Crown Pastoral Land Regulatory System – Regulatory System Assessment

Context

1. Land Information New Zealand (LINZ) has regulatory stewardship responsibilities for four regulatory systems. A regulatory system includes the rules, institutions, skilled workforce, practices and understandings which combine to make regulation of an activity or sector effective.
2. The State Sector Act was amended in 2013 to make it clear that Departmental Chief Executives have regulatory stewardship responsibilities. Taking a stewardship approach requires Chief Executives to look beyond their direct statutory responsibilities to the capability and resilience of the regulatory system over time, including the other agencies which form part of the system as well as LINZ.
3. LINZ has developed a regulatory systems strategy to ensure it discharges these stewardship responsibilities well. LINZ carries out regulatory systems assessments to ensure that individual systems are performing well, and are able to respond to emerging issues and trends so that they remain fit-for-purpose. Looking systematically across different regulatory systems enables LINZ to transfer learning and innovation more readily (including drawing on the experiences of other agencies).
4. One of the tools LINZ, like other agencies, is using to be an effective steward of its regulatory systems is a periodic assessment of each system. These assessments are a snapshot rather than an in depth analysis. The assessments check how the system is working now rather than what the rules should be (i.e. they are not a policy review), and they look to identify the main areas that should be the focus of LINZ's attention in the short to medium term, rather than be more in depth analyses of the strengths and weaknesses of an institution (i.e. they are not a Performance Improvement Framework review).

The Crown Pastoral Land Regulatory System

5. The Crown Pastoral Land Regulatory System is part of the broader Crown Land Regulatory System. The Crown Land Regulatory System creates the framework by which the Crown can buy and sell land, in a way that balances both public interests and private property rights. The system seeks to protect the rights of private landowners, iwi and others while enabling the Crown to efficiently and effectively acquire or dispose of land for government purposes. This is achieved by:
    a. Administration of relevant legislation (eg Public Works Act, Land Act) and government policies relating to Crown property
    b. Provision of statutory decision-making under that legislation under delegation, and support to the Minister and Commissioner of Crown Lands for their decision
    c. A suite of standards and guidelines for Crown agencies and service providers, setting out the requirements
    d. A programme of accrediting service providers to undertake activities under the Public Works Act 1981
    e. Access to historical Crown records necessary to investigate and analyse obligations in relation to Crown-owned Land
    f. Programmes to build capability within LINZ and in the wider public sector on Crown property matters, strategic portfolio planning and whole of life asset management

6. The Crown Pastoral Land Regulatory System includes the role of the Commissioner of Crown Lands, who is an independent statutory officer who acts as landowner for Crown Land held under the Land Act 1948 and Crown Pastoral Land Act 1998. LINZ provides technical and administrative resources to enable the Commissioner to execute their role.
7. The Crown's original intention was to enable appropriate settlement and management of the land. This has required a balance between enabling the land to be used for pastoralism and managing the impacts of the use and pests on the land.
8. The Crown Pastoral Land Regulatory System is about establishing the relationship between Crown and lessee, which is:
    a. Lessee has the right to exclusive occupation, right to reside, right to graze the land for pastoral farming, and with consent the right to disturb the soil or a different land use (eg tourism). These rights are in perpetuity following the Land Act 1948
    b. The lessee does not have the right to freehold the land, nor the right to subdivide the land.
    c. Lessees have the responsibility to manage pests (eg wilding conifers, hieracium, and rabbits) on the land and must farm with 'good husbandry' practices.
    d. The Crown has right to the land exclusive of improvements, and manages this right through requiring lessees to get consents for activity that disturbs the soil. The rental regime is currently based on earning capacity rents based on stock carrying capacity. This is designed to ensure extensive pastoralism is possible (otherwise Crown would have to incur the cost of looking after the land)
9. To manage the relationship between the lessee and the Crown and the need to balance use and impact the Crown Pastoral Land Regulatory System has 3 core interacting subsystems:
    a. The Tenure Review system – the system for transferring pastoral lease land to other forms of tenure
    b. The Discretionary Consents system – the system for obtaining permission from the Crown to impact the land if the lessee does not have that right (eg consents, permits, exemptions)
    c. The Rental regime – the system by which the Crown obtains a return from the lessee for their use of the land

The Assessment Process

10. The Assessment team was Richard Hawke, Director Regulatory Systems (lead) and Stephen Trebilco. The process was one of: internal material analysis followed by semi-structured interviews following provision of a background note (February 2018).
11. There was heightened awareness of the Crown Pastoral Land System, and its components, due to the release of the Mackenzie Basin – Opportunities for Agency Alignment report on 20 February 2018, completed by Dr Hugh Logan and John Hutchings.
12. Participants included representatives from: Pastoral Lessees and their representative bodies, Ngāi Tahu, Department of Conservation (DOC), government agencies, non-government agencies, local government and organisations providing key services for the operation of the system.

