

# **INTERIM REPORT**

## **HIGH COUNTRY PASTORAL LEASES REVIEW 2005**

*A REVIEW OF PASTORAL LEASE RENTAL AND TENURE REVIEW VALUATION  
METHODOLOGIES AND OUTCOMES ASSOCIATED WITH PASTORAL LANDS  
THROUGHOUT THE SOUTH ISLAND OF NEW ZEALAND*

**Prepared at the request of**

**Land Information New Zealand**

**By**

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## THE REVIEW TEAM

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Bob is a senior rural member of the valuation and farm management profession, and has been involved in farm management/business consulting and rural valuation practice since 1967. He has significant experience and expertise in rural valuation, particularly in relation to Land Exclusive of Improvements (LEI) and lease rental issues of rural land.

### **Rodney L Jefferies**, BCA, PG Dip Prop, Dip Urb Val, FNZIV (Life), LPINZ.

Rodney is one of New Zealand's leading experts in valuation, especially leasehold interests and ground rental methodology. He began his career 40 years ago as a valuation cadet and has worked in valuation practice and academia. He became Associate Professor of Property at Lincoln University in January 2004.

**ABBREVIATIONS**

NGO	Non government organisation
LINZ	Land Information New Zealand
DOC	Department of Conservation
CPLA	Crown Pastoral Land Act
LEI	Land exclusive of improvements
RMA	Resource Management Act
SIV	Significant inherent value
CCL	Commissioner of Crown Land
DCF	Discounted cash flow
LSB	Land Settlement Board
POL	Pastoral occupational licence
CRL	Crown Renewable Lease
PL	Pastoral lease
DTZ	DTZ (property & valuation company)
QV	Quotable Value Ltd
PNA	Protected natural area
SU	Stock Unit
NZMWB	NZ Meat & Wool Board
GST	Goods & services tax
HCA	High Country Accord
HCCF	High Country Federated Farmers

## 1. INTRODUCTION

- 1.1. Land Information New Zealand (LINZ), at the request of the Minister in Charge, sought a review of both the valuation methodology and outcomes of reviews of rentals and tenure review processes being applied to a large number of pastoral leases throughout the South Island Hill Country as currently being determined under the governing legislation.
- 1.2. The review team was established as a result of a request from senior management of LINZ seeking assistance with the review. The team was structured to provide skills in valuation and farm management along with specialist knowledge and understanding of leasehold tenure and the farm management issues associated with the high country pastoral land.
- 1.3. The review was carried out over the period August 2005 to December 2005 and the review team's findings are now set out with its comments and recommendations in line with the project objectives. These findings and recommendations take account of, and recognise the contractual nature of, pastoral leases, the long history of pastoral farming in the South Island high country and the continuing occupation of this special land class by pastoral farmers. These matters are also considered whilst recognising the special place that this land has in relation to the wider public. These objectives, incorporated in the governing legislation seek to ensure that the public can at least maintain and preferably improve access to pastoral land areas for recreational use and at the same time ensure that the "special values" associated with the high country land uses are protected for future generations.

## 2. PROJECT OBJECTIVES

- 2.1. The following objectives are those provided to the review team. These objectives have been interpreted to consider "value," both in terms of the financial outcomes of rental reviews and tenure reviews along with other values arising from the outcome of both renewed rentals and changes in the land tenure. The objectives as provided to the review team are set out:

*In the context of the Government's objectives for the South Island high country (notably a fair financial return to the Crown on its high country assets) report on whether the:*

1. *Current methodology for valuing lessor and lessee interests in tenure review is delivering accurate and fair outcomes and recommend changes to the methodology (if appropriate) to better meet those outcomes; and*

2. *Rent set by legislation accurately and fairly reflect open market levels and the options available if changes need to be made to ensure rent is set at a market level including*
  - a) *an assessment of the implications of introducing market rents for pastoral leases and;*
  - b) *consideration of the extent to which charges for recreation permits and easements contribute towards the objective of obtaining a fair financial return to the Crown on its high country land assets*

2.2. The Terms of Reference (TOR) from the – **TENURE REVIEW AND PASTORAL LEASE VALUATION PROJECT PROPOSAL** is attached as APPENDIX 1.

2.3. In order to respond to the project objectives, the review has inevitably necessitated a broad enquiry including research into the history of pastoral leases. The review team has considered the legislation governing pastoral leases, financial returns to both the lessor (Crown) and lessees (pastoral farmers) along with the rights and expectations of the wider public who seek to use and enjoy the recreational and iconic values of the land held under perpetually renewable pastoral leases.

2.4. The review team interprets the words “open market levels” and “market rents” (under the TOR above) in the context of the ‘market’ as it relates to pastoral properties. These open market levels are reviewed as they relate to Crown Pastoral Lease tenures recognising the legislative construct of this tenure and the constraints that apply.

### 3. SCOPE OF REVIEW

3.1. The review focuses on those properties subject to high country pastoral leases from the Crown, administered by LINZ under the Crown Pastoral Land Act 1998 (CPLA). The review undertaken in relation to the valuation issues on these properties includes:

- 3.1.1. A comprehensive review of the tenure review methodology used in determining the lessor and lessee interests as used for determining the exchange of interests arising out of Tenure Review and an investigation of how this methodology is being applied;
- 3.1.2. An assessment of all of the rights associated with pastoral leases and how these should be valued in terms of existing pastoral lease agreements;
- 3.1.3. An assessment of completed tenure reviews and recent sales of pastoral leases to explain the current precedents and review process and identify the strengths and weaknesses of the process and legislative regime;

3.1.4. Consultation with Government officials responsible for tenure review and administration of pastoral leases, organisations contracted by LINZ to value tenure reviews and pastoral leases, stakeholder organisations, and lessees.

#### 4. OVERVIEW AND ISSUES

4.1. It is useful to take an overview of the land held under pastoral leases and consider a brief history of pastoral land tenure.

4.2. As at 2003/2004 there were 304 pastoral leases comprising approximately 2.2 million hectares of a total pastoral land area of approximately 6.36 million hectares. These leases are located throughout the South Island of New Zealand and are predominantly located in the Canterbury and Otago land districts. There are some leases in Marlborough/Nelson, Westland and Southland.

Land District	Number	Area/ha
Canterbury	112	868,559
Westland	2	2,590
Nelson / Marlborough	15	110,853
Otago	155	948,947
Southland	20	228,193
<b>TOTAL</b>	<b>304</b>	<b>2,158,692</b>

*See APPENDIX 2 for complete list*

4.3. As at 31 October 2005 we are advised that the following statistics apply:

Status of lease portfolio as at 31 October 2005	No.	Crown Hectares	Freehold Hectares	Total Hectares
Not in Tenure Review	112	-	-	956,646
Information Gathering for Preliminary Proposal	50	-	-	352,528
Consultation with Lessee for Preliminary Proposal	72	-	-	449,907
Preliminary Proposals Advertised <i>% of total</i>	21	73,844 51.0%	70,892 49.0%	144,736
Substantive Proposals Put to Lessee ( <i>but not yet accepted</i> ) <i>% of total</i>	2	11,232 58.0%	8,000 42.0%	19,232
Substantive Proposals Accepted by Lessee <i>% of total</i>	22	44,558 39.0%	69,196 61.0%	113,754
Review complete / Crown conservation purchase <i>% of total</i>	25	71,755 51%	69,012 49%	140,767
<b>Sub Total</b> <i>% of total</i>		<b>201,390</b> 48.0%	<b>217,102</b> 52.0%	
<b>Total</b>	<b>304</b>			<b>2,177,570</b>

- 4.4. Pastoral leases were established under the Land Act 1948. Prior to that pastoral land was generally held in Pastoral Occupational Licences (POLs) that had their genesis in the original land grants promoted by both central and provincial governments in the nineteenth century to encourage the occupation and pastoral farming of vast areas of unoccupied land. These POLs were for a fixed term, usually 21 years. No perpetually renewable right of occupation as was provided. In the 1948 Land Act the tenure was changed from POL to PL with a perpetual renewal of the 33yr term. The 1948 Act did not prescribe any rate or method for rent fixation but merely stated that the Land Settlement Board (The Board) (LSB) should fix a fair annual rent<sup>1</sup>
- 4.5. The Land Act 1948 was amended in 1970 to provide for 11 year rental review periods but with no change to the basis upon which the rentals were assessed. This matter is set out in Section 66(4) of the 1970 Land Amendment Act which states :
- “The yearly rent payable during the first 11 years of the first term of a pastoral lease shall be determined by the Board”*
- 4.6. Section 4(a) then makes reference to Part 8 of the Land Act which sets out the review process, more importantly, Section 66 (4a) also required “a fair annual rent shall be fixed.”
- 4.7. In the early 1970’s consideration was being given to the basis of future rentals<sup>2</sup>. The outcome of a review set up by the Director-General of Lands saw the Land Amendment Act 1979 which established Land Exclusive of Improvements (LEI) as the basis for fixing pastoral rentals.
- 4.8. The rental rates for pastoral leases are prescribed at 2.25% of the LEI value (1.5% for the first 11 years of the first 33yr term).
- 4.9. Whilst the 1979 Act changed the rental determination process away from the control of the LSB to a prescriptive basis, it did not alter the provisions of the 1970 amendments to the Act as set out in Part 8. In particular section 131 (1) (ii) requires that in relation Capital Value, Value of Improvements and Value of the land exclusive of improvements:
- “The values shall be ascertained on an equitable basis having regard to the relationship between the lessor and the lessee”*
- 4.10. Part 1 of the CPLA reaffirms the provisions of the 1948 Act and its amendments in relation to the tenure and rental reviews. Part 2 makes provision for tenure review setting

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<sup>1</sup> Land Settlement Board Paper (undated) Stock Limitation as a Basis for Rental of Pastoral Leases

<sup>2</sup> See Special Publication No 13: Tussock Grasslands and Mountain Institute, page 14

out details of the objectives for tenure review and the process required to achieve those objectives. These being:

*Objects of Part 2 – 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*

4.11. The tenure review process has attracted the attention of many interested parties, especially non governmental organisations (NGOs) who, along with some members of the public, consider that tenure review is being inequitably applied in that the Crown is being financially disadvantaged in the process. This alleged inequity relates to claims that “pastoral lessees” are being over-paid for their lessee's interest. This stance relates to a perception that the significant inherent values (SIV's) belong to the Crown, not to the lessees. On the other hand, in some instances, pastoral lessees consider the Crown or agencies of the Crown are using the process to unreasonably extend the Crown's total control of pastoral land. It is contended that the Crown is taking back more land than is necessary for the conservation estate, leaving the farming business in both a less viable and less economically flexible state. Further, it is claimed that the land acquired by the Department of Conservation (DOC) in the process will not be properly managed.

4.12. Section 60 of the Land Act 1948, provides:

*(1)...may from time to time grant or reserve any right of way, . . . , or other easements over or under any Crown land:*

*Provided that where that Crown land is held under lease or licence the lessee or licensee shall be entitled to compensation for any reduction in the value of his lease or licence by reason of the grant of any such easement.*

- 4.13. The provision of Section 60, above, puts Crown Pastoral Leases in the same status as any other lease or indeed freehold tenure with respect to the Crown's powers of resumption and thus payment for compensation for acquisition of property rights.
- 4.14. The Crown therefore needs to recognise the value of the Crown Pastoral Lessees' interests when undertaking both rental reviews and tenure review.
- 4.15. We observe an emerging environment of mistrust between a small number of non-farming interests and the participants in tenure review.
- 4.16. We now turn to addressing the project objectives as set out in Section 2, but in reverse order, as we believe that the key issue is Rental Review, from which most of the Tenure Review problems emanate.

## Section A – Rental Reviews

### 5. PASTORAL RENTAL REVIEWS

5.1. Rentals for pastoral leases are restricted by the provisions of Section 66 (2) of the Land Act 1948 as amended in 1979:

*“A pastoral lease shall entitle the holder to the exclusive right of pasturage over the land comprised in the lease and a perpetual right of renewal for terms of 33 years but shall give him no right to the soil and no right to acquire the fee simple.”*

5.2. The CPLA 1998 at Part 1 Section 4 adopts the same basic provisions as the 1948 Land Act. The CPLA does not give the lessee any right to acquire the fee simple of the land held under any pastoral lease. However, it provides the opportunity under Part 2 to enter into a process of tenure review that may result in the freehold disposal of some of the pastoral lease to the lessee.

5.3. The pastoral lease provides the lessee a right of continuing occupation by virtue of the provision for the perpetual right of renewal for terms of 33 years.

5.4. The pastoral lease has provisions that differentiate it from typical open market rural leases. In particular it:

- Requires the rental to be based on a prescribed percentage of the value of the land exclusive of improvements (LEI)
- Has restrictive covenants precluding the lessee realising any potential for subdivisions for building purposes or for any commercial or industrial use (see part 1 Section 6 (a) of the CPLA 1988 and Section 66 (7) of the Land Act 1948.
- Has restrictive land use controls under Part 1 Sections 15 to 18 of the CPLA that sets out a wide ranging land use consent process that requires consents to be obtained from the lessor (Crown) for almost all land management activities.

5.5. It is therefore necessary, when assessing "market rentals" for pastoral leases, to take into account all of the conditions in the lease. This includes provisions of Clause 66 (2) of the Land Act that provides the lessee with the rights to pasturage only and now subject to the CPLA 1998 additional restrictions as noted above.

5.6. A CPLA pastoral lease is an unusual form of tenure. *Firstly* it is a ground leasehold (arising out of the requirement to pay a prescriptive rental for only the pasturage). *Secondly*, it is an unconventional "free-leasehold" recognising that the lessee is not required

to pay a rental for the added possession rights. This tenure gives exclusive added access and enjoyment benefits arising out of the land's inherent geographical, environmental, and locational attributes, as these are recognised in the market.

5.7. Before moving to discuss these issues in more detail, we turn to consider the marketability of these perpetual rights of renewal benefits and ownership.

## **6. MARKETABILITY OF PASTORAL LEASES**

6.1. The perpetual right of renewal gives the lessee an exclusive and continuing right of occupation of the land as a consequence of the rights to the pasturage. This occupation right is highly marketable, especially where that right of possession gives exclusive access to the enjoyment of the iconic features or SIVs associated with or on the land. While the lessee is required to pay a rental for the “exclusive right of pasturage”, there is no provision in the CPLA or the Land Act to require any rental to be paid for the additional rights. The Crown did not directly restrict those additional rights. When the Crown changed the tenure from pastoral occupational licences to a pastoral leases in 1948 those rights were bundled with the granting of a pastoral lease and arose inherently free to the lessee. For many years there was no significance in or market value attached to those rights. However, during the past 15 years, and particularly the last 5 years, a strong market has emerged for some pastoral lease properties with these iconic SIVs.

6.2. This market was first observed approximately 15 years ago with “above pastoral market” prices being paid for properties initially around Lake Wakatipu and more recently in other locations throughout the high country. In some transactions the iconic and SIV premia dominate the transactions with prices paid for some pastoral leases not relating in any way to the value of the pasturage in either LEI or its developed state. This market may now be compared with the coastal land market that has been similarly differentiated from other land. Coastal premium has existed for a much longer period of time than the premium for high country properties and is well established and accepted in the market.

6.3. Following our discussions with Crown Law and other government agencies, it is our conclusion that the Crown didn't specifically but inherently lost its rights to this potential pastoral land market premia values when it granted pastoral lessees the perpetual rights of renewal with 33 year leases in 1948. Those rights or interests in the land are perceived and recognised as being "owned" by the lessee. In a number of high profile sales the price of

the leasehold interests do not relate in any way to the values arising purely from pastoral farming of the pasturage grown on these properties.

