; and
  - make decisions about each negotiated pastoral lease tenure review as to the best use to which the land should be put.
18. In 2001 Cabinet agreed [CAB Min (01) 27/6 refers], in response to an update report on the tenure review programme, that a “key objective” of tenure review should be to “ensure public access to areas administered by the Department of Conservation”. Cabinet was not asked to review the earlier objectives.
19. The CPLA was passed in 1998 with objects for tenure review (sections 24 and 83) that are stronger from an ecological and inherent value protection point of view than the 1994 objectives. The CPLA also contains objects to make easier the securing of public access and the freehold disposal of reviewable land. The CPLA determines current practice for tenure review. The CPLA objects were carefully crafted to reflect the competing interests in the high country.
20. When the CPLA began to be implemented, there was an expectation that tenure review would run until 2008, and stakeholders have been working in good faith accordingly. Any proposed changes need to take this expectation into account.

### **Comment**

21. Tenure review is controversial because it involves the last major allocation of Crown land. It is characterised by:
  - the Crown having the underlying property right in the land but the leaseholders having a property right through the perpetual leases on this land as well as the improvements on the land; and
  - the need in allocation decisions to weigh up various costs and benefits relating to environmental, economic, and social and cultural outcomes.

Consequently, tenure review has the potential to be divisive, and the various objectives need to be carefully managed to achieve the best outcomes for New Zealand.

22. To ensure that Crown owned land in the high country (reviewable land) is managed in accordance with Government policy, this paper proposes a set of objectives comprising objectives derived from the CPLA and complementary objectives,

informed by more recent policy initiatives, to complement the CPLA derived objectives. These complementary objectives have not been subjected to the same policy development process as those derived from the CPLA; hence Ministers may wish to agree to the complementary objectives in principle, subject to further analysis by officials and consultation with stakeholders.

23. The more recent policies and strategies include *The New Zealand Biodiversity Strategy* (February 2000), the 2002 election policies of the Labour Party and the Progressive Coalition on the high country, *Sustainable Development for New Zealand : Programme of Action* (January 2003), the Growth and Innovation Framework and the Government's approach to rural affairs. These policies contain a mix of environmental, economic, social and cultural objectives (see **Appendix 2**).
24. A review of the objectives in the CPLA indicate that they are still appropriate and in line with other Government policy. However, there is a need to consider how these objectives can best be implemented. The relationship between the proposed complementary objectives and the CPLA derived objectives and how they can be achieved also requires examination.
25. The following table outlines the proposed Government objectives for the high country, namely the CPLA derived objectives and the complementary objectives. Implementation principles are also outlined. A version of the table appears as **Appendix 1** which identifies issues in more detail and outlines a work programme to address them. It is proposed that the Government affirm the CPLA derived objectives, agree, or agree *in principle*, to the complementary objectives, and confirm the work programme set out in **Appendix 1**.

## GOVERNMENT OBJECTIVES FOR THE HIGH COUNTRY

### *CPLA Derived Objectives*

Objective	Explanation
a. Promote the management of the Crown's high country land in a way that is ecologically sustainable [CPLA S.24(a)(i)]	The term "ecologically sustainable" is used rather than the Resource Management Act's "sustainable management" because, as the Select Committee at the time noted, the CPLA's focus is not on the protection of social and economic issues in relation to people and communities, which is the context of the RMA. The Select Committee also specifically retained the Commissioner's "discretionary consent" power because it believed that the RMA did not adequately protect the Crown's interest as owner of pastoral land.
b. Enable reviewable land capable of economic use to be freed from current management constraints [CPLA S.24(a)(ii)]	Pastoral leases may only be used for pastoral farming <sup>3</sup> . Economic benefits may accrue to both local communities and to individual farmers when land is freed from the constraints of pastoral tenure.
c. Protect SIVs on reviewable land by the creation of protective measures [CPLA S.24(b)(i)]; or preferably by the restoration of the land concerned to full Crown ownership and control [CPLA S.24(b)(ii)]	A variety of protective measures such as covenants or easements over freeholded land are currently available.  The preferred means of protection of SIVs is restoration to full Crown ownership and control. To achieve this the Crown purchases the lessee's interest.

<sup>3</sup> Some non-pastoral uses are permitted, such as tourism, if approved by the Commissioner.

Objective	Explanation
d. Secure public access to and enjoyment of high country land [CPLA S.24(c)(i); Part IVA Conservation Act 1987]	This objective is related to the Government's aim of providing for ready and free public access, and recognises the special status of these lands as Crown owned.
e. Take into account the principles of the Treaty of Waitangi [CPLA S.25(1)(b)]	South Island iwi have cultural and economic interests in the high country that the Crown is required to respect.
f. Take into account any particular purpose for which the Crown uses, or intends to use, the land [CPLA S.25(1)(c)]	This provides a link with other Crown high country land use policies (eg. minerals, as noted by the Select Committee) and with the complementary objectives outlined below.