Summary of assessment

Where we are at today is strongly influenced by decisions taken a long time ago…

1. The Crown's role in the South Island high country (high country) dates back to the 1800's with the initial purchase of land in the high country from Māori orchestrated by the Government.[1] The first complaints about the purchasing of land were almost immediate.[2] The first leases in the high country were set up in 1851.[3]
    a. One of the roles of the provincial government in the South Island was to transition the land to farmers. The Government exercised a right of transition partly to avoid conflict with Māori and partly because a gap between purchase price and the selling price to settlers was intended to finance immigration and infrastructure development. Regulations in 1856 established leasing conditions. The Land Act of 1877, which followed the abolition of the provinces, set tenure terms for the leasehold farmers. These terms were initially 10 years, but were extended to 21 years by 1892.
    b. Since this time the Crown has largely been an absentee landowner, aside from responding to the requests of farmers or concerns others had about the land. The Crown has not defined a clear outcome sought, other than exiting being a landowner.
2. The Land Act (1948) was driven by two related concerns:
    a. Environmental degradation was taking place as a result of farmers not taking a long-term view of land management due to their short-term and insecure leases
    b. Soil conservationists were concerned about the protection of the soil.

    Hence, the Act made conditions to protect the soil and tenure was made perpetually renewable on a 33 year term with any improvements belonging to the lessee to provide the incentive for long-term management. The 33 year perpetual lease, and the right of exclusive occupation, meant most of the value of the land transferred to the lessee; a decision that has caused much concern during the tenure review process (the Martin and Clayton reports contain history and background).[4]
3. Soil and water plans of the 1970s (developed by catchment boards, the precursor to regional councils) continued the process of trying to reduce the pressure on the high elevation high country by retiring land (removing stock) and controlling pests. A key focus of conservationists was deer and rabbit control and the removal of sheep from the higher elevation areas.
4. Over the 1980s and 1990s there was substantial work undertaken to reconsider and reform pastoral land management in the high country and the pastoral leases. The Clayton report (1982) expected that perhaps 80% of land could go to freehold. The Martin Report (1994) stated that "pastoral lease tenure is not achieving sustainable management and does not provide the flexibility to make the necessary changes towards ecological sustainability and economic viability…..a review of pastoral lease tenure is required with the objective of freeholding all the land not required by the Crown for

[1] Resources on the early development of pastoral farming in the South Island high country:
http://www.doc.govt.nz/Documents/science-and-technical/sap240entire.pdf
http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.821.7904&rep=rep1&type=pdf

[2] As early as 1849 Ngāi Tahu chiefs complained about the methods used in purchasing their lands, including that land they wished to keep was included in the purchases.

[3] The Crown Lands Ordinance (New Ulster) 1849, which excluded Canterbury and Otago, until the Crown Lands Amendment and Extension Ordinance 1851.

[4] Clayton (1982) Crown Pastoral Leases and Leases in Perpetuity: Report of the Committee of Inquiry and Martin (1994) South Island High Country Review – Final Report from the Working Party on Sustainable Land Management.

the public interest".[5] When the CPLA was passed it was expected that it would spell the end of the Crown managing pastoral leases and that by 2008 no pastoral leases would remain;[6] and, the RMA was the mechanism to achieve environmental outcomes.