- 6.4. Some of these pastoral leases could be considered to be no more than large lifestyle blocks where pastoral farming as a means of generating income is secondary to the occupation of the property and requirement to maintain the land in its pastoral use. These leases preserve both the exclusive rights and enjoyment of the landscapes and access to iconic attributes at the relatively minor cost of LEI based pastoral rentals.
- 6.5. It is these high profile multi-million dollar sales of certain iconic pastoral leases that have inflamed the public comment epitomised by the statement from one interviewee who submitted to us that pastoral lessees are *“Run holders are big fellows with massive amounts of money. They are dripping with cash compared with little old ladies running out of electricity in the cities.”*
- 6.6. There is also evidence that the Crown has itself contributed to and thus confirmed these high prices by paying excessively (in the view of some people) for purchasing some pastoral properties, in particular Birchwood Station. We do not accept that view. The Crown purchased those properties on behalf of the public at the market values. Had the Crown not made these purchases, it is highly likely that other parties would have matched or exceeded the prices paid by the Crown.
- 6.7. The only criticism of the Crown, which is easy to make in retrospect, is that it “gave away” the major driver to this market premia for the land's inherent values, now reflected in the lessee's interest, when it provided for a perpetual right of renewal of these leases in 1948. The intention at that time, we understand, was to provide lessees with certainty of occupation and exclusivity of control of the land to enable lessees to farm these properties on a basis that met the requirements of the Land Act and the Land Settlement Board. The policy was to ensure sustainable farming and maintenance of the pastoral ecology in a similar manner of control to the provisions now set out in the CPLA.
- 6.8. We do not agree with certain submissions made at our interviews that these premia values do not belong to the lessees and should be paid back on sale in some manner or form to the Crown. Such a condition would require legislative change and expose the Crown to a substantial claim for compensation. The Crown accepted a similar liability in principle, when it made changes to tenure and rental provisions under the Maori Reserved Land Act Amendment 1955 (1997 Amendment) and in particular affecting certain Taranaki West Coast leases. In the event that the Crown chose to make changes to the CPLA to take away

the lessees' rights to the market premia resulting from the rights of renewal of the Pastoral Lease then the compensation liability would be much greater than that which arose in relation to the Taranaki West Coast Leases.

6.9. We are of the view that the assessment of a "market rental" for a pastoral lease cannot therefore include any value associated with a premium that a potential purchaser would pay for the 'X' factor protected by the perpetual right of occupation of that lease. By implication the rental value (LEI) cannot include any non-pastoral value associated with the iconic or significant inherent values (SIVs). Had that been anticipated, then the Land Act and the CPLA should have made specific provision for it.

*"Understandably there are several paramount issues which are repeatedly the common concern of lessees. The two most common would be firstly the adequacy of the value attributed to the lessee's improvement and secondly the envisaged condition of the land at the point its value is assessed as and exclusive of improvements"*

Murray Mander, Valuer-General,  
Paper to South Island High  
Country Conference, Timaru, June  
1980

## 7. PROBLEMS WITH LEI VALUATION METHODOLOGY

7.1. The "rental" now discussed is required, under the controlling legislation to be made on the basis of the pasturage on the property in its LEI state, as hypothetically available on the property as at the date of the rental review. In effect it is the "value" or rental that a well informed but not over anxious lessee would offer to the lessor.

7.2. To that end, we believe that there is a potential conflict between the Land Act and the CPLA as they are currently drafted. These Acts require the lease rental to be set upon the basis of the unfettered LEI, whereas Section 66 (2) of the Land Act and Part 4 of the CPLA provide for the lessee to have a restricted use only, i.e. the exclusive right of pasturage over the land and potential restrictions on farming activities.

7.3. The rental review provisions of the Land Act that are carried through to the CPLA appear to presume that there is a good correlation between the right to pasturage, the LEI value and a rental fixed at 2.25%<sup>3</sup> of that value for an 11 year review period. Furthermore, both Acts require the parties under the provisions of Part 8 of the Land Act, Section 131 (1) (ii) to establish the values on an equitable basis having regard to the relationship between the lessor and the lessee.

<sup>3</sup> Reducible by 0.25% (i.e. to 2% p.a. net) for prompt payment (within one month of due date)

- 7.4. The problems facing the parties to rental reviews have been clearly identified in our interviews and a review of a sample of valuations and rental assessments. The problems relate to the requirement to establish an unfettered LEI value to which the prescribed rental rate of 2.25% is applied.
- 7.5. At the same time the provisions of Section 131 (1) (ii) must apply relating that LEI to the market value as it applies to the assessment of the capital values. The latter by definition must be based on sales of freehold pastoral land, analysis of sales of lessee's interest and market evidence of rentals being paid for fee simple pastoral land. The only statutory reference to the "fettered" use provision (pastoral use only) is merely prescriptively reflected in the 2.25% rate compared to a 4.5%<sup>4</sup> rate, for non-pastoral Crown land leases as it applied in 1979 when those rates were legislated.
- 7.6. Part VIII of the Land Act is essentially transported into the CPLA and requires the parties to ascertain the:
- value of improvements which are then in existence and unexhausted on the land,
  - value of the land included in the lease exclusive of the improvements, and
  - the addition of these two components should, as required under the provisions of Section 131 (1) (iii) be equal to the Capital Value of the land, as set out in 131 (2) of the Land Act.
- “Capital value means the sum which the land and improvements thereon might be expected to realise at the time of valuation if offered for sale unencumbered by any mortgage or other charge thereon on such reasonable terms and conditions as a bona fide seller might be expected to require”*
- 7.7. In making these assessments the parties, by virtue of the provisions of the Act have to exclude any potential for:
1. Subdivision for building purposes, or
  2. For commercial or industrial use
- 7.8. The Land Act and CPLA, as previously noted, do not anticipate the situation that has emerged in the market where extraordinarily high prices are being paid for some pastoral leases (land) with an “X” factor because those leases enjoy SIVs and provide the purchaser with a perpetually renewable right of occupation.

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<sup>4</sup> Reducible by 0.5% (i.e. to 4% p.a. net) for prompt payment (within one month of due date)

7.9. The strict interpretation of the provisions of Part VIII of the Land Act, when applied to these very high sales brought about by what has been variously described as iconic, SIVs or an X factor, incorporates these premia into the LEI.

7.10. When the prescribed rental rate of 2.25% is applied, this produces a rental that may bear no relationship to the value of the use of the pasturage and in a number of instances could be close to, or higher than, the gross income generated from pastoral farming of the property.

*“...to determine rentals, LINZ and its consultants exclude important factors such as location value, and rents are kept well below market value. But when undertaking tenure review the Crown has to pay full market rates based on valuations, which include, and are often significantly inflated by, location value. ...This dual system of valuing the Crown’s interest works so that leaseholders gain the advantage every time. ...LINZ should not be practicing two apparently contradictory methods of valuing pastoral leases”.*

Sue Maturin, Royal Forest & Bird Society, Dec.2004

7.11. To overcome this problem, the parties and their valuation advisors pragmatically endeavour to make their valuation assessments exclusive of the market premium for SIVs or X factor. However, this arrives at a capital value that does not comply with the provisions of Section 131 (2) of the Land Act. That value in many instances will only be a relatively small portion of the market value of the property.

7.12. Such practices are in danger of not complying with the strict provisions of the Act and could be set aside by the Court if found to be so. Such values have inevitably been based to a significant degree on subjective assessments of excluding the component of the SIVs or X factor relating to the property and result in inconsistencies in the rental assessments on a property by property comparable basis.

7.13. Such "machinations" of sales evidence and their analysis may not result in rentals which are based on productive pasturage value-based LEIs. When the prescribed 2.25% p.a. rate is applied to such LEIs the resulting rental may not reflect the fettered pastoral only use of the land. A “credibility” gap exists and is being exacerbated by different valuation contractors (to LINZ) making different subjective judgements.

7.14. Whilst valuers engaged by lessees have similar problems of interpretation they appear to be more consistently endeavouring to arrive at an affordable rental based on the pastoral use. However they are "backing into" the LEI by capitalising a "pastoral only" market comparison or subjectively determined affordable rental at 2.25% to arrive at the LEI to satisfy the CPLA prescriptive LEI basis of rental determination. The latter is achieved, not by compliance with the legislative provisions and requirements, but by a rather broad

interpretation of the fairness and "equity" between "lessor and lessee" provision transferred from the apportionment of capital value to a rental determination.

7.15. We recognise the problem these valuers are facing but are concerned that the methodology being applied may not withstand legal scrutiny.

7.16. Such an ad hoc and pragmatic valuation methodology could be subject to criticism. The valuers involved are not complying with the strict provisions of the legislation and overriding those provisions with pragmatism. The real danger is that when challenged, the Courts may well (and probably correctly) determine that those LEI valuations and the rentals do not comply with the CPLA. If so, this would place pastoral lessees in a situation where they would be severely and unfairly disadvantaged and would require legislative intervention to ensure the continued viability of many pastoral leases. It is also this fear that contributes to the uncertainty facing pastoral lessees and in effect is forcing them to consider tenure review to protect the viability of their estates.

7.17. We conclude that the pastoral lease LEI valuation methodology is even more difficult and, with the best will in the world is fraught with irresolvable problems that will continue to produce inconsistent assessments across the portfolio of pastoral leases

## **8. PASTORAL LEASE LEI RENTAL ASSESSMENT**

8.1. It is important to review the rental assessment process taking into account the objectives of the Land Act 1948 as amended and the CPLA 1998.

8.2. In the first instance, the Land Act and subsequently CPLA only anticipated that the lessee would have the rights to pasturage on the land in its LEI state. It is from that right of pasturage that farmers established businesses. To do so, over time, they had to spend considerable sums of money to develop their business. This expenditure is represented by the improvements on the land including, land development such as clearing, grassing and fertility improvements along with structural improvements, such as buildings, fences, tracks, bridges etc, which are a necessary part of the farming infrastructure. The right to pasturage on the LEI only provided the platform upon which the farming business was established. The development of the farming business has always been "controlled" or "fettered" under provisions of the Land Act and currently additionally by the CPLA.

8.3. The valuers reviewing pastoral lease rentals have, therefore, to assess the condition of the land in its hypothetical state, exclusive of the value of any improvements. This

assessment is relatively easy to make in relation to structural improvements, but more difficult with invisible land development improvements.

- 8.4. These invisible improvements to soil and productivity are not totally related to expenditure of development capital. They have to be assessed reflecting the overall value of improvements to the soil and fertility, or similarly any degradation that has occurred over time. Such an assessment requires a high level of farm management experience along with valuation skills and will inevitably be based to a large extent on subjective judgement.
- 8.5. Furthermore, in many instances current restraints under the CPLA and the Resource Management Act (RMA) might well, now and into the future, restrict the development of the land from LEI condition. In some instances it may not be possible to carry out the development that historically took place.
- 8.6. We have noted concerns of interested parties, reflecting their divergent interests, that the provisions of the CPLA are not being interpreted in a way that achieves equity between the lessor and the lessee. This indicates conflict in interpreting the legislation that seeks to protect the ecological and recreational values of the land, versus the exclusive rights of the lessees' access to the pasturage.
- 8.7. In making valuations and assessments of LEI and thus rentals, parties must recognise the limitations and attributes of the pastoral properties being assessed. To make such assessments, it is accepted practice to use a productivity measure based on a common dominator of stock units (SUs). Rural valuers generally have experience in using this methodology for comparative purposes.
- 8.8. However, pastoral land value assessment is one of the more difficult to make even on developed properties, but particularly so when land has to be considered in its hypothetical LEI state. In making these assessments the valuer must be able to assess the property relative to the climatic and physical limitations of the farm.
- 8.9. There are many situations on pastoral properties where it is important to be able to recognise the complementarity of different land classes one to another, particularly how that land contributes to the total livestock carrying capacity and productivity of the property. It is not unusual for certain land areas to contribute much more to the total productivity than that part of the land would be able to carry if it was farmed in isolation on a year round basis. We observed some inconsistencies in this productivity assessment approach in the limited number of rental valuation reports that we were able to review.

This factor is a concern. If land is incorrectly assessed in terms of its carrying capacity, it follows that both the value and the rental assessments will also be incorrect.

## **9. INTERPRETATION OF PASTORAL LEASE MARKET RENTALS**

- 9.1. Historically, the Land Act 1948 at Section 66 (4) (a) provided for a fair annual rental to be fixed (subsequently repealed in 1979). A fair annual rental is one that is fair to both parties to the contract and is representative of rentals for similar properties under the same tenure in the market at the time of review. The pastoral lessee owns the leasehold interest with restrictive conditions which only gives it the benefit of the pasturage on the land as if it was an estate exclusive of the improvements carried out on that land by the lessee or its predecessors.
- 9.2. The Crown as lessor, on the other hand, has only a limited bundle of property rights. The Crown's ownership rights consist of controlling the use of the undeveloped land as if no improvements had ever been carried out and restrictions in the lease as to what the lessee can do to that land without prior approval. In granting the approval to carry out such improvements to the land, the lessor is required under Section 1 para 18 (3) of the CPLA 1988 to consult with the Director General of Conservation before taking any discretionary action. The Crown also has powers under section 60 of the Land Act 1948 to grant easements over the pastoral leased land as discussed in paras 4.12 to 4.14.
- 9.3. The Crown's exercise of those rights is held exclusively by the CCL but, to some extent, has the potential of being determined by another party (DOC). The market value of those rights are fettered by those provisions and consists essentially of the present value of the current and prospective rentals on review under the prescriptive provisions of the pastoral lease legislation.
- 9.4. Unlike an open market lease between two private parties, the lessee in negotiating a lease rental has to consider what actions the lessor (CCL) might take in terms of the discretionary activities as prescribed in the lease. At the same time the lessee must weigh up how the commissioner's action may be influenced by the advice of the Director of Conservation.
- 9.5. This level of uncertainty facing the lessee when contemplating paying a rental for the lessor's LEI land is considerably greater than that of a lessee making an offer to lease land from a private person. The private lessor does not have to consult with a third party prior to approving certain work to be carried out on the land being leased.

9.6. It is within the context of these restrictions that the valuers engaged by the parties to a review of the rental of pastoral lease land have to determine a LEI value, an improvements value, as well as a capital value. A rental is required on an equitable basis acknowledging the relationship between the lessor and lessee and also, in our view, in relation to rentals being paid in the market for similar properties. Making the latter assessment is thus problematic relying on subjective, not objective criteria,

9.7. These issues were discussed in a High Court case reported as *Assistant Commissioner of Crown Lands v Associated Taverns Limited*. This case was an appeal against the findings of the Land Valuation Tribunal (LVT) relating to fixing values under the Land Act. Whilst it relates to an urban Crown lease freeholding situation, the principles enunciated in that decision setting out the relationship of the parties applies equally to rural land. In particular we note the Court's comments:

*“we consider that a lease under the Land Act is essentially an agreement between two parties to carry on a business of which the Crown in this case provides the land (for which it receives a rent) and the company provides the capital (for which it receives an income less rent)”.*

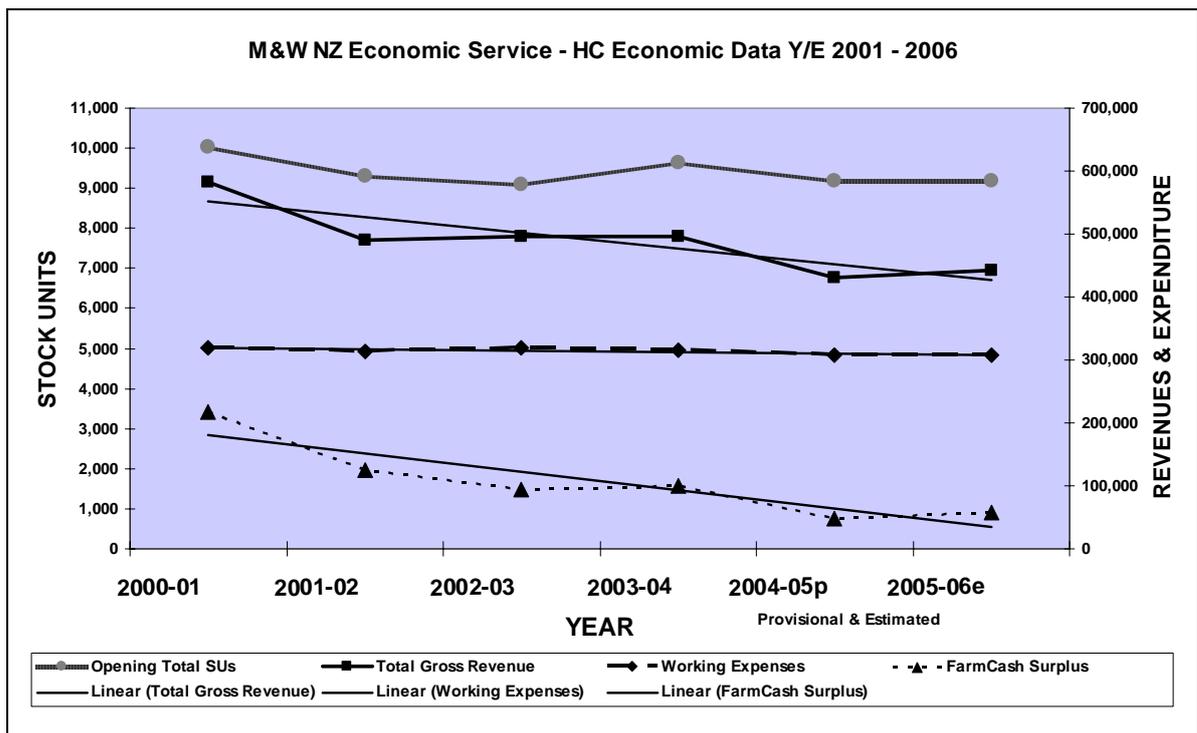
9.8. The Court then further comments:

*“Inequality would result where the value of either parties resources produce an unduly large or small share of the total income available now and in the foreseeable future.”*

9.9. The Court in making these comments confirm the direction of the Land Act and CPLA to ensure that there is equity between the parties, i.e. a subjective assessment. It is therefore important for the valuers when making a rental assessment to be fully aware of the economics of the pastoral farming industry and how the market is measuring the rental potential for similar properties. They then have to ensure that the rental that they are recommending does comply with the provisions of the Act and the findings of the High Court.

