

ALLOCATIONS OF CROWN LAND SCHEDULED FOR TRANSFER
TO LAND CORPORATION LTD. CONTRARY TO THE PUBLIC INTEREST.

by Bruce Mason
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Lands Coalition

24 April 1987

PREAMBLE

1. Cabinet and the Special Cabinet Coordinating Committee have progressively approved land allocations to Landcorp, consequent of direct negotiations between the establishment units of DoC and Landcorp.
2. My review indicates that DoC has not acted as advocate for the wider public interest, it being constrained by a brief limiting it to the conservation of natural values, whereas Landcorp, without, in many instances, any commercial advocacy on its own behalf, has been allocated many areas by default.
3. Land which should remain in Crown title (not necessarily being allocated to DoC) for a variety of present and future public purposes, has not been a consideration in the allocations reviewed. This omission is considered to be the primary cause of the generic problems categorised in this paper.
4. The land tenures affected are:-
 - Unalienated Crown Lands (U.C.L.), being farm settlement blocks and unoccupied lands.
 - Recreation Permits (Section 66A Land Act 1948) over South Island pastoral lease and U.C.L.
 - Special Leases (Section 67 Lands Act 1948) over high country, riverbeds and river margins.
 - Licences To Occupy (and To Graze), over riverbeds and miscellaneous areas.
5. Certified allocation maps and schedules for three land districts (Southland, Otago, Canterbury) have been inspected and provide the basis for this paper. A further nine districts have not been inspected.
6. Patterns have emerged from my review with some distinct categories of allocation which require resolution by Ministerial decision. This would remove from contention and confusion the majority (in terms of number of cases) of inappropriate allocations.

ALLOCATION CATEGORIES

1. Special Leases: subsections 67(2) and (4) Land Act 1948 specifies that these leases are issued where the Crown has exercised its wish not to permanently alienate by way of sale. Allocation to Landcorp is therefore contrary to the intent of the Land Act.

- Examples
- Walter Peak: 25,758 hectares of rugged Eyre mountains with pastoral lease restrictions and non-utilised tourism purposes.
 - Woodbank: 1276 ha with pastoral lease covenants in the Waiau Valley, North Canterbury. Large proportion Class 7 & 8 land.
 - Arawata Valley: 2469 ha of bush, swamp, river, and including only 650 ha of grass (Westland example).

- Relief Sought - No transfers to S.O.E.'s of land subject to subsections 67(2) and 67(4) Land Act 1948.

2. Recreation Permits: these are rights to commercial recreation over pastoral lease and U.C.L. Right of refusal to grant these rights is held by the Crown. Existing permits are non-occupational (in the trespass sense) and are non-transferable chattels in terms of the Land Act and Land Transfer Act ie. land rights are not involved.

In Canterbury, DoC and Landcorp have divided administrative responsibility for existing permits between them on the basis of whether it is pastoral lease or U.C.L. over which the permits apply. This division of responsibility has been confused with transfer of land assets under S.24 S.O.E Act, with the land areas under permit scheduled for transfer to Landcorp. This is contrary to subsection 24(2) S.O.E Act (no land which is subject to a P.L or P.O.L shall be transferred to a State enterprise). Division of administrative responsibilities should not appear on the land allocation maps.

- Examples
- entire Ben Ohau Range
 - bed of Tasman and Jollie Rivers
 - Neuman Range
 - Two Thumb Range
 - Craigieburn Range
 - two skifields (Erewhon, Amuri)
 - Boyle-Waiiau-Hope walking track

- Relief Sought - Delete all areas subject to Section 66A Land Act 1948 from maps and schedules prepared pursuant to the S.O.E Act.

3. Riverbeds: a large number of temporary tenancies (Licences to Graze), and to a lesser extent Special Leases, apply to extensive areas of legally defined riverbeds. These licences usually cover former channels, islands, backwaters and areas subject to major floods. For this, and their high public values, the licences are limited to a maximum term of 5 years, revokeable at one month's notice without compensation if whole or part may become required for reservation or other purpose.

Section 24(2) S.O.E Act prohibits transfer of Land Act Section 58 strips along riverbanks, and Section 24 Conservation Act provides for the creation of marginal strips on lands transferred to S.O.E's. It is therefore a nonsense for the riverbeds themselves to be sold or otherwise disposed of.

- Examples
- Mataura River, Southland: 72 ha of braided riverbed, an island, old channels and backwaters are scheduled for transfer. This has outstanding angling and wildlife values, with a National Water Conservation Order pending.
 - Kyeburn, Central Otago: Approximately 330 ha of the lower Kyeburn, over a 20 kilometre reach, is scheduled for transfer. Over substantial areas the scheduled areas span right across the river, from bank to bank. This is an actively braiding river, with unstable bed and banks. It is used for spawning by local and sea-run trout.
 - Lower Waitaki: Approximately 580 ha of riverbed between Kurow and the sea. Parts are well vegetated but still flood prone. Other parts have been identified as 'Spawning Areas', 'Important Wildlife Areas' and 'Recreational Sites' in 1981 Lower Waitaki Riparian Land Use Study (Lands & Survey Dept.)