5. The Crown Pastoral Land Act (CPLA) 1998 was really just an amendment to the Land Act 1948 and continued the themes of the Land Act. By 1998 a number of lessees had come to an agreement with the Crown to obtain freehold rights to a part of their former lease, with the balance of the lease area transferred into the conservation estate. These agreements were carried out in an ad-hoc fashion under the Land Act 1948. The Crown wanted to regularise and standardise the "tenure review" process and remove the management constraints of the leasehold tenure. The Crown also wanted to exit from its role as lessor, partly because the cost of managing the leases was greater than the rental revenue received and because environmental outcomes had improved since the 1940s.[7]
6. Historically decisions on land are contentious. Decisions about how land should be sold to settlers were a principal political issue for much of the nineteenth century. The Crown Pastoral leases are, in some sense, a historic relic, but one which has attracted new public interest. To operationalise the core processes and reduce political interference a large amount of power was vested with an administrator, the Commissioner of Crown Lands (CCL), to enable them to make decisions on tenure review, discretionary consent and the management of pastoral leases. While accountable to the Minister for Land Information, the CCL, as a statutory officer, is guided by the legislation.
7. The combined effect of the Crown's apparent strategic intent to exit leases, a strong administrative decision-making role, and a short-term focus has meant that operational considerations have become overly important and the focus has been on transactions. To many it appears that LINZ (and DOC) became more and more process-focussed and conservative in their thinking, primarily to avoid legal risks.
8. For many, tenure review has not resulted in what was expected on a number of dimensions: the split of land across conservation, freeholding and mixed use; ecological sustainability; access to valuable land; and public land. Current frustrations and the cumulative effect of numerous actions suggest that just the Crown being better coordinated will not be enough to satisfy all external stakeholders.

…. and since the passing of the CPLA the environmental and economic conditions and LINZ's processes have changed …

9. Early tenure review processes basically employed an "altitude model," meaning the high-elevation high country became the basis for conservation parks while the lower high country, which had already been more modified, became more intensively farmed except for any specific protected areas.
10. Conservation is no longer "pests and sheep off the higher elevation land," but is about protection of areas or species, including their habitats, from pressures that may alter them, and it also includes facilitating recreation and enjoyment of protected areas. This means that what is considered

[5] From, Minister of Lands (1994) *Crown Pastoral Lands Tenure Review – An economic analysis [paper 2]*, which noted "There is a potential to add between 600,000 and 1,000,000 hectares to the Conservation Estate as a result of a land allocation opportunity that would arise with tenure reform. Similarly, there is also the potential to freehold between 1,500,000 and 1,900,000 hectares for more diverse uses than are currently permitted under pastoral lease tenure."

[6] Cabinet Policy Committee (2003) Government objectives for the South Island high country: POL Min (03) 19/7

[7] From, Minister of Lands (1994) *Crown Pastoral Lands Tenure Review – A background paper [paper 1]*, which noted that "The cost of administering Crown pastoral leases currently exceeds the revenue obtained from rentals. Present rental and permit income is approximately $1 million annually. This compares with a cost of approximately $2.4 million to administer the leases."

valuable conservation land today is not just the high-elevation high country, as was commonly envisaged when the CPLA was passed.

11. Since 1998 the environment, and environmental values, have changed. Interest in the high country has increased. Demands for access and protection from recreation, tourism and environmental interests have diversified and increased. The competition among hunters, trampers, tourism operators and environmentalists means the (relatively straightforward) deal of freehold and transfer to DOC in exchange for freedom from fear of rent increases is no longer viable. The early stages of tenure review slipped under the radar and then the numerous interest groups caught on. Overall, more interests want a say in the process and outcomes sought, which challenges the nature of lessee–CCL relationship and a system focussed on process.
12. Relative to the rest of the world NZ farming has a history of being productive, flexible and changing. The economics of farming are challenging, and are influenced by factors far outside the control of New Zealanders and the New Zealand government. Since 1998, farming has changed across New Zealand. Particularly evident is the growth of dairying and some of the most recent area to be converted to dairying has been the lower elevation high country. Tenure review is associated with land use intensification, primarily because the tenure review has usually resulted in retiring about 50% of the lease as it is transferred to the conservation estate (often at the higher elevations) and freeholding lower elevation land that is capable of more intensive economic use. At the same time the pressures, and interests from others, on farmers in terms of farm and environmental management have increased.
13. When the CPLA was enacted the cabinet papers acknowledged concern about the CPLA–RMA interface; this remains. Given the soil protection objective of the CPLA the discretionary consent regime specifically protects the Crown's property right interest in the land. This interest merits an additional level of protection above and beyond the RMA regime. An example of the additional level of protection is the requirement that lessees obtain a discretionary consent if they wish to burn vegetation. Under many RMA plans this is an "existing use" and would not require consent. However, for many people discretionary consents are perceived as 'preparing land for later intensification' assisted by the process of tenure review. With an operational focus, on pastoral farming, LINZ is viewed by others as being biased toward the desires of farmers.
14. Consistent with its process-focus LINZ has had its processes audited and altered.[8] The Commissioner of Crown Lands promulgated a standard on information and consultation required to carry out tenure review (LINZS45003). The Tenure Review Quality Assurance Board, established in 2009, reviews all tenure review proposals to provide confidence that proposals have been robustly analysed. The Board consists of DOC and LINZ staff. There is also a LINZ-Ngāi Tahu agreement to ensure clarity over how and when LINZ and Ngāi Tahu engage on stages of the tenure review process.
15. The process for setting rents was changed in 2012 from rents set on the basis of the value of the land exclusive of improvements[9] , to a system of earning capacity rents determined by the stock units on the property, with a value-per-stock unit set by the Valuer-General. Rent, and the mechanism for setting it, is crucial for influencing the attractiveness of the tenure review process.