### 10. HIGH COUNTRY FARMING RETURNS

10.1. We have reviewed statistical data (see chart below) relating to the income trends for pastoral farming businesses, particularly over the past five years. We note that the financial performance of this sector (high country) has been declining. This is in contrast to other farming sectors that, until the year ended June 2005, have had the benefit of increasing real returns.



10.2. The data which has been reviewed has been independently prepared by the Meat and Wool N Z Economic Service that annually prepares financial performance data of all New Zealand farm types. We observe that the fortunes of the high country farming sector is largely depend on the returns obtained for fine wool. That commodity has now been at relatively low levels for some time with little or no expectation for improvement in the short to medium term. Likewise we note that a large number of pastoral farmers have diversified their farming businesses into deer. That industry has over the past three years seen catastrophic reductions in returns and like fine wool, the medium to short term prospects do not indicate any significant increase in returns.

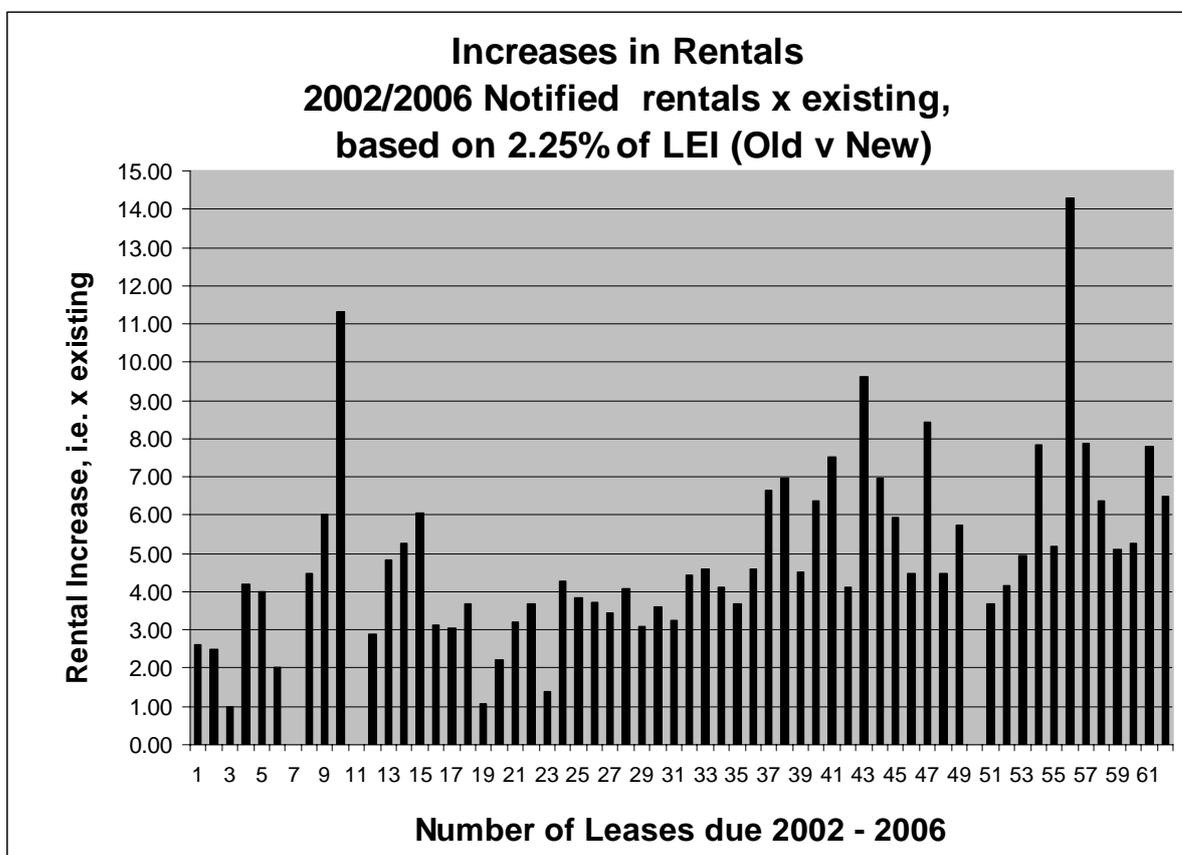
## 11. MARKET RENTALS:

- 11.1. We now consider whether or not the rentals being assessed and paid on review under the current legislation provide a satisfactory financial return on the Crown's asset. We also now consider whether or not a change from the current prescriptive basis to a "market rental" basis would better achieve a fair outcome for both lessees and the lessor.
- 11.2. We have reviewed rentals that are currently paid in the market for pastoral properties. These rentals generally indicate a range from \$15 p.a./SU to \$20 p.a./SU with some exceptions at each end of that range. These rentals are for the whole of the land estate, i.e. land and all improvements to that land. These leases do not have many of the restrictions of pastoral leases. They are usually for terms of at three to six years, some with rights of renewal at the lessor's option. The rentals are generally reviewable at two or three yearly intervals. The rental yields on the current market value of the land are generally below 5% p.a. predominantly in the range of 2% to 3% per annum.
- 11.3. This analysis of market rental evidence is an important valuation benchmark. The above \$ p.a./SU rental rates are observed to be consistent with a New Zealand wide range reflecting different locations and relative profitability.
- 11.4. When applying market evidence to LEI rental assessments, it is necessary to adjust the rental rates of developed land to exclude the value of improvements. Such improvements are subject to depreciation, redundancy, and obsolescence. They also incur maintenance costs, both in terms of structural and land improvements. These costs are a major component reflected in market rental rates that do not apply to LEI rentals.
- 11.5. We have reviewed sample valuations and rental assessments for both lessees and for the Crown. We have interviewed some lessees who have been notified of reviewed rentals none of whom were prepared to accept the notified rental. In almost every instance they intended to appeal these rentals. We are advised that a number of the previously notified rentals have been accepted.
- 11.6. In discussions with LINZ valuation contractors it became clear that, in the first instance, they are endeavouring to follow the prescriptive process of establishing an LEI value and applying the prescribed 2.25% rental rate to that value. They then appear to be making some adjustments to minimise the prescriptive rental outcome so that it more closely

reflects market rentals. We have been unable to ascertain just how these adjustments between the market and prescriptive LEI rental assessment are made.

11.7. However, we note that the valuers recognise that they have to make some adjustment (as they are required to do under Section 131 (1) (ii) in terms of equity).

11.8. The following chart shows the range of rental increases as assessed by LINZ valuation contractors applying to 59 rental reviews effective over the period July 2002 to July 2006. The notified new rentals range from approx 1 times (i.e. no change) to 14 times the existing rentals, with an average of 4.9 times the existing rental set 11 years ago (when normalised to a 2.25% prescribed basis)<sup>5</sup>. One outlier (75 times existing rental) and two other special cases are excluded (as column gaps) in the chart.

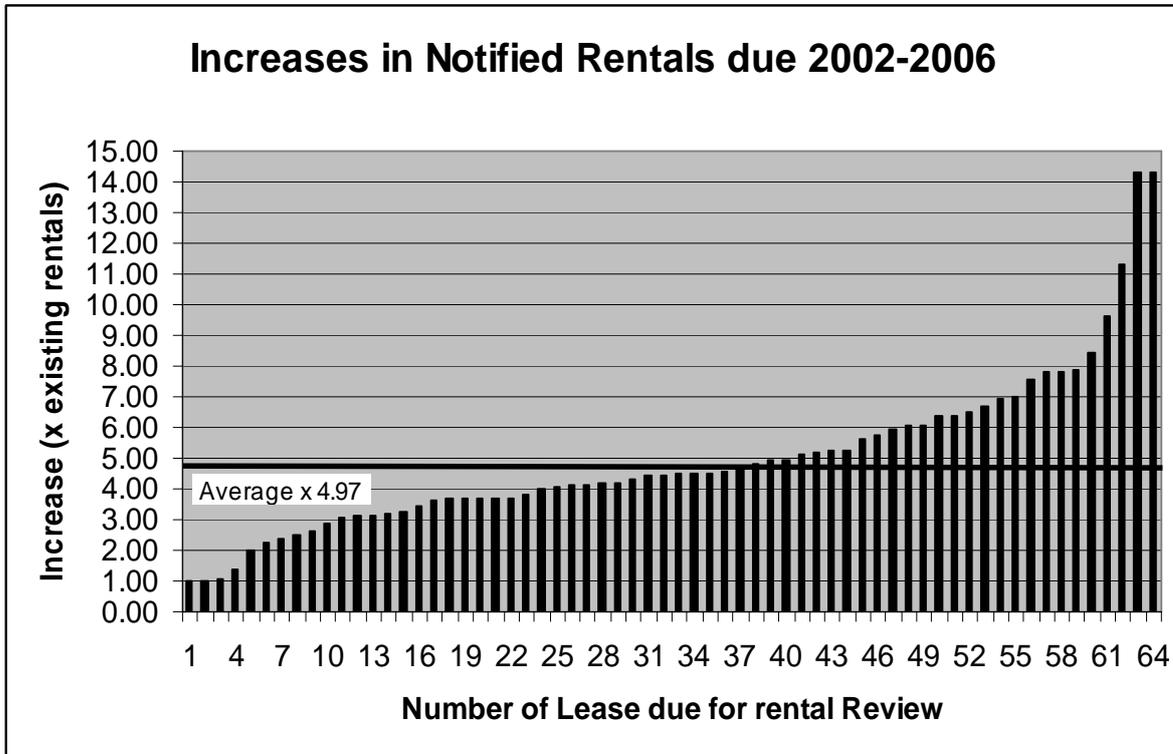


11.9. The middle 50% of the notified rentals range in increases from 3.6 to 6 times the existing rentals or LEIs on which they are based, averaging 4.97 times. These rentals show compounded growth rates of between 12.35% p.a. and 17.75% p.a. averaging 14.7% p.a.

11.10. These increases show major inconsistencies in the outcomes of the rental valuation process and are of concern. This inconsistency highlights the difficulty of endeavouring to

<sup>5</sup> 23 of these leases were fixed on the basis of 1.5% for the first 11 year tem of new 33 year leases, and therefore those actual increases are greater than their increases shown in the chart – which is a one-off adjustment..

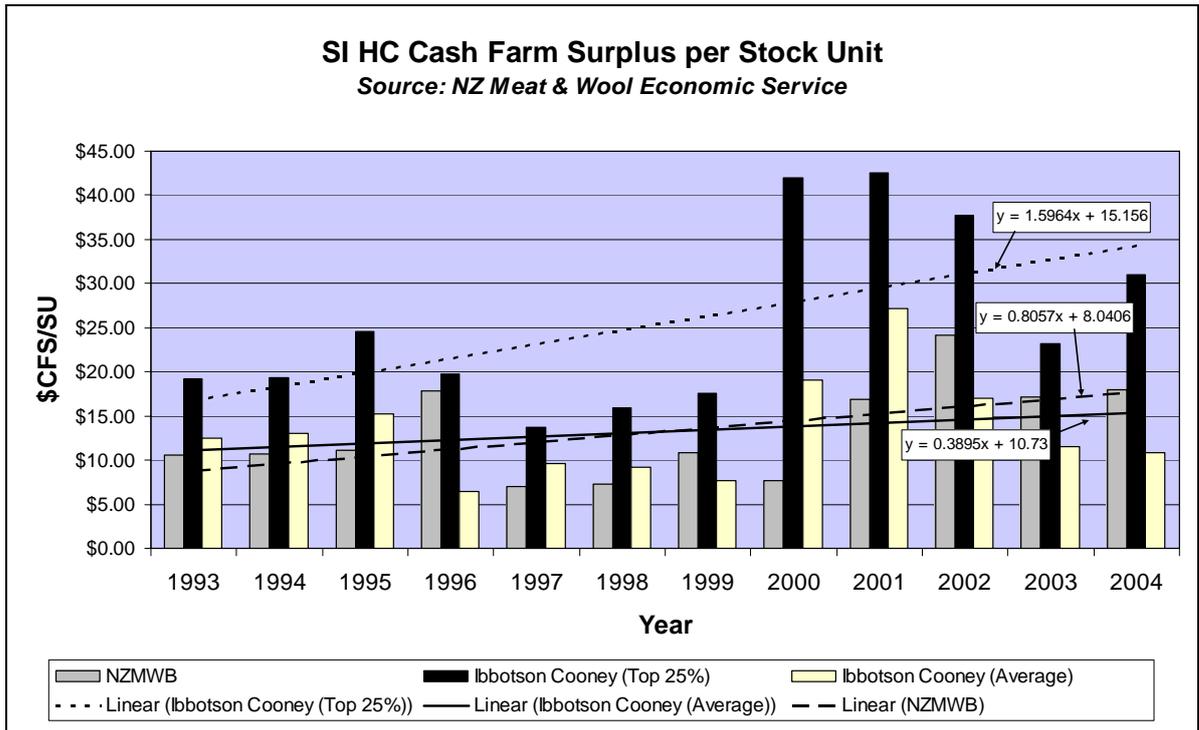
exclude non-pastoral values (SIVs or “X” factors) from the LEI assessment. We would expect increases in rentals of pastoral land should fall within a much narrower range more closely related to market rentals of pastoral land that reflect farm profitability.