Relief Sought - Rivers, their recreational use and access to them is part of New Zealand's heritage. Continued availability to this resource is the inalienable right of every citizen.

These areas, and their margins, must continue to be legally available for public use and unavailable for disposal to private interests. As a limited liability company with the power to dispose of assets, Landcorp is a private interest.

Ideally, riverbeds should come within the ambit of the Conservation Act. Despite provision for specially protected 'Watercourse areas' and 'marginal strips' these provisions can only apply to land adjoining rivers, rather than the bed itself. Disposal, alienation, and restriction of public access are possible within the three categories of land under the Conservation Act - 'conservation', 'specially protected', and 'stewardship areas'. They are therefore inappropriate for riverbeds.

Retention of direct Crown ownership is necessary pending full assessment of productive and conservation values, future reservation, or amendment to the Conservation Act to provide for unrestrained public access and use, and to prohibit alienation. Retain as Crown land under the jurisdiction of the Department of Lands, pending future vesting in DoC.

4. Riverbanks and Shorelines: A large number of Crown land parcels on riverbanks and shorelines, with and without Section 58 strips laid off, are scheduled for transfer to Landcorp. It is noted however, that where S.58 strips are absent 'marginal strips' will be provided. The provision of these is a legal minimum in providing public access (maximum width 20 metres, and not less than 3 metres), however, for conservation purposes this may be inadequate for the in-stream protection of biological values from adjacent and incompatible land uses. Factors such as shoreline gradient and geology can result in vastly differing widths of land - water interface. (eg. estuaries compared to rocky gorges). In many instances a marginal strip 20 horizontal metres wide is inadequate for conservation purposes, or for public recreation and access. The provision of 'watercourse areas' in the Conservation Act is therefore a welcome addition to the statutes.

Due to the severe limitations of time and staffing during the allocation exercise, it simply has not been possible for DoC to properly assess the conservation values of hundreds of parcels within the 'shoreline' category. Additionally, at the time of assessment it was not known that provision for 'watercourse areas' would be an objective for DoC, therefore such areas were not actively sought by officials. There are enough examples within the allocations, to indicate obvious needs for the retention of Crown ownership in many localities (on recreational criteria alone).

- Examples
- Lake Pukaki shoreline: area between state highway and lake near outlet.
 - Matukituki River: area beside south abutment West Wanaka bridge. Has high potential for public use.
 - Lower Hawea River: 156 ha encircling a Wild Life Refuge. High potential for public use. Should remain an undeveloped 'open space'.
 - Clutha Riverbank at Luggate Bridge: currently a popular picnic and informal camping area.
 - Lake Ohau: area between road and shore.

Relief Sought - Retain as Crown land under the jurisdiction of the Department of Land, pending full assessment and future allocation between Landcorp and DoC.

5. Areas enclosed by or adjacent to pastoral leases: Government has decided that the ownership of pastoral leases and licences shall remain with the Crown (cf. Section 24(2) S.O.E. Act) It is therefore incongruous for other Crown lands of a character indistinguishable from that of legally classified 'pastoral land' (cf. S.51 Land Act) to be available for disposal to S.O.E.'s.

- Examples
- St James Station, North Canterbury: 82 ha on bank of Clarence River, surrounded by pastoral lease. Two further areas (44 ha total) are surrounded by P.L.
 - Glentanner Station, Mt Cook: 4 areas surrounded by P.L. near the the Mount Cook Road. It would be inappropriate for these to be disposed of to Landcorp with the likelihood of a freehold offering to Glentanner Station, when pastoral lease reclassification procedures are required for freeholding other areas in the same locality.
 - Routeburn: 15 ha of steep, rocky terrain excluded from scenic reserve and intended for incorporation into pastoral lease - action not complete.
 - Mt Creighton Station: 13 ha on the Lake Wakatipu face of the Richardson Mountains surrounded by P.L.
 - Alexandra: 813 ha south of the town, between the State Highway and Lake Roxburgh. Mostly arid Class VIIe land, very craggy and high landscape values. Adjacent to, and indistinguishable from Obelisk pastoral lease.

Relief Sought - *retain in Crown ownership under the Department of Lands, pending incorporation in to pastoral lease, if not required for public purposes.*

6. High Country lands equivalent to pastoral lease - retired lands: In addition to special leases in the High Country that are indistinguishable in character from pastoral leases (eg. Walter Peak, Woodbank) there are a number of other substantial areas scheduled for transfer to Landcorp.

Examples

- Eyre Creek-Cainard, Southland: Despite documentation of outstanding natural values through a P.N.A.-type survey and approximately 70% of the area being 'land unsuitable for grazing' under Government policy, which would be required for surrender if it were within pastoral lease, the total 34,000 ha is scheduled for transfer to Landcorp despite Government assurances to the contrary.
- Avoca Block, Lake Ohau: 553 ha of the Ohau Range Crown Land Management Area is scheduled for transfer to Landcorp. This area was leased to Lake Ohau Station on a short-term basis and is located along the western lake shore. The area is subject to a Land Settlement Board approved management plan which makes no provision for land disposal.