### **Complementary Objectives**

Objective	Explanation
g. Ensure that conservation outcomes for the high country are consistent with the New Zealand Biodiversity Strategy (NZBS)	While the NZBS has already been confirmed as Government policy, it will be made specific to the high country in this context. This objective is related to the "Protection of SIVs" objective above as biodiversity values are a subset of SIVs. This means that the Government should give priority to protecting biodiversity values that are indicated by the NZBS.  The NZBS promotes the protection of biodiversity through objectives and priority actions. One such priority action is to add to public conservation land habitats and ecosystems important for indigenous biodiversity.
h. Progressively establish a network of high country parks and reserves	A high country network of parks and reserves is part of the Labour Party's 2002 election policy. A key objective for the next 5 years for DoC is to "improve protection of important high country environments and progressively establish, extend and link a network of high country parks and reserves" <sup>4</sup> .
i. Foster sustainability of communities, infrastructure and economic growth and the contribution of the high country to the economy of New Zealand	Land use changes in the high country have potential impacts on the infrastructure (eg. schools, businesses), society and economics of rural communities. Productive and conservation uses of the high country land use can also contribute to the New Zealand economy.

26. An additional complementary objective could be:

Objective	Explanation
j. Obtain a fair financial return to the Crown on its high country land assets	The Crown normally expects a return on assets that are being used for commercial purposes to be at market rates.

27. It is proposed that officials review the matter. This will be a controversial topic and will need robust consultation to avoid any inference that the Crown is unilaterally changing the basis of rentals. Any review would need to recognise the link between low nominal rentals and restricted land use options. Changes would require amending the CPLA.

28. It is proposed that Cabinet affirm the CPLA derived objectives (a - f) and agree, or agree in principle, to the complementary objectives (g - i) or (g-j). The objectives agreed to (now or subsequently) would replace those agreed by Cabinet in 1994 [CAB (94) M 46/23-25, (paragraphs 3c and 3d), refers]. Officials will undertake

<sup>4</sup> Department of Conservation Statement of Intent 2003 – 2006, page 30.

further work on the objectives, and consult appropriately with interested parties in doing so.

29. In addition to the specific work programme outlined in the Appendix, it is proposed that the high country objectives agreed to by Cabinet be reported on by LINZ and DOC as part of each October baseline update. This reporting requirement will replace the previous reporting requirement for tenure review [CAB (95) M 32/8 Dvi, (paragraphs w (iii) - w (v)), refers].

### Implementation of the Government's objectives

30. In addition to agreeing on the objectives, there is a need to consider how best those objectives can be implemented. Concerns about land tenure review are also in relation to how the process ensures that the best possible outcomes for New Zealand are achieved, recognising that at times trade-offs between objectives will be required. It is proposed that the Government's high country objectives be implemented in accordance with the following set of principles, and that officials report on issues as outlined in the attached work programme (Appendix 1).

### IMPLEMENTATION PRINCIPLES

Principle	Explanation
a. Achieve the Government's objectives for the high country in the most effective and efficient way	<p>The implementation of the Government's objectives must be timely, represent value for money, and achieve the Government's desired outcomes.</p> <p>Depending on particular circumstances, various tools could be used to achieve the objectives outlined above.</p>
b. Ensure that implementation tools (eg. tenure review) are being used effectively and efficiently	<p>Tenure review is currently the main tool used to achieve high country objectives, and will likely continue to be an important tool in the future.</p> <p>Other methods (eg. acquiring land by whole property purchases) are also used to achieve high country outcomes.</p>
	<p>The tools for implementing the objectives place the responsibility for decision making in either the Director-General of Conservation, the Commissioner, the Minister for Land Information or the Minister of Conservation.</p>
c. Take a whole of Government approach to achieving the objectives	<p>The achievement of the Government's high country objectives does not happen in isolation. Any objective needs to be considered in the context of how it impacts on the other high country objectives and on how it impacts on the Government's overall objectives for New Zealand, and in particular its commitment to achieving sustainable development.</p>
	<p>Land may be required for a particular Crown purpose other than the protection of SIVs. This is recognised in S.25(1)(c) of the CPLA, which has the effect of requiring that the intentions of other Government agencies in relation to high country land be taken into account.</p>
	<p>How much value the Government places on the achievement of all or any of the objectives for the high country should be by way of a decision-making process where the funding requirement is considered relative to other Government priorities. This is best achieved through the Budget process.</p>
d. Consult interested parties	<p>This allows persons with interests in the high country to participate</p>

Principle	Explanation
appropriately [CPLA S.43,44]	and influence outcomes when certain objectives are implemented. Consultation allows the public to add value to decision-making processes and provides decision-makers with a way to gauge the acceptability of proposed decisions.