[8] For example, the Warwick Tuck review (2007) and the KPMG review (2013)

[9] This was not the first time the process for setting rents had changed. Rents were set on a per-stock unit base carrying capacity from 1948-1979, then on the 2% LEI from 1979-2012 (https://www.linz.govt.nz/system/files_force/media/pages-attachments/earning-capacity-rents-report-to-sihc-ministers.pdf?download=1)

Many farmers entered tenure review when they were uncertain if they may face large rent increases between 2007 and 2009. The rental changes in 2012 eased those fears and have resulted in fewer entrants to tenure review since. Those involved in the rental process commented that it was a well understood and clear regime that works from a stock carrying capacity perspective. It is less clear whether the Crown is getting value from other rights it confers to the lessee, for example the right to reside and have workers reside on the property, or any concessions allowing non-pastoral activity on the land. The 2012 changes to the rent regime reflect the changed nature of the system: from rents being a mechanism by which the Crown got some use of the land until it could find a purchaser, who would buy the land freehold and use the land to its full potential, to Crown pastoral leases being part of the Government as an entrepreneur.

16. Compliance activities have become more structured. For example, LINZ undertakes a monitoring programme, which prioritises leases that have a current 'high-risk' consent (eg burning consent). In addition to monitoring the consent activity, LINZ evaluates the lessee against a set of 'good husbandry' criteria that were created in 2007.[10] The criteria were developed from the 'good husbandry' requirement that the Land Act (section 99) places on the lessee, and covers a broad range of land management practices.
17. A key part of the tenure review process is the advice the CCL receives from DOC on inherent values. There has been criticism of the quality of the DOC underlying science advice (both content and timeliness) and how the science advice has been synthesised into the overall DOC advice. DOC have been trying to get better at giving definitive advice for both discretionary consents and tenure review to help enable the CCL make decisions.
18. Despite the recent efforts to improve processes, the external perception is that key processes in the system, such as discretionary consents and tenure review, are not transparent. Neither the content of the processes nor the processes themselves are well understood by many stakeholders. The situation is further clouded because the Crown does not appear to have a clear strategic objective, other than exiting the arrangements.
19. The regulatory system operates alongside other key systems, particularly the resource management, conservation and overseas investment systems. Stakeholders expect the interfaces to work better.

… and the various parts of the regulatory system have been given uneven attention …

… the policy function has been under-invested in…

20. LINZ has only a small policy function and the policy function has not devoted much attention to the overall system. DOC has also not devoted much policy resource to this system (both agencies have devoted operational resources). Hence, the system has been seen as operational in nature, which has encouraged a focus on processes at the expense of outcomes.

… and the operational policy, service design and standards-setting have been process-focussed…

21. The system has developed a process focus that is directed towards outputs rather than outcomes. For example, processing a discretionary consent request rather than what is the impact of the decision on the ease of farming or on the inherent values of the land, or completing a tenure review, in negotiation with the lessee, rather than evaluating the extent to which the outcome will improve ecologically sustainable management of the land.

[10] LINZ's good husbandry report from 2007

22. The CCL has delegated some decision making to LINZ. However, the delegations have not been accompanied by clear directives indicating what the CCL expects from LINZ (other than in relation to process). The CCL has not helped because it has not been clear to LINZ staff, service providers or external stakeholders about how the CCL makes important judgement decisions. For example, the weighting of improving farming practices versus protecting inherent values when considering a discretionary consent.
23. The service delivery model and its implementation by LINZ includes portfolio managers and external contacted service providers (SPs), which has resulted in LINZ having a stronger link to farming and economics than ecology, eg "capability of economic use and not warranted protection." There is also the perception that LINZ staff just rubber stamp what SPs provide, but it is also noted that SPs are variable and don't all know what LINZ wants.
24. Overall, the combination of stronger farming links, poor or variable quality ecological advice, and the desire to complete deals has meant development has resulted.

