

**CABINET**  
**STATE AGENCIES**  
**COMMITTEE**

SAS (88) 24

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**LAND BILL : MARGINAL STRIPS ON PASTORAL LEASEHOLD LAND**

At its meeting on 16 November 1988 the Committee considered a submission entitled "Land Bill : Leases and Licences" and, inter alia, directed officials to report back by 30 November 1988 on the application of marginal strips policy to pastoral land [SAS (88) M 1/10 refers].

The attached submission responds to this directive. It was prepared in consultation with officials from Treasury, Conservation, Environment, Lands, Maori Affairs, Tourist and Publicity, Survey and Land Information, State Services Commission and Commerce. It is recommended that the Committee:

- a agree that new marginal strips legislation now in preparation will apply to all future dispositions of Crown land, including new leases and licences, under the new Land Act;
- b agree that new marginal strips legislation will continue provisions similar to those in section 58(3) of the Land Act 1948 allowing the Crown to apply the new marginal strips policy to unsurveyed pastoral land;
- c agree that section 58 of the Land Act 1948 will be consequently repealed and replaced by reference to the proposed marginal strips provisions in the Conservation Act 1987;
- d note that under the new marginal strips legislation all section 58 strips where they currently exist will be declared to be held for conservation purposes under section 7 of the Conservation Act 1987.

(Signed) Judith Wigglesworth

**COPIES TO:**

Cabinet State Agencies Committee  
Minister of Lands  
  Director-General of Lands  
  Director-General, DOSLI  
Director-General of Conservation  
Secretary for the Environment  
Secretary of Maori Affairs  
General Manager, Tourist & Publicity Department  
Chief Commissioner, State Services Commission  
Secretary of Commerce  
Chief Parliamentary Counsel

29 November 1988

The Chairman  
Cabinet State Agencies Committee

## LAND BILL: MARGINAL STRIPS ON PASTORAL LEASEHOLD LAND

### Introduction

1 This report makes recommendations on the future application of government policy on marginal strips to South Island pastoral leasehold and pastoral licence land.

### Background

2 At its meeting on 4 July 1988 Cabinet agreed that the Conservation Act 1987 and the State-Owned Enterprises Act 1986 be amended so that, on all lands of the Crown being disposed of, marginal strips shall exist:

- i around the seacoast;
- ii around lakes with a surface area greater than eight hectares;
- iii along streams and rivers with an average width greater than three metres.

3 At its meeting on 16 November 1988 the Cabinet State Agencies Committee considered paper SAS(88)4 from the Officials Co-ordinating Committee on the Land Bill entitled "Land Bill: Leases and Licences" and, inter alia, "directed officials to report back by 30 November 1988 on the application of marginal strips policy to pastoral land". (SAS(88) M1/10 refers).

### The Current Legal Situation

4 Section 58(1) of the Land Act 1948 reserves from sale or other disposition of Crown land strips of land not less than 20 metres wide along the coast, alongside rivers and streams more than 3 metres in average width, and along shores of lakes of more than 8 hectares. Section 58(3) provides that where any unsurveyed pastoral land is disposed of under the Act (ie under a pastoral lease or licence) the Director-General of Lands may at any time before a survey is completed, exclude from the disposition any area that would constitute a strip as defined in subsection (1).

### Application of the New Policy

5 The new marginal strips policy agreed by Cabinet is intended to be incorporated in the Conservation Act but will also cover strips laid off under s58 of the Land Act. Cabinet decided that strips will be managed by the adjoining land owner and will be included in the title to their land. However, the Crown will have ownership of the strip for public access, recreation and conservation purposes. The Minister of Conservation will in certain circumstances be able to impose restrictions for these purposes. The new policy will apply to all lands of the Crown being disposed of.

## Present Status of Strips on Pastoral Land

6 There is some uncertainty as to whether or not s58 strips have been laid off on some pastoral leases. Some leases have an endorsement to this effect on the title. Others do not, but it is unclear that this necessarily means strips had not been laid off either when the leases were issued or subsequently.

## Options

7 Officials have identified two alternative approaches to applying the new marginal strips policy to pastoral leasehold land. These are:

- a make no changes to the status of the land until or unless the Crown and the lessee agree on a package for removal of the land from a pastoral lease, at which time the marginal strips policy would apply as with any other disposal of lands of the Crown;
- b deem marginal strips to be laid off on all pastoral leasehold or licence land in the new Land Bill, regardless of whether strips had been laid off under s58.

These two options are discussed below.

8 Option A: Maintain the status quo. This option has the advantage of not involving any unilateral changes to the existing balance of rights between the Crown and lessees. On the other hand the uncertainty about the existence or not of strips on some leases will remain. If the provisions of s58 are preserved in so far as they apply to pastoral land, the Crown will retain the discretionary right to lay off strips from unsurveyed land (virtually all pastoral land is unsurveyed), as well as when land is placed under another tenure. Where strips had already been laid off under s58 these will automatically become land held for conservation purposes under s7 of the Conservation Act once the new marginal strips policy comes into force.

9 Option B: Deem strips to have been laid off in all cases. This option removes any uncertainty about the status of waterside land on pastoral leases and eliminates any need to preserve the relevant provisions of s58 of the Land Act in the new Land Bill. On the other hand the option involves a significant, unilateral change to the existing balance of rights of lessees and the Crown in cases where strips do not currently exist. In practical terms this change may not be great. The major effects would be with respect to lessees' rights to control access, and the potential for the Crown to resume or place restrictions on the use of a strip. Under the policy agreed by Cabinet, land managers (lessees) will have use of the land and will be able to close strips to the public for operational and/or safety reasons. However, they will otherwise be required to ensure access to strips wherever feasible. At present there is no right of public access to pastoral land and lessees have an unrestricted right to control access on land not already laid off under s58. In general however lessees have been amenable to requests for foot access across their leases.

## Conclusion

10 Officials support Option A. On balance it is considered that unilateral action in deeming strips to have been laid off in all cases is not justified given the existence of workable discretionary powers already available to the Crown, and the ability to lay off strips if tenure changes are negotiated between the Crown and a lessee. In other cases marginal strip objectives, particularly access, may be able to be achieved through direct negotiation with the individual lessee.

## Recommendations

- 11 It is recommended that the Committee:
- a note that new marginal strips legislation now in preparation will apply to all future dispositions of lands of the Crown, including dispositions of Crown land under the current or the new Land Act, and that the legislation will therefore substantially amend s58 of the Land Act 1948.
  - b agree that amendments made to s58 of the Land Act 1948 will not change the existing balance of rights of the Crown and pastoral lessees and licencees and will not change the status of land held under a pastoral lease or licence.

G M Dangerfield  
 Chairman  
 Officials Co-ordinating Committee on the Land Bill

### Departments involved in the preparation of this report:

Department of Conservation  
 Ministry for the Environment  
 Department of Lands  
 Department of Maori Affairs  
 NZ Tourist and Publicity  
 Department of Survey and Land Information  
 State Services Commission