### **Adding high country land to public conservation land**

31. The South Island contains an extensive network of public conservation land comprising some 4.9m.ha, most of which is mountainlands, or podocarp or beech forest. Tenure review will result in as much as 1.3m.ha of tussock grassland areas east of the Southern Alps being added to the network. These areas are not currently well represented in public conservation land, and their addition to it will safeguard habitats and ecosystems that are important for indigenous species.
32. Large additions (0.9m.ha) to public conservation land were contemplated by Parliament when it passed the CPLA. The CPLA mechanisms, however, may result in a further 0.4m.ha than originally forecast being acquired (although DoC estimates that the increased area is likely to be half this amount).
33. It is proposed that officials be directed to report on the fiscal implications of this additional land being added to the conservation estate. It is proposed further that any recommendations that have fiscal implications be considered as an overall package during the 2004/05 Budget process.

### **Financial implications**

34. Any financial implications arising from Cabinet's decisions about the Government's objectives for the high country beyond 2003/04 will be considered in the 2004/05 Budget round. Until recently, it was assumed that all pastoral leases would undergo tenure review. Tenure review was undertaken largely on a first come first served basis and within the constraints of the Land Tenure Reform Account (a nominal cap that was set in terms of how much funding would be invested in this process). As land prices and the costs of undertaking tenure review have increased, the 1995 forecast for the programme has been difficult to contain. These are all issues that will be considered in the proposed work programme for officials prior to submission of a 2004/05 Budget bid.
35. Another issue that will need to be considered is the extra funding needed to acquire public conservation land over and above original estimates of the area available (see paragraph 32). Ministers may wish to satisfy themselves that such extra funding is justified in relation to other government and conservation funding priorities. Also, DoC's operational costs will increase as additional public conservation land is added to the Crown's holdings and there may be implications for DoC baseline funding.

### **Consultation**

36. LINZ, DoC and MAF have jointly prepared this paper in consultation with the Treasury and the Department of the Prime Minister and Cabinet. The Ministry for the Environment has been provided the paper for information.

### **Treaty of Waitangi issues**

37. The CPLA provides for the protection of SIVs, including values of importance to Maori. Once land with SIVs is returned to full Crown ownership and control, it is possible for iwi to assert kaitiakitanga over those values. Under the CPLA, the Commissioner must consult with the iwi authority (within the meaning of the Resource Management Act 1991) of the area where land being reviewed is situated. The Ngai Tahu Claims Settlement Act 1998 also requires that consultation takes place.

### **Human Rights Act implications**

38. The use of non-voluntary tools to achieve any government objectives for the high country has implications for human rights and this aspect will be reported in more detail at a later time. Otherwise there are no Human Rights Act implications associated with the proposals set out in this paper.

### **Legislation implications**

39. There are potential legislative implications associated with aspects of implementing government objectives for the high country. These will be identified in the papers scheduled in the work programme.

### **Regulatory impact and compliance cost statement**

40. There are no regulatory impact or compliance costs associated with this paper.

### **Publicity**

41. The proposals in this paper are sensitive. Ministers intend to develop a communication strategy to explain their decisions.

### **Recommendations**

42. It is recommended that the Cabinet Economic Development Committee:
1. **note** that the Government's current objectives for tenure review derive from three sources, namely Cabinet decisions in 1994, the Crown Pastoral Land Act 1998 (CPLA), and a 2001 Cabinet decision relating to public access;
  2. **note** that the CPLA determines current practice for tenure review;
  3. **note** that there was extensive public input into the CPLA from interested parties (especially high country lessees and environmental stakeholders), and that the Act was the outcome of lengthy analysis, debate and negotiation;
  4. **agree** that any change to the CPLA objectives or the timeframe for tenure review should take into account the good faith expectation of stakeholder groups that tenure review would run until 2008;

5. **note** that to ensure that Crown owned land in the high country (reviewable land) is managed in accordance with current Government policy, a new set of objectives is proposed (below);
6. **note** that adding more land than originally contemplated to the public conservation estate may imply additional costs, including in some cases direct fiscal cost and in others loss of production value, as well as additional economic and employment benefits from increased recreation and tourism opportunities;

*New set of objectives*

7. **note** that the objectives set out in 8(a) – 8(f) below are derived from the CPLA, and that the objectives set out in 8(g) – 8(j) are new complementary objectives;
8. **Either**
  - (A) **agree** that the Government's objectives for the high country are to:
    - a Promote the management of the Crown's high country land in a way that is ecologically sustainable;
    - b Enable reviewable land that is capable of economic use to be freed of current management constraints;
    - c 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;
    - d Secure public access to and enjoyment of high country land;
    - e Take into account the principles of the Treaty of Waitangi;
    - f Take into account any particular purpose for which the Crown uses, or intends to use, the land;
    - g Ensure that conservation outcomes for the high country are consistent with the New Zealand Biodiversity Strategy;
    - h Progressively establish a network of high country parks and reserves;
    - i Foster sustainability of communities, infrastructure and economic growth and the contribution of the high country to the economy of New Zealand;
    - j Obtain a fair financial return to the Crown on its high country land assets;