Following the passing of the CPLA LINZ and the CCL prioritised completing tenure reviews..

25. Following the passing of the CPLA, LINZ and the CCL prioritised completion of tenure reviews (almost 'any deal is a good deal'), even previously funding SPs and offering incentives to complete the stages of the tenure review process. When trying to improve management of Crown pastoral leases, the focus of LINZ has been the process and not how decisions are made. For example, a focus on engagement processes with DOC rather than how to reconcile completing objectives.
26. While the key system processes (eg tenure review) are around the Crown's exit strategy, the outcomes are challenging what people thought would happen and it is no longer clear if tenure review is attractive to leaseholders. The change in focus represents a challenge for central and local government, particularly LINZ, because the system is being asked to deliver something it was not designed to deliver.

… so LINZ's advice and education function is focussed on the lessee…

27. LINZ's advice and education function has been focused on engagement with lessees and has not adequately ensured the system is transparent to other stakeholders. This work has often been overly process focused and unable to consider things beyond a narrow view of the process.

… and there has been limited compliance and monitoring…

28. The compliance and enforcement function lacks adequate tools to enforce non-complying behaviour. The compliance inspection regime has been variable over the years. Overall compliance, monitoring and enforcement are hampered by a lack of information – there is not much data on landuse, the state of the environment, or the effect of land use changes.
29. Dispute resolution is focused towards lessees, and with many processes appearing to favour the lessees the external perception is one of a lack of transparency (eg there is limited ability for stakeholders to dispute discretionary consent decisions but lessees can).
30. LINZ uses a number of service providers. There is concern that there is inconsistency across those contractors with the advice and service they provide. Also there does not appear to be any joining up of compliance, enforcement and monitoring across LINZ, DOC and local government.

... so with a lack of clear outcomes and information on the system it has been difficult reconcile the competing views on the system…

31. LINZ records the outcomes of tenure review in terms of land area and financial transfers and outcomes of discretionary consent applications (approved / part approved / declined). LINZ is charged with, and is focussed on, running the process, so has no information on what happens after

tenure review. There is no systematic recording of ecological outcomes and as such, no way of using history to inform current practice.

32. The lack of information (on farming and environmental values) and no overall indictors of Crown strategic priorities all feed into the prioritisation of process over outcome. Despite this there is still discontent with the process.

Testing against the key 4 criteria

Effectiveness

33. Out of 303 Crown pastoral leases in 1998, 125 have completed tenure review, with a large amount of land added to both the conservation estate and to freehold tenure. Of the current 173 leases, only 40 are in tenure review. Given the initial expectation that all leases would have gone through tenure review in a reasonably short period of time the system has not delivered. Approximately 40% of Crown pastoral leases have completed tenure review.
34. Many stakeholders argue that tenure review and discretionary consents have assisted land use change and intensification and that the system has not delivered ecological sustainability.
35. In its current form the system is unlikely to result in many of the remaining leases, beyond those in the tenure review system, completing tenure review.

Efficiency

36. The system is not efficient:
    a. Tenure review is slow, which is expensive on many dimensions for all parties
    b. Discretionary consents do not cost the farmers, but do cost the Crown
    c. Service Providers are not clear enough on what is expected of them
    d. Stakeholders are still arguing about the necessary process steps, causing considerable inefficiency
    e. The interface with the RMA is poor, which is generating considerable extra work for all.

Durability and resilience

37. The system has continued to deliver tenure review; discretionary consents have continued to be issued and concern over rents has reduced.
38. The system is not able to cope with the wider range of stakeholders that want to have input into the system.
39. The system was designed to enable the Crown to exit the lease arrangements, and is struggling as pressures change. For example, discretionary consents are now for a much larger number of activities and the Crown is likely to be a long-term landowner.

Fair and accountable

40. The CCL is only accountable to the Minister for Land Information so stakeholders do not see the CCL as accountable (especially as there has been very limited visibility of the CCL for a number of years).
41. The processes are opaque and not well understood and there is not widespread agreement that the system is fair.
42. Processes are weighted towards farmers (eg appeal rights on discretionary consents) and are not perceived as fair (eg the process of tenure review is perceived to exclude many perspectives).