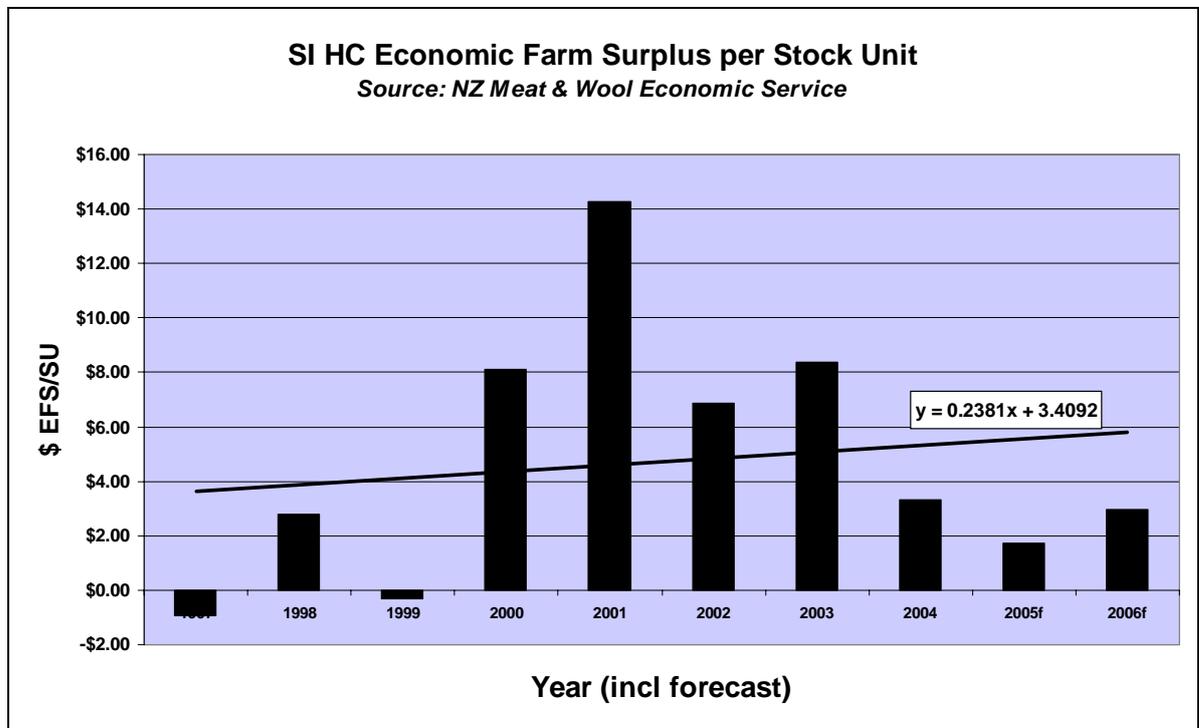
11.11. A table follows that compares the 11 year increases in the notified LEI rentals with the South Island High Country Farm profitability statistics sourced from the New Zealand Meat and Wool Board (NZMWB) and also from Farm Accounts Analysts, Ibbotson Cooney Ltd., over the period 1993 to 2004 which shows the great disparity between the increase in rentals and increase in relative affordability..

1993/2004	Growth in SI HC Cash Farm Surpluses		
	Ave Annual	over 11 years	x Start
NZMWB	1.07% p.a.	12.36%	1.12
Ibbotson Cooney (Top 25%)	10.55% p.a.	201.34%	3.01
Ibbotson Cooney (Average)	0.36% p.a.	4.07%	1.04
1993/2004	Growth in Economic Farm Surplus		
NZMWB	6.98% p.a.	110.14%	2.10
11 Year increases ex 1992-1995	Increase in LEI based notified rentals		
top 25%	20.86% p.a.	703.81%	8.04
Middle 50%	14.70% p.a.	352.02%	4.52
average	15.58% p.a.	391.75%	4.92
maximum	27.35% p.a.	1328.57%	14.29
minimum	0.00% p.a.	0.00%	1.00

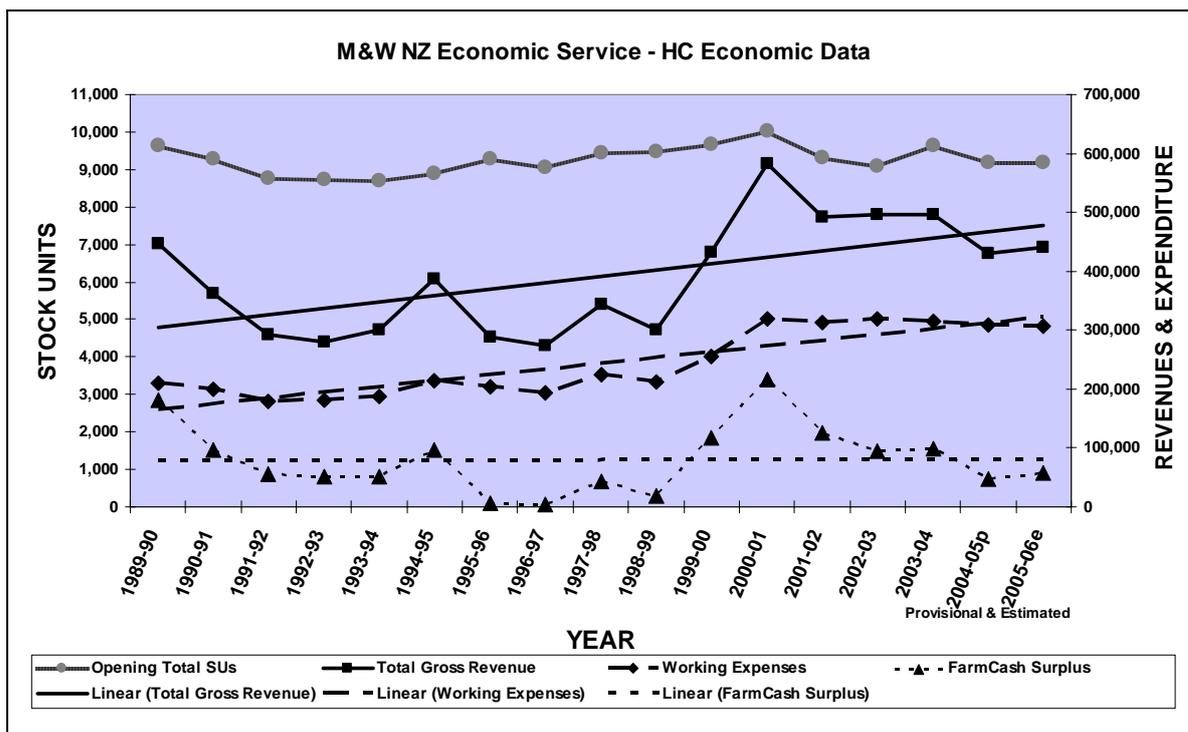
11.12. A Chart of the Cash Farm Surpluses with trend lines added follows:



11.13. The above does not allow for wages of management, plant replacement provision or return to livestock, which gives the economic farm surpluses as follows.



11.14. Analysis of long-term high country farm profitability as analysed from Meat & Wool New Zealand Economic Service for the period 1989-1990 to 2006-2006 is shown in the following chart.

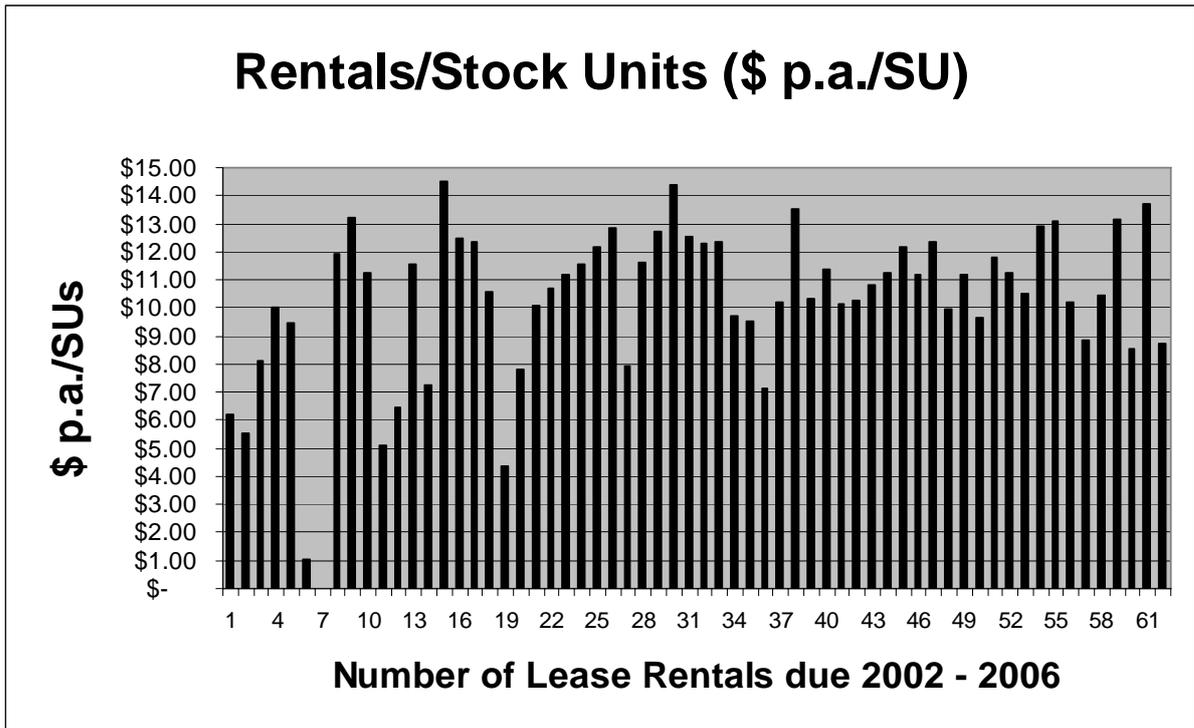


11.15. The above chart shows relatively long-term growth trends in gross farm revenue. When coupled with the increasing trend in total working expenses this shows a static farm cash surplus over the period including forecast to Y/E June 2006. This data gives no support for the currently notified levels of increase in rentals over the relevant 11 year review periods involved.

11.16. The ability of Crown pastoral lessees to pay a higher rental was challenged by one of the valuers employed by the lessees. This valuer, with a wide experience in pastoral lease valuations, submitted an economic analysis of a “modal” high country farm property. His conclusion is: “...the present rental rate of 2% net for the LEI of a Pastoral Lease is not affordable by the average Pastoral Lease and it is not justified by market rental data.”

11.17. This conclusion is consistent with analyses of published farm financial performance data. These data demonstrate declining cash farm surpluses from 2001. This situation, when considered in terms of Section 131 (1) (ii) of the Land Act, questions of the validity of the rental increases that are currently being notified to lessees.

11.18. The Project Objectives require consideration of the implications of introducing “market” rents for pastoral leases. Our investigations indicate that rents currently being proposed for most properties are on average well in excess of what be considered fair market rents just for the LEI pasturage. Furthermore, when analysed on an LEI SU carrying capacity basis, (as determined by the valuers) there is an unacceptably wide range of proposed rentals, as shown in the chart below.



11.19. LINZ provided the review team with 62 rentals due 2002-2006 that have been notified to lessees 16 are being referred to the Land Valuation Tribunal, one has been accepted, and 45 may or may not be accepted by lessees.

11.20. An analysis these proposed rentals reveals the following;

Per Stock unit rental range	\$1.02 to \$14.52
Average per SU of	\$10.42
Standard Deviation of	±\$2.52
This indicates that 68% of the rentals fall within a range of	\$7.84 – \$13.00

11.21. This analysis shows an alarming inconsistency in the notified rentals. The average rental at \$10.42/SU should be considerably less reflecting the issues discussed above which refute the claim by some NGOs that lessees are paying “peppercorn” rentals that should be increased “to match market rates.”

11.22. This clearly shows the failure of the prescribed LEI construct and methodology to provide a rental that complies with both the provisions of the governing legislation and at the same time fairly reflecting the market for pastoral rentals.

*“Part of the problem here may lie with the peppercorn rentals paid by lessees – often much lower than the market rate (these are 2.5% of the value of the land, exclusive of modifications or its value for subdivision, commercial or industrial use). If rentals were increased to match market rates, this could provide added incentive for lessees to enter the tenure review process”.*  
 Federated Mountain Clubs, Sept.03

11.23. We find that the prescribed rental review process under the governing legislation is failing to deliver accurate and fair outcomes.

## **12. RECREATION PERMITS AND EASEMENTS**

- 12.1. We are also required under the terms of reference to give consideration to the extent to which charges for recreation permits and easements contribute towards the objective of obtaining a fair financial return to the Crown for its high country assets.
- 12.2. We understand that such permits and easements provide pastoral lessees with an alternative, higher and better use for parts of the pastoral lease based on a commercial rental rate (e.g. eco tourism). Such fees usually relate to the income that the holder of the permits or easement will generate from the enterprise.
- 12.3. We have only limited information on these matters but believe that this process does provide a fair financial return or has the ability to do so if properly set up.

## Section B – Tenure Reviews

### 13. TENURE REVIEW – CRITICISM OF UNFAIR OUTCOMES

13.1. We are required to report as to whether or not the current methodology of valuing lessor's and lessee's interest in tenure review is delivering accurate and fair outcomes. We are also required to recommend changes to methodology (if appropriate) to better meet those outcomes.

13.2. The ability to enter tenure review arose from the passing of the CPLA. Part 2, Section 24, of the Act, sets out the objects of the provision to review the tenure of pastoral leases:

*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*

13.3. The decision of Government to review the process of tenure review appears to have arisen from public comment and some criticism that leaseholders completing tenure review are being overpaid and the government is not getting value for money. Such comments were made during the interview process.

13.4. They reflect the concerns expressed by a number of interviewees, and are useful as a basis for identifying the public perception that Tenure Review is not providing a fair return to the Crown.

13.5. Some submitters have concluded there is an inequitable outcome for the Crown. This view is based on their analysis of “per hectare (ha)” prices paid by Crown for land going to the DOC estate and/or being paid by lessees to obtain freehold title to residual land.

13.6. We note an analysis submitted by one NGO, based on published LINZ combined net exchange of interest figures:

	Land Allocation	Equalisation Payments	\$ per ha equivalents*
Crown	49,213 ha	\$11,734,000	\$238
Leaseholders	93,740	\$5,180,000	\$55

\* These are over simplified as they assume equal value over the entire land area and mask the financial implications of covenants and easements on freehold land and grazing licences and easements on conservation land. The LINZ Annual Report does not reveal the actual area of land or types of land covered by equalisation payments

13.7. These submissions went on to claim that:

*”These figures indicate that while the Crown is relinquishing its interest in nearly 70% of the most valuable and productive land it is paying four times as much for only half the amount of less valuable land. On the face of it tenure review financial settlements appear to be significantly favouring the leaseholders, while the conservation outcomes are tending against the Crown.”*

13.8. Such an approach is understandable given the lack of transactional detail available from the public record, but nevertheless is erroneous and misleading. The calculation based on this limited data incorrectly interprets the transactions that have taken place. An analysis of equalisation payments on a “per ha” basis, as in para 13.6 above does not provide an accurate method from which to judge the fairness of tenure review outcomes, particularly on an aggregated basis. Even on an individual property one needs to know the components of the transaction to make a meaningful judgement. This required information is confidential under Section 43 of the CPLA.

*Peppercorn Rentals: A major bone of contention of the public has been the lessees’ ability to achieve peppercorn rentals from the Crown. The rentals set in 1948 were significant, but they were held at those sums for 33 years, being reduced to farcical levels by inflation. In 1979, when the Clayton Committee reviewed the rentals, they averaged 7 cents/hectare. Today, 15 years later, they average just over 40 cents/hectare, not a markedly different amount when inflation is taken into account. One concludes the Clayton Committee was aptly named. Rentals are still assessed on 2% of unimproved land value, when all other Government farm rentals are assessed at 4% and Conservation Department leases are at market rates and set every three years. One can compare these grossly concessional rates with the excessive rentals of \$200,000/hectare that DOC is proposing for similar land for the club huts on Mt Ruapehu, for licences which were similarly first let in 1948. Equally, in most instances where the Crown grants additional concessions e.g. to till the soil, or change the land use of a lease, it charges for them. This is not the case for pastoral leases. It is apparent that there is one law for pastoral lessees and another for the rest of us.*

*Pastoral Leases – The Last Great Public Land Carve Up – your support is vital by Hugh Barr Federated Mountain Clubs Bulletin, December 1994*

13.9. Additional errors arise in making such comparisons based on equalisation payments in that the values being quoted are capital values and not LEI values. Different values for

improvements and land classes relate to different parts of the each property. In many cases the value of improvements (on a “per ha” basis) to the land retained by the Crown is considerably less than the value of improvements on the land freeholded by the lessee. The exchange allows for those lessee’s improvements remaining on the land retained by the Crown. In addition, the half cost of any new shared boundary fencing (paid for by the Crown) is added to the payment made by the leaseholder and vice versa deducted from any differential payment by the Crown to the lessee. In addition any adjustments for the impact of CCL consents, easements and covenants, commercial potential and subdivisional potential will have a significant impact on the marginal or differential value and exchange.