**OR**

(B) **agree** that the objectives set out in 8(a)–8(f) are Government objectives for the high country, and **agree** in principle to the objectives set out in 8(g) – 8(j) also being Government objectives for the high country subject to Cabinet's confirmation by 1 December 2003;

**OR**

(C) **agree** that the objectives set out in 8(a) – 8(f) are Government objectives for the high country, **agree** in principle to the objectives set out in 8(g) – 8(i) also being Government objectives for the high country subject to Cabinet's confirmation by 1 December 2003, and **agree** that the objective set out in 8(j) may be proposed later following an examination and report back by officials by 31 March 2004;

9. **agree** that the set of objectives referred to in recommendation 8 above replace the objectives agreed by Cabinet in 1994 [CAB (94) M 46/23-25 (paragraphs 8c and 8d refer)];
10. **direct** officials to report against the set of objectives referred to in recommendation 8 above as part of each year's October baseline update process;
11. **agree** that the reporting requirement in recommendation 10 replace the previous reporting requirement [CAB (95) M 32/8 Dvi, (paragraphs w (iii) – w (v)), refers];

*Implementation principles*

12. **direct** officials to report on how best to achieve the objectives set out in recommendation 8 above by addressing the following principles:
  - a Achieve the Government's objectives for the high country in the most effective and efficient way: This will involve officials considering (amongst other things):
    - i. the range of possible tools for implementing the objectives;
    - ii. the impact that rising prices for high country land has on the ability of the Government to achieve the objectives, and whether the Government should pursue ways of dealing with rising prices;
  - b Ensure that implementation tools (eg. tenure review) are being used effectively and efficiently: This will involve officials (amongst other things):
    - iii. reviewing operating procedures and practices to ensure that departmental activities are aligned with the objectives;
    - iv. evaluating the decision-making responsibilities required to achieve the objectives and report on whether they could be improved;
  - c Take a whole of Government approach to achieving the objectives: This will involve officials (amongst other things) evaluating:
    - v. how the high country objectives relate to and impact on one another;
    - vi. how the high country objectives affect other Government objectives; and
    - vii. how other legislation and policy affect the achievement of the high country objectives;

- d Consult interested parties appropriately: This will involve officials reviewing the consultation process with a view to improving it;

*Work programme*

- 13. **approve** the work programme set out in Appendix 1;
- 14. **invite** the Minister of Agriculture and for Rural Affairs, the Minister for Land Information, and the Minister of Conservation to report on the objectives as set out in the work programme;
- 15. **note** that officials intend to report to Cabinet on options for the future of Molesworth Station by 15 September 2003;

*Financial implications*

- 16. **note** that any financial implications arising from Cabinet's decisions about implementing objectives for the high country and tenure review beyond 2003/04 will be considered in the 2004/05 budget round.

Hon Jim Sutton  
Minister of Agriculture and for Rural Affairs

Hon John Tamihere  
Minister for Land Information

Hon Chris Carter  
Minister of Conservation

## Appendix 1: GOVERNMENT OBJECTIVES FOR THE HIGH COUNTRY

### *CPLA Derived Objectives*

Objective	Explanation	Issues	Further work proposed
a. Promote the management of the Crown's high country land in a way that is ecologically sustainable [CPLA S.24(a)(I)]	The term "ecologically sustainable" is used rather than the Resource Management Act's "sustainable management" because, as the Select Committee at the time noted, the CPLA's focus is not on the protection of social and economic issues in relation to people and communities, which is the context of the RMA. The Select Committee also specifically retained the Commissioner's "discretionary consent" power because it believed that the RMA did not adequately protect the Crown's interest as owner of pastoral land.	The processes for achieving ecologically sustainable management on reviewable land are in need of review. Protective mechanisms that are site specific are unsuitable for achieving broad scale ecological sustainability on freeholded land. ENGOs are concerned about the protection of land that is not restored to full Crown ownership and control. They also believe that because tenure review on individual properties can take several years, SIVs may be degraded while a review is proceeding.	<ul style="list-style-type: none"> <li>Assess current practice, capacity and legislation to meet the objective on reviewable land and ex-pastoral land and recommend changes.</li> </ul> Report by: 31 March 2004 Lead agency: DoC
b. Enable reviewable land capable of economic use to be freed from current management constraints [CPLA S.24(a)(ii)]	Pastoral leases may only be used for pastoral farming <sup>5</sup> . Economic benefits may accrue to both local communities and to individual farmers when land is freed from the constraints of pastoral tenure.	This objective will not be achieved where leases that are likely to benefit economically from freeholding are not reviewed.  While freeholding has been the norm to date, lease arrangements could also be considered under certain circumstances. Leases may be appropriate for land that has insufficient SIVs to warrant conservation status, but is still too sensitive (eg. for water and soil reasons) to be freeholded.	Monitor the achievement of this objective and evaluate the impact of this objective on SIV protection policies.  Report by: 1 December 2003 Lead agency: MAF
c. Protect SIVs on reviewable land by the creation of protective measures [CPLA	A variety of protective measures such as covenants or easements over freeholded land are currently available.  The preferred means of protection of SIVs is restoration to full Crown ownership and control. To achieve this	Lessees believe that greater use should be made of protective measures and ENGOs believe that these measures are ineffective.  Achievement of the SIV protection and public access objectives for land tenure using the current processes could cost the	Review how to best achieve this objective and ensure that it is consistent with the Government's priorities by: <ul style="list-style-type: none"> <li>recommending guidance for determining when to use protective mechanisms for SIVs vs when to return land to full Crown</li> </ul>