Key issues

Priority 1: Clarify the system objectives.

- The current system is designed to enable the Crown to exit being a long-term landowner. Expectations of the system have changed and the Crown needs to articulate what it is seeking to achieve from the system.
- The Crown needs to articulate the outcomes it wants from the system. Then the Crown needs to find a way to give effect to that articulation.
    1. If the Crown is comfortable with the system being about exiting being a long-term landowner then it needs find a way of ensuring lessees enter the tenure review process.[11]
    2. If the Crown wants to be a long-term landowner then it needs to change the current legislation to establish a regulatory system that is focussed on what the Crown is seeking to achieve by being a long-term landowner.

Priority 2: Improve information, monitoring and transparency.

- Stakeholders and LINZ all require better information to understand and improve system performance.
- To understand what the system is delivering in terms of outcomes requires good information. At the moment information such as the outcomes of tenure review processes is not easy to obtain and is not part of what is used by the policy teams.
    1. Monitoring and evaluating the regulatory system requires appropriate information on the outcomes the system is delivering. Such information should include farming practices, ecological outcomes, process performance, and cultural/historical sites. The data needs to move beyond the number of hectares in the various forms of tenure after a tenure review.
    2. The data should be used to inform stakeholders and decisions on the management of Crown pastoral land.

Priority 3: Continue process improvement.

- LINZ has considerable scope to improve its understanding of what the regulatory system is achieving. How processes (particularly tenure review, discretionary consents and rent setting) support the system and involve (consult / inform / allow input from) stakeholders matters to the overall performance of the system.
- Process improvement alone is unlikely to satisfy key stakeholders because their main concern is the system objective. However, the processes are important and improving them can improve system performance.
- Without legislative change the system will remain process-focussed because the system objective is process-focussed. As the key service design and operational agency it is incumbent on LINZ to ensure the processes deliver as best as possible.

[11] The alternative to tenure review being the Crown could, as it has done, purchase who property leases, but then it has to decide on the tenure arrangements for that land (eg unalienated Crown Land or it could become part of the conservation estate.

Priority 4: Reconsider the underlying legislation and supporting institutional arrangements.

- The nature of this reconsideration is the Government's objective for the system. The system has been able to flex and respond to the changes sought by government since 1998. However, it has not been able to satisfactorily respond to the changes in economics and environment. As the system objective shifts further from the original objective (that the government should exit being the long-term landowner of Crown pastoral leases) the regulatory system becomes increasing stressed.
- If the government is going to continue to be a long-term landowner of pastoral leases then the legislation, regulations and institutional arrangements that support this objective need to be reconsidered.
    1. Issues around land are sensitive to New Zealanders and the Minister having no ability to influence the regulatory system or decision maker – ie the Commissioner of Crown Lands (CCL) - seems too narrow as the issues are broad and politically sensitive.
    2. The current processes, and the role of the CCL in those processes, were established to deliver tenure review and enable pastoral farming, which was largely extensive merino sheep farming. The processes should be designed to ensure delivery of the system objective.
    3. If the objective is not changed it is still appropriate to revisit the current systems to ensure they are fit for purpose, particularly as non-pastoral activities are becoming increasingly important for high country lessees.
    4. Over the past twenty years there has been a move to increase the ability of interested parties to be involved in regulatory processes. At present there is limited ability for such parties to be involved in the Crown Pastoral Land Regulatory System, other than during a particular tenure review process. Given the major regulatory system that interfaces the Crown Pastoral Land System is the RMA the difference is marked.
    5. The legislation and regulations could be improved. For example, it is necessary to read the Crown Pastoral Land Act and the Land Act together, the legislation does not contain clear outcomes and key terms (eg ecologically sustainable) are not defined.
    6. The current system does not contain a framework to decide on non-pastoral activities to ensure the Crown obtains a fair return from those activities.

Priority 5: Reconsider the interfaces.

- The system operates alongside other key systems, particularly the resource management, conservation and overseas investment systems. Stakeholders expect the interfaces to work better.
- At the process level the interfaces can work better. Having lessees apply to multiple government agencies for the one activity is inefficient and creates too much opportunity for uncertainty and inconsistency. For agencies this approach does not work either. The Crown can do better at enabling local authorities to do the job the Crown and New Zealanders expect them to do.
    1. If the legislation is revisited then an objective should be to make the revised legislation works better with, at least, the Resource Management Act.

