

# Changes in the high country: Environmental stewardship and tenure review

Update Report  
June 2011

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In April 2009 the Parliamentary Commissioner for the Environment released a report entitled *Change in the high country: Environmental stewardship and tenure review*. This report reviewed the allocation, use and preservation of Crown pastoral lease land in the South Island high country. This is an update on developments since.

## Background

The South Island high country stretches across nearly a quarter of New Zealand. Its iconic pastoral landscapes encompass mountains and basins, tussock grasslands and clear blue lakes. It is home to various rare plants, animals and ecosystems. The high country rivers feed major hydroelectric schemes and bring water to the East Coast plains.

Almost all the high country is owned by the Crown. Much of the land has been leased to farming families for generations. Since the early 1990s, the Department of Conservation has sought to acquire land retaining its natural and historic values, while leaseholders have secured freehold ownership of productive land. The process of dividing up the land held under these pastoral leases has come to be generally known as 'tenure review'.

This investigation into tenure review was started in May 2006 by the then Parliamentary Commissioner for the Environment, Dr Morgan Williams. Dr Williams was concerned that tenure reviews would have adverse effects on the environment of the South Island high country. Upon her appointment as Commissioner, Dr Jan Wright decided to complete the investigation.

## Main findings of the investigation

The tenure review process is resulting in very large changes to land ownership and land use. While each pastoral lease that enters the process is considered individually, the cumulative effects of many reviews have significant implications for the environment. The report's main conclusion was that the changes in high country were in urgent need of strategic overview and direction.

The report recommended that individual tenure reviews continue to proceed, provided that proposals and settlements are demonstrably in the wider public interest. The Commissioner recommended the creation of a new body in the form of a High Country Commission to provide strategic oversight and advise on significant aspects of the public interest in tenure review and in the high country more generally.

The investigation found that most completed reviews had resulted in an overly simple split, with lower altitude productive land becoming largely unencumbered freehold, while higher altitude land became conservation parks.

The report recommended greater use of the range of options available to better protect environmental values. It also recommended safeguarding of national interests in lakes and outstanding landscapes, water quality, wilding conifer control, and prioritisation of conservation land acquisition.

## Reaction to the report

The high country of the South Island is a special place for many New Zealanders, and the positions of different interest groups are often strongly polarised. Consequently the report attracted a lot of attention among those groups and in the media.<sup>1</sup>

The Minister of Agriculture, Hon David Carter, said it was an *"excellent report [that] takes a sensible and constructive approach to tenure review"*, and that the Government *"will be carefully considering the recommendations made in the report"*.<sup>2</sup>

Green Party co-leader Metiria Turei also welcomed the report, supporting the recommendations for a High Country Commission and *"for new and significant reviews to only proceed when environmental protection is demonstrated"*.<sup>3</sup>

The Primary Production Committee, to whom the report was referred, stated: *"We found the report to be well balanced, objective, and considered, and it raises many important issues. We were pleased to note that the report took into account the operational costs of the tenure review process. We will watch with interest the progress resulting from recommendations made in the report."*<sup>4</sup>

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<sup>1</sup> The report was covered by TV3, the Country Channel, Radio New Zealand, and at least twenty newspapers and other publications with a combined circulation of more than 700,000.

<sup>2</sup> *Hansard*, volume 653, page 2493 (Thursday 8 April 2009). Refer also: Minister of Agriculture. 7 April 2009. Press release.

<sup>3</sup> Green Party. 7 April 2009. Press release.

<sup>4</sup> Primary Production Committee. 9 December 2009. Report to Parliament.

In contrast, Forest and Bird disagreed with the report's recommendation that no further high country parks should be created, arguing that the report overlooked the economic benefits from tourism and recreation. They also felt that the report overstated the environmental stewardship opportunities on private land. In their view, for example, "[w]hile some farmers are doing a good job, DOC is doing a better job getting rid of wilding pines".<sup>5</sup>

Federated Farmers High Country chairman Donald Aubrey was "more than pleased that farmers were being seen as part of the solution... [The Commissioner] correctly deduces there is a third way, which is positive for the environment, positive for farmers and positive for all New Zealanders."<sup>6</sup>

Environment Canterbury supported the report's concerns in relation to protecting water quality in the Canterbury high country.<sup>7</sup>

## Response to the Commissioner's recommendations

The Commissioner made nine recommendations in her report, relating to three themes:

- strategic oversight and direction (Recommendations 1, 2, 3);
- land ownership and management (Recommendations 4, 5, 9); and
- safeguarding the national interest (Recommendations 6, 7, 8).