<sup>5</sup> Some non-pastoral uses are permitted, such as tourism, if approved by the Commissioner.

Objective	Explanation	Issues	Further work proposed
S.24(b)(i)]; or preferably by the restoration of the land concerned to full Crown ownership and control [CPLA S.24(b)(ii)]	the Crown purchases the lessee's interest.	<p>Crown \$44m (\$27m for land purchase and \$17m for implementation)<sup>6</sup> more than originally estimated in 1995. The Government needs to decide whether this investment would represent value for money in terms of its other priorities.</p> <p>Once a value has been identified as an SIV, then it should be protected. There may be some discretion in determining what constitutes an SIV. There is also some flexibility in practice in the negotiation process. Retaining such discretion and managing such flexibility are important ways to contain the above costs while achieving the objectives.</p>	<p>ownership as Conservation land.</p> <ul style="list-style-type: none"> <li>developing comprehensive interpretation and guidance on what constitutes SIVs, from priority values through to values where flexibility should be retained.</li> </ul> <p>Report by: 1 December 2003 Lead agency: DoC</p>
d. Secure public access to and enjoyment of high country land [CPLA S.24(c)(i); Part IVA Conservation Act 1987]	This objective is related to the Government's aim of providing for ready and free public access, and recognises the special status of these lands as Crown owned.	<p>Concerns have been raised that this objective is not being adequately achieved currently through the tenure review process, particularly given the ad hoc property by property approach to tenure review.</p> <p>Tenure review is able to address public access to the high country to some extent. The Land Access Reference Group may consider wider access issues.</p>	<p>Exploration of options for better achieving this goal within the tenure review programme, including the:</p> <ul style="list-style-type: none"> <li>interpretation of access provisions in the CPLA, including access to adjoining conservation land;</li> <li>review of practice to identify solutions to access problems without needing legislative change;</li> <li>identification of marginal strips;</li> <li>overall access requirements for the high country, in relation also to the work of the Land Access Reference Group;</li> <li>identification of present and future opportunities for public use and enjoyment.</li> </ul> <p>Report by: 1 December 2003 (report on relationship to Reference Group work early 2004)</p>

<sup>6</sup> The actual appropriation required would be more than \$44m. This is because under the former (notional) Land Tenure Reform Account, forecast costs were appropriated as required. To date only \$53,788m (GST incl.) of the \$110m has been appropriated.

Objective	Explanation	Issues	Further work proposed
			Lead agency: MAF
e. Take into account the principles of the Treaty of Waitangi [CPLA S.25(1)(b)]	South Island iwi have cultural, environmental and economic interests in the high country that the Crown is required to respect.	It is uncertain how effectively this objective is being achieved in tenure review at present. There is no opportunity in the current process for DoC and iwi to have direct and ongoing dialogue over an emerging deal. There are cultural and mahinga kai areas of significance to iwi that need to be protected.	Explore options for, and any additional costs to the Crown arising from more effectively addressing this issue, and seek the views of relevant South Island iwi Report by: 31 March 2004 Lead agency: LINZ
f. Take into account any particular purpose for which the Crown uses, or intends to use, the land [CPLA S.25(1)(c)]	This provides a link with other Crown high country land use policies (e.g. minerals, as noted by the Select Committee) and with the complementary objectives outlined below.	These will be largely dealt with in the consideration of the complementary objectives below.	Identify and explore any relevant purposes not dealt with in the context of the other objectives.  Report by: As relevant Lead agency: As relevant

### Complementary Objectives

Objective	Explanation	Issues	Further work proposed
g. Ensure that conservation outcomes for the high country are consistent with the New Zealand Biodiversity Strategy (NZBS)	<p>While the NZBS has already been confirmed as Government policy, it will be made specific to the high country in this context. This objective is related to the "Protection of SIVs" objective above as biodiversity values are a subset of SIVs. This means that the Government should give priority to protecting biodiversity values that are indicated by the NZBS.</p> <p>The NZBS promotes the protection of biodiversity through objectives and priority actions. One such priority action is to add to public conservation land habitats and ecosystems important for indigenous biodiversity.</p>	<p>The ecological values of the high country are under-represented in the existing protected areas network.</p> <p>If SIVs having relevance for biodiversity are not covered in the NZBS, then their protection may not be justified.</p>	<p>Evaluate current methods by which DoC and the Commissioner identifies biodiversity values that are SIVs for protection and review as necessary.</p> <p>Report by: 1 December 2003 Lead agency: DoC</p>