Key strengths

43. The system has delivered 125 tenure review outcomes (out of a total of 303 leases) since 1998 and this has resulted in:[12]
    a. 302,554 ha moving into the Crown Estate (47% of the 648,494 ha), which has enabled the creation of a number of high country conservation parks[13]
    b. 345,940 ha moving into freehold tenure (53% of the 648,494 ha)
44. The system is flexible and could deliver a range of outcomes largely because the key decision point in the system is the CCL and, under statute, they have a high degree of autonomy.
45. The operational focus taken has resulted in the delivery of tenure review, operational improvements and an ability to deliver the necessary processes to support the desired outcome.

[12] Figures as at 30 November 2017. In addition to the tenure review process the Crown has purchased 5 leases with 125,792 ha moving into the Crown Estate.

[13] Under the 2003 Government Strategic direction [POL Min (03) 19/7 refers] five conservation parks were created, ie Ahuriri, Korowai-Torlesse, Te Papanui, Eyre Mountains/Taka Ra Haka and Ruataniwha, through pastoral lease land obtained from tenure review and lease purchases being combined with existing conservation land. Five additional parks were progressed through tenure review and lease purchase, which, in addition to Molesworth brings the number of parks to 11. Priority was to be given to these parks that were being progressed [CBC (07) 86, CBC Min (07) 10/12 refers]. Two of the subsequent parks were made of pastoral lease land purchased outright by the Crown:

- Oteake Conservation park made up of Michael Peak (purchased in 2007) and Twinburn (purchased in 2008)
- St James conservation area made up of the St James pastoral lease (purchased in 2008)

Land Information New Zealand Response to Assessment

I welcome the assessment teams' Review of the Crown Pastoral Land Regulatory System. This timely review is a constructive and useful addition to our on-going stewardship activities and provides LINZ with an opportunity to enhance how we administer Crown pastoral land.

I agree in principle with the overall findings of the Review, which closely align with our existing thinking on system improvements. It is apparent that the Crown is likely to be a long-term administrator of a pastoral land estate. LINZ recognises the system is flexible enough to potentially achieve a range of outcomes, but is constrained by the existing legislation. Hence, we will be acting to make improvements where we have control and be providing advice to Ministers where necessary.

The Review identified key issues grouped under five priority areas. These issues and our response to them are:

1. *Clarify the system objectives*

   To address these priority areas, we propose a range of actions as part of a new strategic work programme, focussed solely on the South Island High Country. These will take a long-term management approach and include work already underway in the Mackenzie Basin.

   Changes to the system objectives may require significant policy changes. We will advise Ministers on potential options to improve the performance of the system.

2. *Improve information, monitoring and transparency*

   We will improve information and monitoring through a number of initiatives, including:
   - establishing a new Crown Pastoral Land Advisory Group to advise the CCL and LINZ on Crown pastoral matters
   - enhancing how we work with DOC, including looking at the information we obtain from DOC on discretionary consents and during tenure review
   - establishing a formal monitoring, compliance and enforcement strategy for activities on Crown pastoral land.

3. *Continue process improvement*

   Other process improvements we will undertake include reviewing all of our relevant standards and guidelines. To support more transparency, stakeholders will see improved information on tenure review, the legislation and consents – in particular how decisions are made. This also includes improving the availability of mapping and data.

4. *Reconsider the underlying legislation and supporting institutional arrangements*

   As part of our advice on system objectives and policy issues we will provide advice for Ministers on the underlying legislation and supporting institutional arrangements.

5. *Reconsider the interfaces with other key systems*

   We recognise that Crown pastoral land is managed within a range of related systems. We will work with key agencies to implement the findings of the 2017 Mackenzie Review. This work will also provide a model for how we can work with other agencies elsewhere in the

South Island High Country, and how interlinked regulatory systems, such as the Resource Management and Crown Pastoral Land Acts can better collaborate.

While we will be taking an action to make an immediate difference and improve the operation of the system, many improvements will require long term attention. As part of these immediate changes we will also identify and progress other work needed to address the findings of the review.

In terms of monitoring to ensure system performance is improved I will report to LINZ's Executive Leadership Team on delivery and impact of the key actions outlined above. Feedback from the new Crown Pastoral Land Advisory Group and wider key stakeholders will be sought on the effectiveness of these initiatives.

Jerome Sheppard
Deputy Chief Executive
Crown Property