13.10. That such erroneous comparisons have been made using the published equalisation figures rather than the (unpublished) actual negotiated total transactions identifies the problems of transactional transparency. This is due to the confidentiality of the final tenure exchange values and the basis of establishing those values. To show the erroneous of basis of these claims, some simple examples follow that show one cannot use equalisation payments in this way.

Examples based on actual Tenure Review Settlements			
<b>Example 1:</b>	<b>Area</b>	<b>Value</b>	<b>Value/ha</b>
<i>Before</i> Pastoral Lease	12,000 ha	\$ 5,500,000	\$458 /ha
<i>After</i> Freehold Residual land	3,500 ha	\$ 3,500,000	\$1,000 /ha
Equalisation Payment	8,500 ha	\$ 2,000,000	\$235 /ha
<i>After</i> Crown's Conservation Estate	8,500 ha	\$ 2,500,000	\$294 /ha
<b>Example 2:</b>	<b>Area</b>	<b>Value</b>	<b>Value/ha</b>
<i>Before</i> Pastoral Lease	6,800 ha	\$ 1,242,000	\$183 /ha
<i>After</i> Freehold Residual land	4,800 ha	\$ 1,100,000	\$229 /ha
Equalisation Payment	2,000 ha	\$ 142,000	\$71 /ha
<i>After</i> Crown's Conservation Estate	2,000 ha	\$ 130,000	\$65 /ha
<b>Example 3:</b>	<b>Area</b>	<b>Value</b>	<b>Value/ha</b>
<i>Before</i> Pastoral Lease	6500 ha	\$ 3,400,000	\$523 /ha
<i>After</i> Freehold Residual land	6000 ha	\$ 3,500,000	\$583 /ha
Equalisation Payment	500 ha	– \$ 100,000	-\$200 /ha
<i>After</i> Crown's Conservation Estate	500 ha	\$ 350,000	\$700 /ha

13.11. This table shows quite different outcomes, based on agreed capital values before and after the Tenure Review settlement. The above analysis demonstrates more clearly the different values resulting in the equalisation payments. However, it still does not show the variation due to differences in land class, improvements, or other components (e.g. easements). The equalisation payment is merely a differential from which no valid conclusion on equity or fairness can be drawn. Every case is quite different.

13.12. We conclude that the lack of transactional transparency coupled with a lack of understanding of valuation methodology and process (by some members of the public) has exacerbated this problem leading to criticism of the equity of the tenure review process.

#### **14. OWNERSHIP OF THE SIGNIFICANT INHERENT VALUES**

14.1. One NGO submitted that the SIVs belong to the Crown and should be paid for in the LEI rental and/or recouped from the leaseholder when sold.

14.2. These submissions reflect the concerns expressed by a number of interviewees, and are useful as a basis for identifying the public perception that Tenure Review is not providing a fair return to the Crown.

14.3. This submitter's interpretation of the respective interests of the lessees and lessors is.

The leaseholders have rights to:

- exclusive occupation/quiet enjoyment,
- the perpetual renewal of the lease,
- use of the land for pastoral purposes, and
- fixed rentals reviewable only every 11 years.

The lessor has rights to:

- the ongoing rental stream,
- issue or decline discretionary consent applications for farming activities that disturb the soil or vegetation,
- issue or decline applications for non –pastoral economic activities, including commercial recreation, and tourism,
- agree to any freeholding,
- significant inherent values, and
- all values associated with the soil and the land, other than pasturage.

14.4. We agree with the interpretation on all of the heads of rights set out above except for their view that the SIVs “belong” to the Crown as lessor. This may be a matter of interpretation because whilst it may be that they do belong to the Crown, the Crown has no access to them due to the lessees' right of perpetual occupation, quiet enjoyment, exclusive use and the right of perpetual renewal of the lease.

14.5. With no access to these SIVs in perpetuity, (that is while the land is held in a pastoral lease) they can be of no value to the Crown. Furthermore, because pastoral rentals are

required to be based on the ability of the property to provide pasturage to a lessee and SIVs do not normally contribute to pasturage no rental can be charged for those SIVs.

14.6. The market, however, is recognising these SIVs and (in some instances) is paying what is perceived to be very high prices for lessees' interests including a market premium for access to SIVs. The implication is that the Crown's interest in these properties is very small (being only the present value of the future net rental stream). There is a perception that this is unfair to the Crown.

14.7. In the valuation of the respective interests in pastoral leases for tenure review, the lessee's interest has to be purchased by the Crown to enable it to obtain the rights of access to SIVs in perpetuity. That market premium is recognised in the tenure review process when the lessees' interests are valued, based on the market evidence.

## **15. VALUATION OF LESSOR'S AND LESSEE'S INTEREST IN THE EXCHANGE OF INTERESTS**

15.1. Our terms of reference requires us to examine and report on the validity the valuation methodology used as to whether the:

*"Current methodology for valuing lessor and lessee interests in tenure review is delivering accurate and fair outcomes and recommend changes to the methodology (if appropriate) to better meet those outcomes; and..."*

15.2. The scope of work requires us to undertake:

*15.2.1. A comprehensive review of the tenure review methodology used in determining the lessor and lessee interests as used for determining the exchange of interests in tenure review and an investigation of how this methodology is being applied;*

*15.2.2. An assessment of all of the rights associated with pastoral leases and how these should be valued in terms of existing pastoral lease agreements;*

15.3. In assessing the value of the respective interests in the pastoral lease, it is necessary to have an understanding as to what property rights are held by each party and what benefits those parties obtain from their ownership of those rights. Guidance on the principles involved and the relationship between the lessor and lessee can be taken from the High Court in the *Associated Taverns* case:

*"we consider that a lease under the Land Act is essentially an agreement between two parties to carry on a business, of which the Crown in this case provides the land (for which*

*it receives rent) and the company provides the capital (for which it receives the income less the rent).*

- 15.4. The value of the respective interests arising out of pastoral lease contracts in pure land economic terms should be able to be assessed based on the present value of the net cash flow benefits that each party receives from their interest in the property. In addition, there are the benefits of perpetually renewable occupation of the land and that possession adding value including enjoyment of the mere possession and access to the “X factors” associated with the land.
- 15.5. As previously discussed, the Crown in effect gave away any potential to realise the value for SIVs or X factor premiums when it gave the lessee a perpetual right of renewal. Continuing possession through occupation is assured by virtue of the provisions of Section 66 (ii) of the Land Act 1948. It only requires a rental to be fixed based on the pasturage on the property and under Section 131 (1) (ii) requires that equity must be established between the two parties in relation to the contract rental. In this respect, therefore, a pastoral lease differs from a lease in other property sectors that can be valued based on the respective parties' cash flow benefits.
- 15.6. In theory, the Crown as lessor obtains “momentary” possession of the land at each 33-year renewal it instantaneously is bound to grant another 33-year lease term to the lessee if the lessee has exercised their rights of renewal, and so on, in perpetuity.
- 15.7. The parties to tenure review have recognised this situation and have adopted a commercial and pragmatic approach to assessing the respective interests in the land. In the first stage, an assessment is made of the lessee’s interest in the property, which is notionally sold to the Commissioner of Crown Land (CCL) and then merges with the Crown’s interest to become “freehold”. The CCL then notionally owns the unencumbered land. Then the CCL “sells” part of the land back to the lessee as freehold (fee simple land) and transfers the balance to the DOC conservation estate. This is the legal process taking place.
- 15.8. To fully understand this process it is helpful to consider the parties to the tenure review transactions in sequence:
1. The CCL as the Lessor and resumptive Crown owner
  2. DOC as a nominal purchaser
  3. The lessee as purchaser of the freehold balance
- 15.9. This tri-partite approach is presently being partially applied to overcome the problem of assessing the SIV and/or “X factor” component of the property that would have to be

separately assessed if an approach that strictly follows the CPLA requirement to assess “the equality of exchange” under Section 34 (3) (a) and Section 46 (3) (a). This requires an apportionment of the net exchange of interest into the respective lessee’s and lessor’s interests. Currently this latter calculation is being carried out after sequence 1 and 2 above have been negotiated.

- 15.10. This approach appears to be working and providing an apportionment of the total value of the property for settlement of the exchange of interests. To support that approach we reviewed valuation assessments made on one property where upon agreement being reached (and before transfer was complete) the freehold estate has been put up for sale on the open market. The freehold property has sold some months after the Tenure Review agreement at a figure very close to the confidential assessments made during the Tenure Review negotiation. This test in the market confirms the valuations used, in this instance, and should engender confidence in the valuation process being used.
- 15.11. As previously noted our major concern relates to the levels of rental being proposed for these properties and the consequential effect that an incorrect rental has in valuing the existing and proposed cash flow arising from those rentals. We note that the lessor’s interest in pastoral leases does and will continue to represent only a small component of the total value of the property.
- 15.12. Without transactional evidence of LEI lessor’s interest sales valuations for Tenure Review have no option other than to be based on a discounted cash flow (DCF) approach to valuing the lessor’s interest. The lessee’s interest however can be relatively easily assessed using comparable transactional evidence which in a number of instances correctly includes the market value of the rights in perpetuity to the SIVs or other non-pastoral values that are being identified for this type of property.
- 15.13. The approach taken by the valuers as discussed above in the first instance values the lessee's interest (as a *before* value), the land going back to the lessee as freehold (the lessee’s *after* value), the land going to DOC as freehold (Crown’s *after* value) and the adopted process, to attempt to comply with the CPLA, then assesses the net cost of the exchange of interests between the parties,
- 15.14. The lessor’s interest is then calculated using a DCF type technique, based on the present value of the Crown’s cash flow consisting of the existing contract rental until the next review, then the estimated future rentals based on an assumed future escalation in the LEI and a series of future tranches of 11 years reviews discounted to present value. Deducted

from the sum of these present values is an allowance for a capitalised cost of management. The net figure is taken as the lessor's interest.

15.15. The value of that lessor's interest is then apportioned between the land going to the lessee and land going to DOC based on a pro-rata apportionment the assessed current market land values (not LEIs) of the respective areas being acquired.

15.16. This apportioned Lessor's interest is built into the exchange of interests from which an equalisation payment is made by one of the parties to the other based on this value differential. However, a separate lessee's interest is not independently assessed and treated as purely a residual, by deducting the lessor's interest from the freehold value. Such a "residual" methodology is contrary to good valuation practice, assuming that "the sum of the parts equals the whole" which when applied to property interests and fractional interests in particular is erroneous. The Land Act 1948 as amended in 1970 makes a statutory construct that the sum of the two interests must add up to the Capital Value, for freeholding of farm and urban Crown perpetually renewable leases in Section 122. This was ensured by the definition of the method of calculation of the lessee's "goodwill" to be deducted from the Capital Value to determine the freeholding price. However, the latter was not a lessor's interest. That section does not apply to Tenure Review under the CPLA<sup>6</sup>.

15.17. It is necessary to value each of the separate "ownership" interests separately. This may result in the sum of the interests being more or less than the total freehold value before the exchange takes place. In addition, new additional interests are created during the tenure review that have either positive or negative effects on the respective interests and resulting separate freehold values from the easements, concessions, marginal strips, access, covenants and different configurations and scale of the lands involved. In effect both a subdivision of the physical land and the respective interests are concurrently being carried out. Therefore, the sum of the *before* interests (lessor's and lessee's interests) will in most cases be expected to be different from the sum of the *after* freehold subdivided land interests of the freeholder's and the Crown's (DOC) conservation estate.

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<sup>6</sup> Even if it did, it would require a separate valuation of both interests and the apportionment of the freehold value in proportion to the sums of those separate interests the land value. The only other Statutory precedent was the basis used under the (repealed) Section 45 of the Valuation of land Act 1951 where the assessment of the lessor's and lessee's interests in the land for land tax assessment (or other purposes) was deemed to add up to the Land Value – to ensure equity of the apportionment of land tax related to the whole property. The method of calculation defined in that section ensured that was the result as both the rental rate and the discount rate applied to both the lessor's and lessee's cash flow was the same and there was further no allowance for the value of any right of renewal.

- 15.18. It appears from our enquiries, and copies of the Excel spreadsheet models used that whilst the two LINZ valuation contractors use similar methods they are not the same. One contractor allows for the cost of management (by a form of capitalisation using a “net of inflation” rate (6%) for which there is no explanation) and the other contractor does not make any allowance for lessor’s costs. Both contractors use a questionable form of Discounted Cash Flow (DCF) valuation methodology that calculates the present values (PVs) of rentals. One calculates these cash flows annually in arrears, whereas they are payable six-monthly in advance. Both allow for the 0.25% discount for prompt payments. Neither allow for the cash flows to be received in perpetuity but only over a large number of rental tranches (up to 13 periods of 11 years) from the next review. Both use a pre-tax discount rate of 8% p.a. or 8.25% p.a. including an allowance of 2% p.a. or 2.5% p.a. respectively for land inflation. In this context inflation is misnamed as it should be “growth” and not to be confused with general inflation which is built into discount rates.
- 15.19. By the residual methodology used, this implies that the discount rate for pastoral lessees’ cost of capital is the same 8% p.a. or 8.25% p.a. for discounting the present cost of rental benefits or future rentals. We consider the latter implied assumption to be in error. A pastoral lessee has increased risk compared with a passive lessor for perpetually renewable leased land and the discount rate should be higher to recognise that risk. The lessor has a very high security that offers protection of the future rental cash flows and has very low risk of loss.
- 15.20. The Crown appointed negotiators, when interviewed, could not provide any support for the 8% p.a. or 8.25% p.a. discount rates being adopted. There appears to be no market justification used for the discount rates and we were informed that it was given by LINZ and that the valuers were instructed to use that rate. This is unsatisfactory and the discount rates used needs to be justified if fair outcomes are to result.
- 15.21. The application of this methodology will not achieve an accurate valuation of the lessor’s and thus the lessee’s interests being exchanged. The degree of error may not be material so we cannot be certain that the outcomes are unfair for the Crown and/or the lessees in this respect. We have reworked a sample of these calculations on a more precise and defensible basis. This indicates that there are some offsetting errors involved but the effect is that consistently the lessee’s interests could be overvalued and the lessor’s interest understated. Each lease will differ, depending on the lease terms. In terms of the total *before* and *after* values involved the differences are probably immaterial, but in terms of the

exchange in interests values the differences could be significant. We have had insufficient time and access to a enough tenure review valuation reports (examining only a sample of completed tenure reviews) to be confident to come to a firm conclusion as to the current lessee’s and lessor’s interest valuation methodology providing *accurate and fair outcomes*.

15.22. However, as we are required to consider whether a change in methodology is required, we recommend that, if continuing the current process, the LINZ valuers use a more defensible and accurate method of calculation of both the lessor’s and lessee’s interests when calculating the exchange of interests. This will involve using: correct valuation models that calculate the rental on the basis of actual rental payment frequency and timing; adequately allowing for management costs to the lessors; a differential discount rate that reflects the difference in risk and return between the lessor’s; lessee’s required rates of return; and proper adjustment for these different valuations in the exchange of interests calculation.

15.23. As indicated by LINZ valuation contractors during interviews, an examination of a sample of Tenure Reviews completed prior to the end of 2004 confirms that valuations were made of both the lessor’s and lessee’s interests in both the *before* values and *after* values. These were used in calculating the exchange of values up to that time. This general methodology is more compliant with the requirements of the CPLA, i.e. to provide an exchange of interests, than the methodology adopted after mid 2004.