Objective	Explanation	Issues	Further work proposed
<p>h. Progressively establish a network of high country parks and reserves</p>	<p>A high country network of parks and reserves is part of the Labour Party's 2002 election policy.</p> <p>A key objective for the next 5 years for DoC is to "improve protection of important high country environments and progressively establish, extend and link a network of high country parks and reserves"<sup>7</sup>.</p>	<p>Decisions will need to be made about the impacts of protecting additional land as public conservation land. Tenure review is a voluntary process and not all desired properties may want to enter tenure review.</p> <p>There may be merit in dealing with adjoining "clusters" of leases.</p>	<p>Identify priorities for land suitable for inclusion in a network in a paper setting out:</p> <ol style="list-style-type: none"> <li>1. Criteria/guidelines for land to become part of a network of parks and reserves<sup>8</sup></li> <li>2. Strategically selecting specific properties, or clusters of properties, for review.</li> <li>3. How much of the land desired for the network is currently held in <ul style="list-style-type: none"> <li>• full Crown ownership and control</li> <li>• reviewable land</li> </ul> </li> <li>4. How much land required is likely to be provided by tenure review</li> <li>5. The extent to which further land required for the network could be provided by tools other than tenure review, and whether these tools are desirable</li> <li>6. Any social or economic consequences that are likely to arise</li> <li>7. An implementation timeline</li> <li>8. The funding implications of acquiring properties for the network</li> <li>9. The funding implications of maintaining the properties acquired</li> <li>10. Based on the above, confirm implementation priorities and funding.</li> </ol> <p>Report by: 1 December 2003 Lead agency: DoC</p>
<p>i. Foster sustainability of communities, infrastructure and economic growth and the contribution of the high country to the economy of</p>	<p>Land use changes in the high country have potential impacts on the infrastructure (eg. schools, businesses), society and economics of rural communities. Productive and conservation uses of the high country can also contribute to the New Zealand economy.</p>	<p>Economic changes to rural communities and to New Zealand should be evaluated in the light of the Growth and Innovation Framework.</p>	<p>Report on consequences of land use change for rural infrastructure, society and economy. Report on consequences of land use change for the national economy.</p> <p>Report by: 1 December 2003 Lead agency: MAF</p>

<sup>7</sup> Department of Conservation Statement of Intent 2003 – 2006, page 30.

<sup>8</sup> It should be noted that DoC has not yet developed comprehensive departmental systems that allow it to make robust decisions about strategic land procurement.

Objective	Explanation	Issues	Further work proposed
New Zealand			

**Additional possible complementary objective**

j. Obtain a fair financial return to the Crown on its high country land assets	The Crown normally expects a return on assets that are being used for commercial purposes to be at market rates.	Return on leases is maybe only 25 - 33% of market rent, taking into account the restricted uses under the CPLA for pastoral land. Return on discretionary consents and valuation of freeholded land has also been questioned. If a proper financial return (ie.market rents) were available for pastoral leases, an important incentive for divestment would be removed.	<p>Explore options to better achieve this objective, including:</p> <ul style="list-style-type: none"> <li>• rental return on leases</li> <li>• valuation for freeholding</li> <li>• return on discretionary consents</li> <li>• effect of achieving market rates on other objectives</li> <li>• legislative and fiscal consequences</li> </ul> <p>Report by: 31 March 2004 Lead agency: LINZ</p>
--	--	--	---

Released under the Official Information Act

## IMPLEMENTATION PRINCIPLES

Principle	Explanation	Issues	Further work proposed
a. Achieve the Government's objectives for the high country in the most effective and efficient way	<p>The implementation of the Government's objectives must be timely, represent value for money, and achieve the Government's desired outcomes.</p> <p>Depending on particular circumstances, various tools could be used to achieve the objectives outlined above.</p>	<p>There is an issue as to whether the complete range of tools available is being fully utilised, and therefore whether the objectives would be achieved in the most effective and efficient way.</p>	<p>Report on the range of possible tools, how they might be used, and the cost and benefits of using them, including:</p> <ul style="list-style-type: none"> <li>• whole property purchases</li> <li>• other voluntary approaches</li> <li>• non-voluntary approaches.</li> </ul> <p>Report by: 30 September 2003 Lead agency: LINZ</p>
		<p>The CPLA processes and tools only cover those leases that voluntarily enter the process. Other ways should be considered to achieve the objectives when the CPLA process will not achieve them.</p>	<p>Report by: 30 September 2003 Lead agency: LINZ</p>
		<p>There is a concern that rising lease and land prices are becoming an obstacle to the Crown achieving its objectives. This might mean that the tools currently being used might not be the most effective or efficient in these circumstances.</p>	<p>Evaluate 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.</p> <p>Report by: 30 September 2003 Lead agency: LINZ</p>
b. Ensure that implementation tools (e.g .tenure review) are being used effectively and efficiently	<p>Tenure review is the main tool used to date to achieve high country objectives, and will likely continue to be an important tool in the future.</p> <p>Other methods (eg acquiring land by whole property purchases) are also used to achieve high country outcomes.</p>	<p>Tenure review is administratively complex as it involves many processes and stakeholders, and has complex workflows. The successful administration of the programme requires the use of high quality management techniques and people.</p>	<p>Review operating procedures and practices to ensure that departmental activities are aligned with the Government's objectives</p> <p>Report by: 31 March 2004 Lead agency: as appropriate</p>