### Recommendations regarding strategic oversight and direction

#### Recommendation 1:

The Commissioner of Crown Lands proceeds with individual tenure reviews of pastoral leases under the Crown Pastoral Land Act, provided that proposals and settlements are demonstrably in the wider public interest.

Tenure review has proceeded since the report was released. From the report's release to June 2011:

- 25 reviews have been completed or effectively completed;
- preliminary proposals have been advertised for a further 26 leases; and
- a further 35 leases have entered early stages of review.

In response to the Parliamentary Commissioner for the Environment's recommendations, the Commissioner for Crown Lands has:<sup>8</sup>

- published new standards for tenure review and the administration of Crown land;

<sup>5</sup> Forest and Bird. 7 April 2009. Press release.

<sup>6</sup> *Canterbury Farming*. 30 April 2009. Similar comments appeared in *Straight Furrow*, *Rural News*, the *Otago Daily Times* and *Otago Southland Farmer* during April 2009.

<sup>7</sup> Environment Canterbury. 7 April 2009. Press release.

<sup>8</sup> Commissioner of Crown Lands. 14 September 2010. Letter to the Parliamentary Commissioner for the Environment (PCE).

- asked Land Information New Zealand to establish a panel of ecologists and a panel of landscape architects to review tenure review and discretionary action reports, should he need sufficient contestable advice to assure the decision-making process; and
- asked that these panels consider whether relevant regional and district plan rules have any gaps that might affect the protection of significant inherent values or ecological sustainability following tenure review.

The Commissioner for Crown Lands has recently advised that these panels have been established, but he has not yet had grounds to call upon them.<sup>9</sup>

### Recommendation 2:

The Government establishes a High Country Commission for a fixed period to advise on all significant aspects of the public interest in tenure review and in the high country more generally.

The Minister of Agriculture, David Carter, informed the Commissioner in March 2011 that a ministerial team had been set up to develop high country policy, comprising himself, the Minister of Conservation and the Minister for Land Information. The report's recommendations were *"part of the work programme being progressed"* by this team: *"the Ministers co-ordinating high country policy have sought to provide the broader direction that you were seeking in your report... the cumulative effects of high country policies, on both the environment and the economy, have been at the forefront of Ministers' minds."*<sup>10</sup>

While the Minister believes that *"the intent of [the Commissioner's] recommendation is being met to a large degree"*, there is still no body with a clear mandate to take a strategic overview of tenure review and advise the Government on significant aspects of the public interest.

It is of interest that a Mackenzie Sustainable Futures Trust has recently been established to *"develop a shared vision for resolving land use issues in the Mackenzie, Ohau and Omarama basins"*<sup>11</sup>. This collaborative governance initiative might provide some strategic direction for the Mackenzie area, if it is successful and well supported. However, there is currently no mechanism by which it could directly influence the progress of tenure reviews in the Mackenzie, or elsewhere in the high country. So, while a positive development, the Trust is not the strategic oversight body envisaged by the Commissioner.

<sup>9</sup> Commissioner of Crown Lands. 22 July 2011. Personal communication with the PCE's office.

<sup>10</sup> Minister of Agriculture Carter. 7 March 2011. Letter to the PCE.

<sup>11</sup> Thompson, Richard. 10-11 February 2011. Record of decisions at a Twizel meeting on shared vision process convened by Jacqui Dean MP.

### Recommendation 3:

Cabinet directs the officials responsible for preparing the next South Island High Country Objectives report to include both environmental gains and environmental losses.

In July 2009 Cabinet decided on a new high country policy, *Crown pastoral land – 2009 and beyond*.<sup>12</sup> This decision rescinded the previous Government's High Country Objectives. While Cabinet also set new objectives, it did not direct officials to prepare any progress reports, and it does not appear that there have been any such reports since. It remains desirable that some form of outcome report be prepared at some point, including an assessment of both environmental gains and environmental losses. This is especially so given that there is no High Country Commission in place to provide strategic oversight.