**The equality of exchange**

*“The difference between the Crown’s payment and the Leaseholder’s payment results in a financial settlement in favour of one party or the other.*

*The net result of Tenure Review is the same as what would happen if the Crown purchased the lease on the open market and then sold part of the land back to the landholder as freehold. This net result is the equality of exchange”*

LINZ Information Fact Sheet

15.24. A change in methodology was adopted after mid 2003 as a result of an inquiry carried out by Mr John Larmer that resulted from three major reports<sup>7</sup> reviewing the valuation methodology over the period 2000 to 2003. A workshop held in 2003 involving LINZ staff and contracted valuation providers agreed to use a common methodology that was intended to improve the transparency in the valuation process. A template was agreed for the Tenure Review valuations which started from a less complicated *before* and *after* basis, being more understandable to the parties involved.

15.25. This changed methodology is in effect a short-cut method, based not dissimilarly to valuations undertaken under the provisions of the Public Works Act 1981 and Amendments

<sup>7</sup> See – APPENDIX 4 – *Larmer’s Valuation Methodology Reports* (2000, 2001, 2003)

where by a *before* and *after* valuation methodology is used for partial takings of land for public works.

- 15.26. This valuation approach involves assessing the market value of the pastoral lease for which market sales evidence is used. In general these valuations are relatively straight forward though differences in valuation opinion and sales analyses do give rise to differences of value between the LINZ valuation contractors and pastoral lessee's ideas of value and that of their valuation consultants.
- 15.27. In a number of cases the pastoral lessees have not sought independent valuation advice but negotiate either directly or by using experienced tenure review negotiators as intermediaries. In a few cases we have investigated, a copy of the lessee's valuer's report is on the LINZ Tenure Review records. In other cases, lessees may have commissioned a valuation report but it is not disclosed in negotiations. In these cases there is no evidence on file of differences in either valuations or methodologies. In a number of cases the valuations carried out by LINZ valuation contractors have been relied on by both LINZ and lessees or their negotiators. In a number of cases the valuation has not been the major issue but negotiations have concentrated on other issues such as boundaries, concessions, easements, and covenants to remain on the land to be freeholded.
- 15.28. The methodology being used by LINZ contractors (and lessee's valuers we have talked to or seen reports of) actually does more than the strict requirement under the CPLA. The respective interests of the lessor and lessee, are not valued as only a *before* and *after* valuation is arrived at based initially on the preliminary proposal and then revised after the substantive proposal is agreed upon.
- 15.29. The difference between these two (*before* and *after*) values is the net exchange value. Basically that is all that is required and follows what notionally takes place, as discussed earlier. In effect the Crown buys back the lessee's interest in the pastoral lease. Then the Crown as freehold owner subdivides the land between that required to go into the DOC conservation estate and into marginal strips, with the residue land sold to the previous lessee subject to any negotiated covenants, easements, and concessions etc. The fact that this is a contemporaneous transaction on settlement means that the *difference* between that leasehold property sold to the Crown and that freehold property purchased back from the Crown is the *net exchange value* – i.e. the money changing hands – either from the freeholder to the Crown or vice-versa. In some case we have seen the net exchange is zero.

15.30. The process taking place is an attempt to then apportion that net exchange of interests to achieve *three* things:

15.30.1. *Firstly*, to calculate the change in asset values in the Crown's books (for the requirements of the Public Finance Act). The lessor's interest is apportioned between that relating to the land previously held under the pastoral lease and that going into the DOC estate offsetting the added cost of new fencing. Then there is an apportionment of the added-value acquired in the previous lessee's improvements that are left on the land (in effect acquired from the lessee). This, together with any added-value and/or detriment to the DOC estate of concessions and easements given to the freehold land acquired are allowed. This exercise is in effect a short-cut accounting calculation to arrive at the net added-value to the Crown's residual asset.

15.30.2. *Secondly*, offsetting the above is a calculation of the value of the lessor's interest that is apportioned to that land previously held under the pastoral lease. This, together with a share of the fencing cost along the boundary that is transferred to the freehold owner (that the Crown pays) for is made. Similarly the lessor's interest is apportioned to that land retained by the Crown and adjusted for added-value and/or detriment to the residual value of the land being transferred to the DOC conservation estate. This exercise is in effect a short-cut accounting calculation to arrive at the net added-value of the freeholder's residual asset including the change in tenure from leasehold to freehold. If this sounds complicated – it is.

15.30.3. *Thirdly*, to create two GST invoices for the exchange of interests to equate to the net exchange of interest. This is based on the apportioned lessee's interest value of the leasehold property on *the assumption that only that ex leasehold land* is taken back by the Crown; in exchange for the lessor's interest apportioned to the land freehold on *the assumption that only that ex-leasehold land* is acquired from the Crown.

15.31. The above calculations are very complicated and done on what the LINZ tenure review managers call a "link sheet." This does in a pragmatic way achieve those objectives and provides a methodology that ostensibly can be followed by the lessee. One can see why it is done, and essentially is required by the CPLA, but is considered to be unnecessarily complicated.

15.32. The underlying weakness in the whole process tracks back to the necessity to have to use the contract rental and assumed future rent review rentals to assess the lessor's interest. If those contract and future rentals - as we believe they are - do not properly reflect a fair

market value for the pasturage and in most instances may be too high, it follows then that the lessor's interest as calculated in the process discussed above will also be too high and the Crown will be being overpaid for its lessor's interest in the properties. If the discount rate used is too low that would add to the over-valuation of the lessor's interest used.

15.33. As set out in our conclusions and recommendation later in this report, we believe that the CPLA needs to be amended to simply reflect the reality of the two transactions – the purchase of the whole pastoral leasehold interest by the Crown (the *before* value); and the sale of the residual freehold land to the freeholder or ex-lessee (the *after* value). This would simplify the transaction and the GST should follow that transaction and be paid on each of the two transactions. GST would offset as both input and output payments in both the leaseholder's (becoming the freeholders accounts) – with the counter transaction for the Crown as lessor in the resumption of the freehold.

15.34. How the Crown accounts for this should be simple – the added-value of the Crown's asset is offset by the sale of the freehold, less the costs (i.e. fencing and the other costs of achieving Tenure Review). The need for the link sheet and the complex lessor's interest calculation and lessee's interest apportionment would become redundant, providing transparency to the negotiated transactions.

15.35. If the Act is not amended to provide for the short-cut method actually and pragmatically applied, then LINZ needs to ensure consistency and accuracy in the leasehold valuation methodology used by its contractors to value the interests of the lessor and lessee.

## 16. TENURE REVIEW 'DRIVERS'

16.1. We have sought to understand why there has been such a large uptake by lessees to enter the Tenure Review process.

16.2. Our analysis of pastoral lease tenure (under current CPLA terms) when compared with that of freehold tenure (estate in fee simple) is that, in fundamental terms, there is not a great apparent difference between the two forms of ownership. The market confirms this, as evidenced by sales of both pastoral leases and freehold high country farms. When comparing freehold and leasehold sales, using comparable analysis on a basis of similar land quality, there are only marginal differences in levels of value

16.3. Valuation practice has been to estimate the difference between the freehold and pastoral leasehold as the capitalised cost (or discounted present value) to the lessee of the current

and estimated future rentals (future reviews related solely to the LEI). This pragmatic approach may not properly reflect the difference in market values.

16.4. It should be noted that this differential in price between pastoral leasehold and freehold pastoral land is not indicative of the lessor's or Crown's interest. Nor is this differential equivalent to the calculable lessor's interests.

16.5. As discussed above, both forms of tenure, give the landowner the ability to benefit from the increase in transactional value arising from certain non-farming value increases relating to SIVs or "X" factor. Both tenures give the landowners similar property rights in terms of quiet enjoyment of the land. The other points of difference are:

16.5.1. The pastoral lease gives the lessee a perpetually renewable right of occupancy, whilst the freehold gives perpetual occupancy. The major difference is that the pastoral lease is subject to an obligation to pay a rental prescribed as a percentage of the LEI reviewable every 11 years with uncertainty as to that future outcome.

16.5.2. The pastoral lease has a restrictive process controlling land use management that requires consents from the lessor which involves DOC as a third party.

16.5.3. The lease review process is prescriptive as to the rental rate and requires subjective assessment in establishing the rental value for the property.

16.5.4. Pastoral leases do not allow land to be subdivided for higher or better use.

16.6. With the exception of the fourth point noted above, the three points of difference between freehold and pastoral lease tenure should not result in onerous conditions.

16.7. If properly implemented, a good consultative process should result in satisfactory rental reviews and land use conditions.

16.8. When the Land Act was first established in 1948 and until the 1979 amendment, there was little demand to freehold pastoral land. Occasionally lessees would apply for change in classification to "farm" land to allow a conversion to a Crown renewable lease. This lease could then be freeholded.

16.9. As far as we can ascertain the motivation for Tenure Review appears to fall into four categories:

16.9.1. *Firstly* a successful review of tenure for some lessees will gain access to land that has a higher and better use than pastoral farming. Such land includes areas suitable for viticulture and/or subdivision for residential, lifestyle or holiday accommodation.

Pastoral leases with these potentials are probably small in number. For this reason it is not a major driver for Tenure Review. However such properties are the target of vocal critics of Tenure Review, especially where properties adjoin lakes or have potential for urban expansion. These matters are adequately allowed for in the valuations made of the respective interests.

16.9.2. *Secondly*, one of the major drivers of Tenure Review is the lessees' fear of ongoing future rental increases. Uninformed publicity and criticisms claim lessees are not paying "market rentals" for pastoral land.

16.9.3. These types of claims cause concern amongst lessees particularly when coupled with the restrictive provisions of the CPLA as outlined above. This has led a majority of lessees to the view that they will in future be required to pay rentals that could render their farm business uneconomic. This concern and the potential for further land use constraints exacerbate the uncertainty of their future farming viability.

16.9.4. *Thirdly*, perceived uncertainties are clearly able to be resolved by obtaining the freehold title for as much of their farm as is possible. Whether or not that outcome provides sufficient freehold land for viable farming or other land use on the residual freehold land – could determine the pastoral lessee's decision to proceed with Tenure Review.

16.9.5. *Fourthly*, a number of farmers, when questioned on these issues, advise that they would not have entered into Tenure Review had they had confidence in the process of both rental reviews and obtaining discretionary land use consents. These uncertainties and apprehensions are major drivers for Tenure Review. These concerns could lead to land use outcomes that will not comply with the original objectives of the Land Act 1948 to maintain balanced pastoral and ecological values on these properties.

16.9.6. In some instances Tenure Review, as currently being implemented under the provisions of the CPLA, is resulting in adverse effects on land uses. This could result in residual freehold farms being uneconomic forcing intensification with possible degradation of the land and environment.

## 17. LAND AREAS AND BOUNDARIES

17.1. We understand that in the process of Tenure Review the parties endeavour to mutually agree on appropriate subdivisional boundaries for land, which the lessee will acquire as fee simple freehold. The Crown will acquire land from the pastoral lease to be taken into the conservation estate and administered by DOC.

- 17.2. There is a suspicion by many farming interests that the objectives and criteria used to determine the boundaries is too focused on land which is to be transferred to DOC (Crown). Thus it is contended by some interviewees that the viability and sustainability of the subdivided lands are not fully taken into account in the process.
- 17.3. There is some concern expressed that there may be instances where the Crown is taking an intransigent approach over boundary issues and that issues raised by lessees are secondary to those proposed by DOC. Furthermore, there does not appear to be any process for a third party mediation to resolve differences.
- 17.4. Notwithstanding, there have as of 31 October 2005 been 25 substantive proposals accepted by lessees involving a total of 140,767ha of which 71,755ha (51%) has gone to Crown ownership and 69,012 ha (49%) has been freeholded by lessees.

## 18. POST TENURE REVIEW MANAGEMENT ISSUES

- 18.1. In the course of our interviews we have identified some issues that we believe may not allow the objectives of the legislation to be delivered and provide long term value for the Crown. In particular we note:

- 18.1.1. On two properties, (both of which are relatively well known to two of the members of the review team) we discussed the outcomes of tenure review with the owners. For both of those properties the Crown/DOC was proposing a major fencing programme to define the agreed new boundaries. In both instances the area of land being transferred to the conservation estate has had very limited grazing in recent years. In one property in particular the owner indicated that the cost of fencing would be close to \$1,000,000 and that the actual grazing on the area over the past 15 to 20 years had been no more than 200 to 300 sheep per year.

**“Is pastoral farming vital for tussock grassland protection?”**

*Our tussock grasslands are modified and depleted, and will continue to be exposed to new and ongoing threats. Past farming practices, particularly repeated burning and overgrazing, have had major impacts.*

*Despite today’s knowledge and understanding, pastoral farming is still perceived as an ongoing villain. To value and protect what remains of our tussock grasslands, conservationists and users must work together, co-operatively and proactively.”*

Landcare Research, Nov.2000

- 18.1.2. Of greater concern, the proposed boundary fence line is in a very high snow risk zone. It will not only require extraordinarily high maintenance but has the potential to be severely damaged by the first significant snow fall. We question the logic behind a

decision to construct such a fence at very high cost, high risk of damage, and so little benefit.

18.1.3. Of equal concern, we understand that the adjoining lessee owner is not proceeding with tenure review. As a consequence, some livestock could move onto the land acquired by the Crown from that adjoining property. It would seem more prudent for the Crown to reserve the right to erect a fence in the future if and when it was deemed to be necessary. A similar situation exists on another high country run in a different location. It would appear that on these two properties alone close to \$2,000,000 is to be spent when there may be a more prudent alternative.

18.2. **Land Management Plan:** We have not had time to fully investigate whether or not DOC has a management plan for its new conservation land. There is criticism of government for acquiring too much pastoral land and allegedly not having a plan to adequately manage it and to achieve the conservation objectives of the Act.

18.2.1. Some groups of pastoral lessees believe that they can manage this land on a more cost effective, sustainable, and ecological basis than a government department. They also claim that the objectives of protecting the special inherent values of certain parts of the high country could be met by means of covenants, easements and/or a land management agreement with the lessees.

18.2.2. However, the CPLA at 24 (b) (i) and (ii) makes a distinct preference that the land concerned is restored to full Crown ownership and control. There is a significant opinion that with the best of intentions in the world DOC cannot and will not be able to manage this land on an optimal basis

18.2.3. There is a public perception that DOC's intention, is to fence off and lock up the conservation estate from any form of pastoral use. If this is the case, that approach will satisfy some ecological objectives, but there is well supported alternative evidence that occasional and limited grazing may well better preserve the conservation values of the land. This view is held by practical farming lessees and supported by scientists.

*"...we are at this stage in history set to have much greater mischief wrought on high country landscapes by peri-urban subdivision and development, second-homing, recreational, and touristic developments ...than was ever likely to come from merino wethers.*

*...we should be using land resource and landscape evaluation and social study of landscape perception and valuation as instruments enabling rural communities of earlier origin along with new arrivals to promote the development of landships for the care of their own landscapes."*

Kevin O'Connor,  
Emeritus Professor of Range Management,  
Lincoln University - High Country Landscape  
Management Forum, September 2005.

18.2.4. One consideration would be to initiate a more transparent process of land management for pastoral land taken into the conservation estate. For example, land management plans could be formulated and/or approved by a representative group who would ensure that biased and narrowly focused views would not necessarily prevail.

## **19. MARGINAL STRIPS**

19.1. Marginal strips as defined under Section 58 of the Land Act are created when the 33 year term of any pastoral lease is renewed, or the freehold is transferred at tenure Review under Part 4A of the Conservation Act 1987. We understand that all pastoral leases are now in the second term. The establishment of a new term is deemed to be a disposition of land. Marginal strips along qualifying lakes, rivers and streams will have legally been set aside. We understand that where such disposition has taken place no adjustments have been made to the pastoral lease title areas nor have the marginal strips been transferred from the pastoral lease into the conservation estate.