Released under the Official Information Act

Principle	Explanation	Issues	Further work proposed
	<p>The tools for implementing the objectives place the responsibility for decision making in either the Director-General of Conservation, the Commissioner, the Minister for Land Information or the Minister of Conservation.</p>	<p>Concerns have been raised about whether DoC should have a consent role under the CPLA both in the granting of discretionary consents and the approval of conservation/freehold splits.</p>	<p>Evaluate the decision-making responsibilities required to achieve the objectives and report on whether they could be improved:</p> <ul style="list-style-type: none"> <li>• decision-makers for discretionary consents</li> <li>• decision-makers for tenure review outcomes</li> <li>• legislative implications.</li> </ul> <p>Report by: 31 March 2004 Lead agency: LINZ</p>
<p>c. Take a whole of Government approach to achieving the objectives</p>	<p>The achievement of the Government's high country objectives does not happen in isolation. It needs to be considered in the context of the Government's overall objectives for New Zealand, and in particular its commitment to achieving sustainable development.</p>	<p>The achievement of these objectives can impact on each other.</p> <p>The full range of other legislation and policy that impacts on the objectives may not have been identified.</p> <p>The potential effect on the Government's broader objectives (eg. the Growth and Innovation Framework - GIF) needs to be evaluated.</p>	<p>Evaluate how the high country objectives relate to and impact on one another.</p> <p>Evaluate how the high country objectives affect other Government objectives eg. the GIF and the sustainable development Programme of Action.</p> <p>Evaluate how other legislation and policy affect the achievement of the high country objectives.</p> <p>Report by: As relevant Lead agency: As relevant</p>
	<p>Land may be required for a particular Crown purpose other than the protection of SIVs. This is recognised in S.25(1)(c) of the CPLA, which has the effect of requiring that the intentions of other Government agencies in relation to high country land be taken into account.</p>	<p>No issues have been identified.</p>	<p>No further work required. If any issues are identified they will be reported.</p>

Principle	Explanation	Issues	Further work proposed
	How much value the Government places on the achievement of all or any of the objectives for the high country should be by way of a decision-making process where the funding requirement is considered relative to other Government priorities. This is best achieved through the Budget process.	Ministers will need assurance that the funding being spent is invested effectively and efficiently. Any request for additional funding requires analysis of what this additional funding will achieve. Different funding levels would have different implications on what can be achieved.	Assess options for achieving the objectives and the funding required as part of the Budget process. Report by: 1 December 2003 Lead agency: As appropriate
d. Consult interested parties appropriately [CPLA S.43,44]	This allows persons with interests in the high country to participate and influence outcomes when certain objectives are implemented. Consultation allows the public to add value to decision-making processes and provides decision-makers with a way to gauge the acceptability of proposed decisions.	There has been significant dissatisfaction expressed by ENGOs in the current consultation processes. Public confidence in the government's processes needs to be maintained. Consultation does come at a cost to the Crown and consideration will need to be given to these costs if consultation is to be extended beyond minimal legal requirements.	Review the consultation process with a view to improving it, particularly the adequacy of public consultation.  Report by: 1 December 2003 Lead agency: LINZ

Released under the Official Information Act

## Appendix 2

### Recent policy initiatives and government strategies

1. Section 24 of the *Crown Pastoral Land Act* (Objects of Part 2 – Tenure Review) says<sup>9</sup>:

The objects of this Part are–

- (a) To–
  - (i) Promote the management of reviewable land in a way that is ecologically sustainable;
  - (ii) Subject to subparagraph (i), enable reviewable land capable of economic use to be freed from the management constraints (direct and indirect) resulting from its tenure under reviewable instrument; and
- (b) To enable the protection of the significant inherent values of reviewable land–
  - (i) By the creation of protective mechanisms; or (preferably)
  - (ii) By the restoration of the land concerned to full Crown ownership and control; and
- (c) Subject to paragraphs (a) and (b), to make easier–
  - (i) the securing of public access to and enjoyment of reviewable land; and
  - (ii) the freehold disposal of reviewable land.