## Recommendations regarding land ownership and management

### Recommendation 4:

The Minister of Land Information proposes an amendment to the Crown Pastoral Land Act 1998, namely, to remove the word 'preferably' from s24(b)(i).

In December 2009 the Minister for Land Information advised the Commissioner that he would not propose this amendment. He felt that the Government's new strategic direction would achieve the same aim, as it recognised that lessees could play a stewardship role when farming was to continue on land with significant inherent values.

Despite the new strategic direction, it is likely that the wording of the Act will remain an obstacle to using mechanisms other than Crown ownership to protect significant inherent values of reviewed land.

### Recommendation 5:

The Minister for Land Information directs the Commissioner for Crown Lands to encourage and adopt a wider range of land ownership and management models within tenure review proposals.

The Cabinet decisions of July 2009 did not explicitly discuss land ownership and management models, but emphasised the importance of effective stewardship of Crown pastoral land, the promotion of ecologically sustainable management and the protection of pastoral and inherent values.

One management model that has not been used extensively in tenure review is private ownership under covenant. The chief executive of Land Information New Zealand has said that "*greater use of covenants remains a high priority for LINZ*".<sup>13</sup>

<sup>12</sup> *Crown pastoral land: 2009 and beyond*. 27 July 2009. Cabinet minute (09) 26/7C.

<sup>13</sup> <http://www.linz.govt.nz/about-linz/news-publications-and-consultations/news-and-notice/corporate/2010/0311-fed-farmers-field-day/index.aspx>

<sup>14</sup> Commissioner of Crown Lands. 14 September 2010. Letter to the PCE.

In March 2010, the Queen Elizabeth II National Trust, LINZ, and the Department of Conservation agreed on a set of operating principles on the use of QEII covenants in future tenure reviews.<sup>14</sup>

Recently advertised preliminary and substantive proposals cover a wide range of outcomes. For some leases it is proposed that they will be largely returned to the Crown; some others will be almost completely transferred to the leaseholder. Some make extensive use of grazing and recreation concessions, and conservation covenants; others, almost none. Only two more sustainable management covenants have been proposed, covering parts of Lake Hawea and Maryburn stations.

#### Recommendation 9:

The Minister of Conservation reviews the policies and Conservation Management Strategies relating to the creation of high country conservation parks. These strategies should aim to create a representative land holding of high conservation value, which can be effectively managed and restored without drawing resources away from high conservation priorities elsewhere in New Zealand.

Cabinet rescinded the previous policy of creating a network of 15-20 high country conservation parks in its July 2009 decisions. Work on new Conservation Management Strategies for the South Island conservancies was to begin in early 2011.<sup>15</sup>

### Recommendations regarding safeguarding the national interest in the high country

#### Recommendation 6:

The Minister for the Environment calls in development applications that are proposals of national significance due to their potential for significant adverse effects on lakes or outstanding landscapes in the high country.

One significant group of resource consent applications was called in by the Minister for the Environment in January 2010. The Commissioner, along with others, had written to the Minister to urge that the applications be called in. She wrote, *“in my view, it is imperative that decisions of this importance should be taken at a national level”*.<sup>16</sup>

The applications related to three proposed large dairy operations, that would together house about 17,000 cows on 8,000 hectares of land in the catchments of the Ohau and Ahuriri rivers, which discharge into Lake Benmore. The large discharges of nutrients from these operations had the potential for significant adverse effects.<sup>17</sup> The applications were subsequently withdrawn by the applicants.

<sup>15</sup> Minister of Conservation. 14 October 2010. Letter to the PCE.

<sup>16</sup> PCE. 13 January 2010. Letter to the Minister for the Environment.

<sup>17</sup> NIWA. 2009. *Lake Benmore water quality: a modelling method to assist with limits for nutrient loadings*. Report CHC2009-091 to Environment Canterbury.

### Recommendation 7:

Environment Canterbury and the Otago Regional Council introduce rules for monitoring and controlling discharges of nutrients, pathogens and sediment to iconic high country lakes.

In November 2009, Environment Canterbury issued a Water Management Strategy which recognises that high country lake water quality is in decline, and that it is under threat from land use change and intensification.<sup>18</sup> The Council's Natural Resources Regional Plan, which includes objectives, policies and rules on water quality, became fully operational in June 2011. The Council has begun implementing these plans, but it remains to be seen how they will be applied in the high country.