19.2. We are advised that this problem has been discussed by government agencies who are endeavouring to identify a process whereby marginal strips can be determined and recorded. Many valuations for both rental and tenure reviews will be inaccurate where marginal strips have not been taken into consideration. It would appear that no government agency is actively moving these strips out of pastoral leases or fencing them out of farming. There are significant risks and a contingent liability arising from that action. The exclusion of lakes, river and stream frontages from a lessee's pastoral use would have significant farm management implications on a day to day basis (in terms of stock movement and control, loss of productive land, and restricted access to stock-water). This is an important issue that needs further clarification in relation to both rental and tenure reviews, as it may affect both the lessees and lessor.

## **20. IMPROVING THE CROWN'S RELATIONSHIP WITH LESSEES AND PROVIDING PUBLIC INFORMATION**

20.1. Under the Land Act 1948, the Land Settlement Board (LSB) was established. The LSB formed a tripartite structure between the Crown as lessor, lessees, and representatives of the public who had an interest in this special class of land.

- 20.2. Membership of the LSB under Section 12 of the Land Act 1948 included two members to be appointed by the Minister Lands. The LSB endured until its duties were taken over by the CCL following the restructuring of Government agencies in the 1980's.
- 20.3. The LSB administered the Act and along with pastoral lands field officers provided a liaison between the lessor and lessee, represented the Crown's interest in the land and acted as arbiter in administrative matters.
- 20.4. Under the current structure some of these duties are carried out by the CCL, and some are delegated. There is no ability to have independent resolution to points of difference relating to Tenure Review, rental reviews (apart from referral to the LVT), and other land administrative matters. Some members of the public may well be less critical of the Government's (Crown) management of pastoral leases if they had some representative access similar to the functions of the LSB.
- 20.5. One option to be considered may be to establish a "Board" of this nature, could increase the transparency of the both rental reviews and Tenure Review process. This approach could diffuse public criticism of matters relating to pastoral leases. Likewise, the powers of such a Board could be extended to overview DOC's administration of the increasing conservation estate. This could assist in overcoming the perception that DOC lacks the skills and experience to effectively manage the high country.
- 20.6. There is ideological conflict between those who claim they are the best conservators or custodians of the High Country, i.e. pastoral lessees, DOC, or various NGOs.
- 20.7. Concern was expressed by a number of lessees that some (but not all) personnel involved in the regulatory process have little or no understanding of the implications of restricting the farming activity and the consequences of putting farming businesses in unsustainable economic state. In administering this land and the leases thereon, it is important for regulatory staff or the Crown's contractors to possess a good balance of skills that provide them with the ability to properly assess both ecological, and farm management issues.

## Section C – Findings & Recommendations

### 21. FINDINGS IN RESPECT OF RENTAL REVIEWS

#### 21.1. The Project Objectives in relation to Rental Reviews are:-

*In the context of the Government's objectives for the South Island high country (notably a fair financial return to the Crown on its high country assets), report on whether the:*

*Rent set by legislation accurately and fairly reflects open market levels and the options available if changes need to be made to ensure rent is set at a market level including*

- a) an assessment of the implications of introducing market rents for pastoral leases and;*
- b) consideration of the extent to which charges for recreation permits and easements contribute towards the objective of obtaining a fair financial return to the Crown on its high country land assets*

#### 21.2. Market Rental Conclusions:

21.2.1. Our principal conclusion is that the process required under existing legislation does not lead to appropriate market rentals for pastoral leases. There is no basis for claims that existing or proposed rentals are being set at a discount to the market. In fact, most recently reviewed rentals are in excess of fair market rentals for pastoral leases.

21.2.2. As there is no open market rental evidence of new lettings of Land Exclusive of Improvements (LEI) it is impossible to directly test for accuracy on a comparative market basis. More importantly, no new lettings of land with tenancies similar to Crown Pastoral Leases actually exist.

21.2.3. It is necessary to assess rental reviews taking account of the:

- nature of the pastoral lease;
- limitations imposed by the conditions of that lease;
- current and forecast financial performance of the pastoral farming industry; and
- requirement for equity between the lessor and lessee.

21.2.4. Having reviewed those issues we unanimously conclude that the basis for establishing the exclusive right only to pasturage as prescribed in Section 66 of the Land Act has an inherent contradiction with ascertaining the LEI under the provisions

of Section 131 (1) & (2) of the Land Act. Both of these provisions carry through to the CPLA legislation which provides for additional restrictions on pastoral use. This contradiction will continue to cause significant confusion and inconsistencies in the rental review process and consequently, tenure review outcomes.

21.2.5. A number of recently notified reviewed rentals are clearly in excess of those that could be considered to be a fair and equitable under the provisions of a pastoral lease.

21.2.6. Rentals that are currently being assessed are compromised by the prescriptive nature of the governing legislation. Inevitably, there is heavy reliance on very subjective judgements of the value of land *exclusive of improvements* to which a prescribed rental rate is required to be applied. This process was established in 1979 and is no longer relevant in today's circumstances. The rentals that emerge from this process lack consistency and cannot avoid being influenced by an LEI value that includes non-pastoral components of the property upon which no rent can legally be charged.

21.2.7. The basis for determining rentals for these leases should be changed to ensure that rentals proposed by the Crown fairly reflect the wider rental market for pastoral properties.

### **21.3. Introducing “market rentals” for pastoral leases**

21.3.1. Part 2 (a) of the Project Objectives seeks a review of the implications of introducing market rents for pastoral leases. We interpret this to mean whether or not the prescribed gross annual rental rate of 2.25% should be increased to a level similar to “market” ground rental rates (6% p.a. to 8% p.a.) applying in other property sectors. *There is no basis for, or validity in, applying those “market” rental rates to pastoral leases.*

21.3.2. The concept of LEI, as was the concept of unimproved value, is outmoded because there is no basis for establishing the value based on well-established valuation principles of comparable sales of similar land. As previously noted the same problem arose with unimproved value that was abandoned in favour of a more robust and supportable concept of land value.

21.3.3. We are not recommending that land value should be adopted in this process as that would then require the lessee to be paying rental on the value of some of its own improvements. Alternatively it would require the Crown to enter into a complex and

convoluted process to acquire improvements to the land, which currently belong to the lessee.

21.3.4. We do however conclude that the original pastoral occupational licences and pastoral leases up until 1979 adopted the correct approach in principle being a rental based on the pasturage to the property in its LEI state as set out in Section 66 of the Land Act and carried through into the CPLA.

**“Note re fixation of rent**

*It was generally agreed that it is very difficult to work out any hard and fast system for the fixing of rent of high country. At the same time it was realised that some system is necessary if we are to maintain any degree of uniformity throughout the South Island. The suggested method finally agreed upon unanimously is one which has been in operation with a fair measure of success in Otago, viz. the assessing of rent on a “per ewe” basis. In other words rent has always been related to productive capacity.”*

1950 Memo from CCL, Dunedin, to Head Office L&S, – Quoted in LSB paper (c1979) *Stock limitation as a basis for rental of pastoral leases.*

21.3.5. To resolve the current problems in rental reviews of pastoral leases, we conclude that an amendment to the CPLA be made to provide for assessment of market related rentals linked to *base stock carrying capacity* (\$p.a./SU), as set out in our recommendations.

## 21.4. Charges for recreation permits and easements

21.4.1. Part 2 (b) of the Project Objectives seeks a review of the extent to which charges for recreation permits and easements contribute to achieving fair financial returns for the Crown’s high country assets. The process available to the Crown has the ability to achieve fair financial returns for those particular assets. We believe that the contribution to the total portfolio from this additional income source is relatively small. We have no evidence to show that either party is being disadvantaged.

21.4.2. There is anecdotal comment that some pastoral lessees are operating schemes on a commercial basis without appropriate permits or easements. However, no substantive evidence was submitted in support of such claims. If they do exist it is a management issue that can be addressed by the lessor.

## 22. RECOMMENDATIONS FOR CHANGING TO MARKET RENTAL ASSESSMENTS

22.1. We recommend that rentals for pastoral leases should be established based on an agreed livestock carrying capacity for the property in its *Land Exclusive of Improvements* state.

- 22.2. LEI stock numbers will need to be agreed and converted to present day stock unit equivalents. This will account for productivity factors, e.g. kg wool per sheep and lambing percentage. These *base stock units* would remain constant for future reviews unless some technological or other changes leading to their modification.
- 22.3. We recommend that a small representative working party be established to review each pastoral lease and agree on base stock units. That agreed figure would become part of the lease documentation and would form the basis for all future rental reviews.
- 22.4. An annual market rental rate per stock unit (\$p.a./SU) would then be applied to the base stock units for each property. That stock unit, rate would be derived from analysis of pastoral land rentals. These rental rates would cover a range of situations recognising such factors as location, soil types, climate, etc. These rental rates would cover a relatively narrow range accounting for the characteristics of individual pastoral leases. They would also reflect the need for LEI land to have minimum infrastructure (fencing, buildings, stock water, etc.) paid for by the lessee just to operate the farm at the agreed base stock numbers. Accordingly, LEI \$p.a./SU rental rates would require *downward* adjustment compared with rates applying to developed properties
- 22.5. The LEI \$p.a./SU rental rates, both average and range would be set *every* year by a representative working party recognising changes in market rentals. These rates would be applied to leases under review in that particular year.
- 22.6. Market rentals follow the financial performance of pastoral farming. Given the history of these properties there is a market risk in fixing rentals over an eleven year period. Most farming leases have review periods of no more than three years
- 22.7. We recommend that three (3) year terms be adopted in conjunction with the review process outlined above.
- 22.8. These LEI \$p.a./SU rental rates should increase or decrease to *accurately and fairly reflect open market levels*.
- 22.9. The Crown's asset in these pastoral leases is only the Lessor's interest that is derived from the present value of net rental returns. The income consists only of lease rentals and concessions, offset by on-going costs of administration. The costs are clearly significant and with some leases can exceed the income streams, resulting in negative lessor's interests.

22.10. The adoption of the above recommendations will not only remove most of the current anomalies, but also dramatically reduce costs of rental reviews and thus provide an improved and fair return on these Crown's assets.

## 23. FINDINGS IN RESPECT OF TENURE REVIEW

### 23.1. The Project Objective in relation to Tenure Review is to report on whether: -

*The current methodology for valuing lessor and lessee interests in tenure reviews is delivering accurate and fair outcomes and recommend changes to the methodology (if appropriate) to better meet those outcomes.*

### 23.2. Tenure Review Conclusions:

23.3. The current methodology has only been adopted in the past two years. This methodology *firstly* assesses the market value of the lessee's interest in the lease. This interest is "transferred" to the Crown.

23.4. *Secondly*, the freehold value of the subdivided residue land transferred to the leaseholder is valued. The difference is the "equality of exchange" required by Section 34 (3) (a) and Section 46 (3) (a) of the CPLA. In effect, this is a *before* and *after* valuation approach well recognised and commonly applied in the wider property market.

23.5. *Additionally*, for the purpose of transferring the balance of the land to go into the conservation estate an asset calculation using a "link sheet" is made. The details of this process are discussed in the body of this report (Section 15). This calculation is also done for GST accounting purposes.

23.6. This additional step may be unnecessary if our recommendations are adopted.

23.7. This methodology should deliver *accurate and fair outcomes* between landholders and the Crown. However, subsequent negotiations, independent of the valuers, may result in settlements that differ from the equality of exchange based on the valuations. While we cannot judge the *accuracy* of these final outcomes, they are negotiated commercial settlements that are common practice in these types of transactions. The parties are not locked into the process. Either party can withdraw at any time. To that extent, the result implies the outcomes are *fair*.

## 24. TENURE REVIEW RECOMMENDATIONS:

- 24.1. The governing legislation should be amended to conform to the first two parts of the approach taken by valuers and negotiators
- 24.2. Such amendments would require:  
*firstly*, a valuation of the lessee’s interest in the pastoral lease; and  
*secondly*, a valuation of the residual freehold land to retained by the “lessee”.  
The GST assessment should be based on these valuations or negotiated transfer prices.  
*Thirdly*, a calculation of the cost of acquiring the subdivided freehold land to be retained by the Crown, for asset purposes if necessary.
- 24.3. There are a number of secondary issues that we now set out for further discussion and consideration.
- 24.3.1. As in any other commercial property transaction, registering the transfer of the pastoral lease interest to the Crown should ensure normal transparency. The sale of the freehold to the landholder should be similarly registered. The transaction prices should be publicly available. We understand that the process of registration is that on tenure review the existing pastoral lease title is cancelled and a new freehold title is issued under Section 116 of the Land Act. There is therefore no public record of the tenure review transactions, as would be normal if dealing with non-Crown land.
- 24.3.2. In respect of new boundary fencing we conclude that in some instances the Crown may not be obtaining value for the substantial costs incurred.
- 24.3.3. A management plan should be publicly available for the land entering into the DOC estate. Such a plan should be formulated with wide public participation.

## 25. RECOMMENDATIONS FOR IMPROVING RELATIONSHIPS BETWEEN THE CROWN, LESSEES AND THE PUBLIC

- 25.1. Government should consider setting up a variant of the previous LSB. This would comprise a small group, independently appointed who would have the power to review certain land administrative matters under the CPLA. It would also act as final arbiter on land management disputes and monitor Conservation estate issues.
- 25.2. Such a group would have skills in farm management and land administration. There would also need to be representation from the public.

## APPENDIX 1 – TERMS OF REFERENCE

### – TENURE REVIEW AND PASTORAL LEASE VALUATION PROJECT PROPOSAL

#### Project Objectives

In the context of the Government's objectives for the South Island high country (notably a fair financial return to the Crown on its high country assets) report on whether the:

- 1) the current methodology for valuing lessor and lessee interests in tenure review is delivering accurate and fair outcomes and recommend changes to the methodology (if appropriate) to better meet those outcomes; and.
- 2) rent set by legislation accurately and fairly reflect open market levels and the options available if changes need to be made to ensure rent is set at a market level including:
  - a) an assessment of the implications of introducing market rents for pastoral leases; and
  - b) consideration of the extent to which charges for recreation permits and easements contribute towards the objective of obtaining a fair financial return to the Crown on its high country land assets.

#### Project Team and Responsibilities

##### *Project team*

- The work team will comprise the following valuation experts: Donn Armstrong, Rodney Jefferies, and Bob Engelbrecht.
- LINZ will provide suitable people to support the project

##### *Responsibilities*

- The valuation team will be responsible for undertaking the analysis and arriving at key findings and conclusions. The bulk of the work will be done by Donn Armstrong and Bob Engelbrecht, and Rodney Jefferies will provide quality assurance using his expertise in leasehold valuation methodology and experience in ground lease rental assessments.
- LINZ's representatives will provide administrative support, project management, and assist with writing up material.

#### Scope of the Work

The work will focus on those properties owned by the Crown subject to high country pastoral leases from the government, administered by Land Information New Zealand under the Crown Pastoral Land Act 1998. The work undertaken in relation to the valuation issues on these properties will include:

- a comprehensive review of the tenure review methodology used in determining the lessor and lessee interests as used for determining the exchange of interests in tenure review and an investigation of how this methodology is being applied;
- an assessment of all of the rights associated with pastoral leases and how these should be valued in terms of existing pastoral lease agreements;
- an assessment of completed tenure reviews and recent sales of pastoral leases to explain the current precedents and review process and identify the strengths and weaknesses of the process and legislative regime; and
- consultation with Government officials responsible for tenure review and administration of pastoral leases, organisations contracted by LINZ to value tenure reviews and pastoral leases, stakeholder organisations, and lessees.