2. *The New Zealand Biodiversity Strategy* (p.41) aims to:

- Enhance the existing network of protected areas to secure a full range<sup>10</sup> of remaining indigenous habitats and ecosystems.
- Promote and encourage initiatives to protect, maintain and restore habitats and ecosystems that are important for indigenous biodiversity on land outside of protected areas.
- Add to public conservation lands those habitats and ecosystems important for indigenous biodiversity that are not represented within the existing protected area network or that are at significant risk of irreversible loss or decline, or in situations where public ownership is needed for effective management.

3. *The Labour Party's 2002 election policy (conservation)* provides that the party will:

- Continue to make additions to the public conservation estate (e.g. through the Nature Heritage Fund and ... high country tenure review), and upgrade the protective status of existing areas as appropriate.
- Promote ecologically sustainable land use and protection of conservation and public recreation values under the Crown Pastoral Land Act 1998.
- Provide clear guidelines for the high country tenure review and freeholding process to ensure lands with predominant conservation values are restored to full Crown ownership and protection.
- Review the funding available to enable the Crown to buy out the lessee's interest [in] those pastoral leases where the majority of the property has high conservation values.
- Establish a network of high country parks and reserves.
- Develop a public access strategy, including the extension of the Queen's Chain ... to ensure that New Zealanders have ready and free access to our waterways ... and natural areas.
- Ensure that New Zealand's natural recreational resources are not captured for exclusive commercial use but remain freely available for reasonable public enjoyment.

---

<sup>9</sup> The weighting of environmental and economic objectives was undertaken by the Primary Production Select Committee when considering the Crown Pastoral Lands Bill. As a result of "very careful consideration", the Committee recommended amendments to (the now) section 24, which were subsequently adopted by Parliament when it passed the CPLA. In making its recommendations, the Committee advised that:

- The intent of government policy related to tenure review is to give priority to the promotion of ecologically sustainable land management. Any freeholding of land capable of economic use is subject to this object.
- The preferable mechanism for the protection of SIVs is to be restoration to full Crown ownership and control.
- Public access and enjoyment will be secured where this is consistent with ecologically sustainable land management and the protection of SIVs.

<sup>10</sup> "Full range" means "comprehensive and representative range", that is, a range that reflects the known diversity of habitats and ecological communities remaining in New Zealand.

4. The *Progressive Coalition's 2002 election policy* provides for the party to:
- Continue the current programme for high country lands to include transfer to the Department of Conservation of those parts of the high country which have ecological and recreational value and which must be protected from grazing, including adequate reserves for tussock grassland, scrublands and wetlands.
  - Retain in New Zealand hands land that has a special nature or character or is in a significant location. This includes land of significant social, cultural, archaeological, scientific, scenic or ecological character.
5. *Sustainable Development for New Zealand: Programme of Action* embraces a number of goals to guide the public sector in achieving sustainable development (p.30). These include to strengthen national identity and uphold the principles of the Treaty of Waitangi, grow an inclusive, innovative economy for the benefit of all, and protect and enhance the environment. The Programme of Action also sets out principles for policy and decision making (p.10), by which the Government will take account of the economic, social, environmental, and cultural consequences of its decisions. The principles include:
- considering the long-term implications of decisions;
  - using the best information available to support decision making;
  - addressing risks and uncertainty when making choices and taking a precautionary approach when making decisions that may cause serious or irreversible damage;
  - decoupling economic growth from pressures on the environment;
  - respecting environmental limits, protecting ecosystems and promoting the integrated management of land, water and living resources;
  - respecting human rights, the rule of law and cultural diversity.
6. *The Government's approach to rural affairs* seeks to strengthen the partnership between central government and rural communities to ensure that people living in rural communities have the same opportunities as their urban counterparts and are accounted for in Government policy making. The Government also recognises that thriving land-based industries remain essential to New Zealand's *economic* wealth, and are interdependent with vibrant rural communities and a healthy rural environment. The primary production sector has a large role in the Government's recent *Growth and Innovation Framework*, which provides a platform for fostering sustainable economic growth.
7. The economic and social impacts of changing land use need to be considered in the above context. The New Zealand merino wool industry is highly regarded internationally and some businesses have developed niche markets (eg. Icebreaker clothing and Escorial textiles). Tenure review may result in less employment in pastoral farming, particularly if conservation/freehold splits result in the downsizing of farming activity.
8. New employment opportunities may, however, be generated from diversified use of freeholded land no longer subject to CPLA constraints. Recent examples in Otago include viticulture, commercial recreation, deer farming, commercial vehicle testing, a lifestyle subdivision, and a proposed hydro-electric scheme. Economic activity and employment growth can also result from increased recreation and tourism opportunities on new public conservation land (e.g. over 10,000 people a year using a new public track at Moke Lake on the ex-Closeburn property), as well as from employment in conservation management itself. There has been significant interest from commercial operators seeking concessions from DoC on new conservation land.