More recently, Otago Regional Council (ORC) issued a rural water quality strategy aiming to retain high water quality in Otago lakes and rivers. As a result it is undertaking a programme to address water quality impacts of nutrients, pathogens and sediment from diffuse sources. ORC will seek to set standards for runoff, drainage and leachate that protect water users and ecosystems, and for source activities such as application of effluent to land. It has engaged Crown Research Institutes to provide technical advice, and will continue to provide information and education for landowners.<sup>19</sup> Another commendable development is the Council's proposed Plan Change 2 to its Regional Water Plan, which seeks to ensure regionally significant wetlands are protected.

### Recommendation 8:

The Minister of Conservation and the Minister of Tourism seek Cabinet approval for sufficient additional funding for a sustained woody weed eradication programme.

The Ministers agreed that wilding pines were a *"long-term serious threat to the high country ecology and landscapes, with consequential impacts on farm productivity, biodiversity and tourism."*<sup>20</sup> Despite this, no new funding for woody weed control has been provided.

The Ministers consider that existing Department of Conservation funding is *"adequate to control priority woody weed growth"* on conservation land, and that any future shortfall will be met from elsewhere in DoC's biodiversity expenditure.<sup>21</sup> This will undoubtedly be difficult because DoC's budget has been reduced since the report was released. LINZ and pastoral leaseholders will remain responsible for the pastoral land they manage.

<sup>18</sup> Environment Canterbury. 24 November 2009. *Canterbury water management strategy: strategic framework*. Christchurch.

<sup>19</sup> Otago Regional Council. 18 March 2011. Letter to the PCE's office.

<sup>20</sup> Associate Minister of Conservation. 20 January 2010. Letter to the PCE. And: Minister of Tourism. 10 October 2010. Letter to the PCE.

<sup>21</sup> Minister of Conservation 14 October 2010. Letter to the PCE.

However, wilding pine expert Nick Ledgard comments that: *“DoC’s current efforts are certainly insufficient to manage wilding pines in some core areas where we are trying to restrain a bolting horse.”* These areas include the Branch River catchment in Marlborough, the Craigieburn and Mount Cook Highway areas in Canterbury, around Queenstown in Otago, and at Mid Dome in Southland. *“In some of those cases the battle could be won with a major injection of cash over a relatively limited period of time... if not forthcoming, or at least maintained at the current level, we will start slipping backwards and losing the battle.”*<sup>22</sup>

The impact of the Emissions Trading Scheme on the prevention and control of wilding trees was not considered in the report, but was subsequently addressed by the Commissioner in advice to select committees.<sup>23</sup> The ETS could provide a financial disincentive to wilding tree control because it is a form of deforestation and in some cases may incur a carbon liability. The Commissioner’s main recommendation to remove this disincentive was adopted by Parliament. The ETS could also provide an incentive to allow wilding tree species to multiply in order to earn carbon credits. This problematic incentive remains, meaning that the prevention of further wilding problems continues to rely heavily on other regulations and policies.

## Conclusion

The Government’s positive response to the report was encouraging, but the effect of its new policy direction on the outcome of tenure review will only become evident over time. The assessment of whether tenure reviews are demonstrably in the wider public interest is difficult. However, the recommended High Country Commission and high country policy objectives report (including both environmental gains and losses) would significantly improve that assessment. It is therefore disappointing that the strategic overview that a High Country Commission could provide has not been acted on, and that no policy objective reports have been released, as both these recommendations have the potential to measure the degree that the public interest is served. It is also disappointing that the panel appointed by the Commissioner for Crown Lands has not been yet been used. The control of wilding pines and other woody weeds is also an ongoing concern, as the need to eradicate will only become more pressing over time.

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<sup>22</sup> Ledgard, N. 5 November 2010. Information obtained under the Environment Act 1986.

<sup>23</sup> PCE. 13 October 2009. Submission to the Finance and Expenditure Select Committee on the Climate Change Response (Moderated Emissions Trading) Bill. See also: PCE. 30 July 2009. Report to Emissions Trading Scheme Review Select Committee: Impact of the ETS on Indigenous Land Cover.