**APPENDIX 2 – 304 PASTORAL LEASES BEFORE TENURE REVIEW**

<b>Land District</b>	<b>Area (ha)</b>	<b>Lease Name</b>
<b>Canterbury</b>	8,160	Mt Arrowsmith
	6,236	The Poplars
	2,835	Tenahaun
	20,831	Glynn Wye Station
	18,496	Upper Lake Heron
	8,167	Mt Pember
	10,990	Castle Hill
	5,083	Island Hills
	76,550	St James
	21,424	Mt Algidus
	10,396	Glenthorne
	5,059	Mt Olympus
	2,331	Mt Hutt
	879	Mt Alford
	7,420	Manuka Point
	3,484	Inverary
	1,747	Peak Hill
	9,119	Hakatere
	39,337	Mt White
	9,429	Hossack
	15,860	Eskhead
	5,921	Snowdale
	7,301	Lake Taylor
	3,464	Mt Oakden
	4,284	The Lakes
	12,181	Clent Hills
	10,001	Glenhope
	1,313	Ben More
	9,535	Winterslow
	2,040	Cora Lynn
5,747	Barrosa	
2,070	Woodstock	
10,898	Glenfalloch	
3,304	Brooksdale	
7,810	Double Hill	
4,800	Glenariffe	
257	Bush Spurs	
7,012	Glenrock	
9,192	Redcliffe	
13,575	Erewhon	
9,692	Mt Potts	

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<b>Land District</b>	<b>Area (ha)</b>	<b>Lease Name</b>
<b>Canterbury (Cont'd)</b>	18,823	Glenmore Station
	2,136	Lilybank Station
	7,457	Mt Dalgety
	875	The Gorge
	5,990	Curraghmore
	4,403	Glentanner
	31,800	Glen Lyon
	8,610	The Wolds
	6,203	Mt Gerald
	4,244	Clayton
	13,777	Dry Creek
	7,632	Sawdon
	9,767	Irishman Creek
	14,493	Godley Peaks
	5,670	Simons Pass
	9,359	Balmoral
	16,057	The Grampians
	11,190	Te Akatarawa
	3,234	Shenley
	1,686	Cloudy Peaks
	2,893	Stoneleigh
	9,435	Blue Mountain
	8,489	Maryburn
	10,720	Grays Hills
	2,561	Ferintosh
	10,780	Mt Hay
	6,426	Simons Hill
	13,610	Ben McLeod
	2,840	Wairua Downs
	26,115	Mesopotamia
	9,937	Lochaber
	1,836	Rata Peaks
	19,320	Waitangi
2,453	Mt Cecil	
1,886	Mt Studholme	
510	Scotsburn	
2,688	Hunter Hills	
3,894	Glenrock	
2,003	Bauchops Hill	
9,567	Richmond	
1,656	Airies	
1,246	Manahune	
7,559	Rhoboro Downs	
1,816	Mt Nimrod	

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Land District	Area (ha)	Lease Name
<b>Canterbury (Cont'd)</b>	1,495	Grange Hill
	5,927	Bendrose
	5,840	Streamlands
	791	Chetwynd
	1,141	Silver Hill
	6,860	Huxley Gorge
	1,098	West Hills
	2,619	Rollesby
	871	Three Springs
	3,256	Stew Point
	3,795	Kaiwarua
	7,640	Stony Creek
	7,942	Black Forest
	7,521	Kirkliston
	7,186	Holbrook
	15,216	Braemar
	5,706	Ben Ohau
	2,463	Mt Cook
	2,457	Invercroy
	2,084	Caberfeidh
	1,882	Waikari Hills
	2,870	Mt Peel
	7,042	Huxley Gorge
	2,102	Asheridge
	188	Omahau Downs
	2,392	Orchard Estate
2,299	Omahau Hill	
<b>Total of 112 Canterbury Leases</b>	<b>868,559</b>	
<b>Westland</b>	1,376	Lower Cascade
	1,214	Cascade
<b>Total of 2 Westland Leases</b>	<b>2,590</b>	
<b>Nelson/Marlborough</b>	17,920	Muzzle Station
	9,316	Cloudy Range
	6,880	Awapiri Station
	2,602	Compensation Run
	2,083	Raglan Run
	28,128	Muller Station
	3,218	Middle Hill Station
	2,346	Ramshead Run
	744	Rainbow Station

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<b>Land District</b>	<b>Area (ha)</b>	<b>Lease Name</b>
<b>Nelson/Marlborough (Cont'd)</b>	3,172	Blairich
	7,675	Camden
	1,858	The Jordan
	8,154	Upcot Station
	11,420	Middlehurst
	5,337	Rainbow Station
	<b>Total of 15 Nelson/Marlborough Leases</b>	<b>110,853</b>
<b>Otago</b>	7,177	Hukarere Station
	12,352	Dunstan Downs
	15,058	Longslip Station
	6,224	The Dasher
	7,134	Mt Dasher
	817	Shingley Creek
	2,700	Deep Creek
	7,021	Hawksburn Station
	5,254	Earnslaw Station
	6,281	Branch Creek
	2,097	Geordie Hills
	1,703	Long Gully
	5,068	Dunstan Burn
	3,144	Cambrian Hills
	9,998	Mt Burke Station
	2,640	Eweburn
	23,783	Birchwood
	5,472	The Burgan
	2,919	Cairnhill
	7,935	Temple Peak Station
	2,293	Gorge Creek
	1,454	The Forks
	4,256	Cloudy Peak
	15,496	Mt Creighton Station
	12,844	Aviemore Station
	9,216	Mt St Bathans
	1,123	Coal Creek Station
	5,613	Gem Lake
	3,743	Crown Rock Station
	3,466	The Homestead
4,899	The Knobbies	
7,800	Glen Dene Station	
1,992	The Herrons	
3,490	Patearoa Syndicate	
8,579	Glencoe Station	

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<b>Land District Otago (Cont'd)</b>	<b>Area (ha)</b>	<b>Lease Name</b>
	9,648	Rugged Ridges
	16,830	Motatapu Station
	23,707	Dingleburn Station
	1,038	Emerald Hills
	2,582	Dome Hills Station
	2,456	Leaning Rock
	1,068	The Beeches I
	1,590	Riverslea
	22,763	Hunter Valley Station
	11,275	Galloway Station
	12,355	Braeside
	3,341	Long Acre
	3,522	Shirlmar
	2,667	Merivale
	22,211	Coronet Peak
	4,173	Castle Dent
	6,586	Kyeburn Station
	7,861	Twinburn
	5,399	Ben Ledi
	5,376	Dunstan Peaks
	6,674	Glen Nevis
	7,163	West Wanaka Station
	3,533	Twin Peaks
	2,297	Bellamore
	4,825	Killermont
	6,970	Berwen Station
	3,045	Birdwood
	2,206	The Beeches II
	12,391	Cluden Station
	1,133	Waipiata Syndicate
	5,462	Forest Range
	9,048	Breast Hill
	3,318	Ahuriri Downs
	3,919	Ben Dhu Station
	11,058	Loch Linnhe
	9,677	Mt Aspiring Station
	4,432	Craigroy
	4,813	Kawarau Station
	5,132	Timburn Station
	14,533	Ben Nevis
	1,740	Mt Bengier
	7,290	Ribbonwood
	4,280	Pisgah Downs Limited
	8,300	Ben Avon

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<b>Land District Otago (Cont'd)</b>	<b>Area (ha)</b>	<b>Lease Name</b>
	3,735	Robrosa
	1,825	The Larches
	5,814	Lowburn Valley
	5,084	Eastburn
	2,496	Sunny Peaks
	2,084	Longlands Station
	4,831	Dome Hills II
	2,775	Obelisk
	4,511	Balmoral
	6,001	Waitiri Station
	3,800	Mt Pisa
	5,101	Mt Pisa I
	19,753	Minaret Station
	2,845	Stonehurst
	2,443	Kelvin Grove
	3,982	Mt Alexander
	11,327	Lake Hawea
	112	Silverbirch Station
	7,966	Dalrachney
	4,998	Shortlands Station
	11,942	Wyuna Station
	745	Grafton Hills
	12,780	Otematata Station
	12,787	Otematata Station
	3,096	Carrickmore
	1,019	Mt Hope
	2,185	Clover Flats
	3,554	Rostriever
	2,860	Bog Roy
	18,813	Rees Valley Station
	22,335	The Branches
	3,590	Moa Hills
	1,594	Sunset Farm
	11,931	Mt Albert Station
	2,339	Little Mt Ida
	3,602	Matakanui Station
	1,481	The Wandle
	8,478	Michael Peak
	1,821	Shag Valley Station
	3,133	Styx Run
	7,414	Quailburn
	272	Gorge Farm
	7,902	Mt Soho Station
	5,600	Mt Stalker

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Land District	Area (ha)	Lease Name
Otago (Cont'd)	7,917	Otamatapaio
	2,042	Kinross
	1,975	Mt Grand
	1,797	Sandy Point
	6,290	Matukituki
	4,585	Cattle Flat
	5,281	Mt Difficulty
	10,823	Little Valley
	2,211	Caithness
	8,670	Mt Campbell
	9,250	Carrick Station
	14,198	Morven Hills
	2,360	Moutere Station
	3,278	Happy Valley
	21,137	Beaumont Station
	1,510	Islay Downs
	3,535	Glenfoyle
	2,233	Nine Mile Station
	1,900	Glencoe
	3,950	Bargour
	8,781	Omarama Station
	11,356	Matangi
	5,068	Riverside
	4,257	Whitecomb
	982	Cambrian
	4,225	Lauder Station
	530	Obelisk Creek
	921	Courthill
	3,094	Glendhu Station
	4,556	Alphaburn
	3,357	Two Mile
	2,942	Home Hills
	<b>Total of 155 Otago Leases</b>	<b>948,497</b>
Southland	50,988	Glenaray Station
	13,356	Cecil Peak Station
	3,500	Waterloo Station
	11,510	Whitecomb
	5,240	Glenlapa
	3,278	Ardross Station
	16,734	Halfway Bay Station
	5,672	Kingston Station
	5,537	Lorne Peak
	1,563	Glenfellan

**INTERIM REPORT – HIGH COUNTRY PASTORAL LEASES REVIEW 2005**

<b>Land District</b>	<b>Area (ha)</b>	<b>Lease Name</b>	
<b>Southland (Cont'd)</b>	36,129	Mt Nicholas Station	
	1,165	The Jollies	
	13,780	Argyle Station	
	4,165	Greenvale	
	4,545	Allandale	
	3,263	Cattle Flat	
	33,184	Nokomai Station	
	3,433	Mt Prospect	
	7,851	Mataura Valley	
	3,300	Beaumont Station	
	<b>Total of 20 Southland Leases</b>	<b>228,193</b>	
	<b>TOTAL of 304 Leases</b>	<b>2,158,692</b>	

**APPENDIX 3 – LIST OF INTERVIEWEES**

**Ministerial Private Secretary**

John Blincoe – Private Secretary to Minister for Land Information

**Commissioner of Crown Lands**

David Gullen

**LINZ Executive**

Warwick Quinn

Brendan Boyle

Kevin Kelly

Brian Usherwood

Rachel Petrus

**Department of Conservation**

Hugh Logan – Director Department of Conservation

Allan McKenzie – Nature Heritage Trust

Jeff Connell – Regional Conservator Otago

Mike Clare – Field Officer, Christchurch

**Crown Property Management**

Paul Jackson – Manager Crown Property Management

Rebecca Gillespie – Portfolio Manager

**Linz Regulatory**

Warwick Quinn – General Manager.

**Registered Valuers Contractors to LINZ**

Allan Bilborough – Registered Valuer DTZ

Kerry Keenan – Registered Valuer DTZ

Ken Taylor – Registered Valuer DTZ

Barry Dench – Registered Valuer QV

Ray Ward-Smith – Registered Valuer DTZ

John Larmer – Registered valuer Consultant adviser to LINZ

Michael Mossman – Registered Valuer

Dick Davison – Registered Valuer

**Registered Valuers acting for Lessees**

Tom Marks – Valuer for Lessees and adviser to High Country Accord

Paul Mills – Valuer for Lessees and adviser to High Country Accord

Bruce Halliburton – Valuer for Lessees Registered Valuers

Ranald Gordon – Registered Valuer, Staples Rodway, Hawera

Bill Harrington – Registered Valuer – Valuation Assessor to the High Court

Alex Laing – Registered Valuer – Landward Management Ltd

**High Country Committee of Federated Farmers**

Ben Todhunter – Chairman

Peter Patterson – Vice Chairman

Don Aubrey – Vice Chairman

Geoffrey Thompson

Bob Douglas – Policy Support HC Federated farmers

**High Country Accord**

Ben Todhunter – Co Chairman  
Rodney Patterson – Adviser to the HCA  
Geoffrey Thompson – Co Chairman  
Russel Emmerson  
Kit Mowat – Legal Adviser

**High Country Trustees**

Val Waldron  
Peter Hore  
Guy Mead

**Fish and Game New Zealand (Otago)**

Niall Watson  
John Barlow  
John Hollows

**Other Interviewees**

Grant McFadden – ex MAF  
Glen Greer – Agriculture and Economics Research Unit – Lincoln University)  
Don Ross – NZ Landcare Trust  
Ian McNabb – Property Manager from Ngai Tahu.  
Dr Hugh Barr – Council of Outdoor Recreation of N. Z. (CORANZ) & N. Z. Deerstalkers Assn  
John Crone – N. Z. Deerstalkers Assn  
Malcolm Parker – Crown Law Office Wellington  
Ray Macleod – Landward Management Ltd  
Prof Kevin O'Connor – Past director of Tussock Grasslands and Mountain lands Institute

**Royal Forest and Bird Protection Society**

Eugenie Sage – Regional Field Officer Royal Forest and Bird Protection Society, Canterbury.  
Sue Maturin – Forest and Bird Protection Society Otago

**Lessees Interviewed**

- Jim Murray – Glenmore
- Brian Beattie – Dry Creek
- Justin Wills – Irishman Creek
- John Murray – The Wolds
- Rob Allen – Sawdon
- Michael Guerin – Mt Dalgety
- Alistair Munro – Airies
- Michael Burtscher – Mt Gerald
- Oskar Rieder – Richmond
- Duncan and Hamish MacKenzie – Braemar
- Tim Geva Innes – Dunstan Downs
- Rob Glover – Godley Peaks
- Ian Morrison – Silver Hill
- Gerry Eckhoff & son David – Mt Bengier Station
- John Acland – Mt Peel
- Bill Shaw and, Gerald Fitzgerald – Mt Creighton Station Limited

**Lessees Interviewed (Cont'd)**

- Murray Hawke & Jeanette McLennon – Mt Alford Station
- Andrew Simpson – Balmoral Station
- Alastair Ensor – Glenariffe Station, and Tenure Review Consultant
- Gerry McSweeney – Castle Hill Station Nature Heritage Fund. Royal Forest and Bird Protection Society of N Z
- Jenny Sanders – Little Valley Station
- Chas Todhunter – Glenfalloch Station
- Rick King – Middle Hill Station
- Mark Urquhart – Grays Hills Station

**APPENDIX 4 – PASTORAL LEASE LITERATURE REVIEW MATERIAL**

- A companion publication to “Fixation of Rent for Pastoral Leases”* February 2005
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- A Strategic Framework for the Government’s High Country Objectives* (Not publicly released) LINZ Discussion Document, September 2004
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  - Walker v CCL* (1992) LVCB 959
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- Crown Pastoral Land Tenure Review, Proposed Amendments to the Land Act 1948*, Office of Minister of Land, (undated early papers)
- Crown Pastoral Land Tenure Review: the financial negotiation*, Fact Sheets for Lessees, LINZ, (undated)
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- Department of Conservation’s Peer Review of Lincoln University’s “Economic benefits and costs of freehold versus crown ownership of high natural value land with economic (or productive) values”* report – by Geoff Butcher. Plus other information supplied by DOC – 25 October 2005
- Economic benefits and costs of freehold versus crown ownership of high natural value land with economic (or productive) values* – Lincoln University, Date: 12 April 2005
- Economics benefits and cost of freehold versus Crown ownership of high natural value land with economic (or productive) values*, Report prepared for High Country Accord by Lincoln University April 2005,

- Effectiveness of the Government's Strategy for Achieving its Goals for the High Country*, Hyndman M, April 2004
- Fixation of Rent for Pastoral Leases*, A series of Papers Compiled by the High Country Accord and the South Island High Country Committee, April 2005.
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