The plan further records that this area is suitable for limited grazing/pastoral use, rather than for any other use. The plan notes that the District Scheme has the objective of retaining the Lake Ohau Basin in an undeveloped state. Subdivision and development is a likely objective for Landcorp.

- Ahuriri Valley: 30 ha of 'Crown Land Recreation Area' at the head of the valley, adjacent to indigenous state forest and to riverbed. The area is subject to an L.S.B. negotiated exchange - leasing - P.N.A. - public access negotiation (not finalised) over a wider area involving other U.C.L. and the Birchwood pastoral lease.

Relief Sought - No transfer of title of Landcorp of High Country lands that would be inconsistent with Land Settlement Board policies as they would apply to pastoral leases and U.C.L.

7. Indigenous State Forests: Two areas in the Lake Ohau region are (erroneously) scheduled for transfer to Landcorp. These are - Ohau State Forest Public Recreation Area: 1157 ha in the Maitland Valley - beech forest, and 127 ha in the South Temple Valley - open flats and beech forest.
8. Other Crown land areas of high public interest: The following examples indicate the wide diversity of cases that require further and careful consideration before alienation of the public interest occurs:-
 - Boiler Flat, Makarora: between Mount Aspiring National Park and river.
 - View Hill, Oxford: 123 ha adjacent to pastoral lease and indigenous state forest.
 - Maori Lake, Lake Héron Basin: accessway to Lake
 - Arthur's Pass and Bealey Townships
 - Lower Selwyn Huts, Lake Ellesmere
 - Boyle Village, Lewis Pass Road



27 April 1987

Hon Geoffrey Palmer
Deputy Prime Minister
Parliament Buildings
WELLINGTON

Dear Mr Palmer,

TRANSFER OF LANDS OF HIGH CONSERVATION/RECREATION VALUE
TO LAND CORPORATION.

The Royal Forest and Bird Protection Society, Federated Mountain Clubs and the N.Z. Acclimatisation Societies welcome the opportunity given to them to study the Schedules (and accompanying maps) of lands to be transferred to the Land and Forestry Corporations.

Unfortunately, because of the detail involved it has proved impossible for us to consider all the schedules in each of the 12 DOSLI offices. Rather we have examined schedules in just 3 of those offices Southland, Otago and Canterbury.

Our researcher has unearthed a large number of what we believe are mis-allocations. Land which is clearly of high conservation value has been transferred to Landcorp. These transfer problems fit into at least eight categories as outlined in the attached letter to the Undersecretary for Conservation and appended researcher's report.

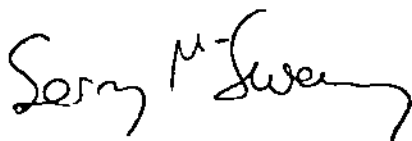
These allocations are contrary to the wording and intent of Government policies or statutes (on Pastoral leases, eroded land, waterways etc.) as contained within policies of the Land Settlement Board, decisions on Pastoral lease and licence land and provided for in the SOE and Conservation Acts.

In your announcement on Crown Land Transfers in mid April, you indicated that prior to formal allocation of assets to Corporations, Ministers would look at those cases where "parcels of land had been placed in the wrong category". We welcome that commitment. Our sample of allocations in only a quarter of the Land districts shows the need for an urgent review of these categories of allocation. The examples given appear to be only the tip of the iceberg.

Please feel free to contact us if you need any further information on this problem.

We would welcome an indication from you of Government's timetable and procedure for resolving these issues because understandably we want them resolved before any asset transfer takes place. If it would assist you in resolving this problem our researcher, Bruce Mason, could examine the allocations in the 9 outstanding Land Districts not yet studied.

Yours sincerely,

A handwritten signature in black ink that reads "Gerry McSweeney". The signature is fluid and cursive, with the first name "Gerry" written in a larger, more prominent script than the last name "McSweeney".

Dr Gerry McSweeney
Conservation Director
RF & BPS

A handwritten signature in black ink that reads "Hugh Barr". The signature is written in a cursive style, with the first letter "H" being particularly large and stylized.

Hugh Barr
Vice President
Federated Mountain Clubs

A handwritten signature in black ink that reads "Bryce Johnson". The signature is written in a cursive style, with the first name "Bryce" being the most prominent part of the signature.

Bryce Johnson
Director
National Executive of NZ
Acclimatisation Societies



Founded
28th March 1923

Royal Forest and Bird Protection Society of New Zealand Inc.

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27 April 1987

Mr Philip Woollaston
Undersecretary for Conservation
Parliament Buildings
WELLINGTON

Dear Philip,

ALLOCATIONS TO LANDCORP CONTRARY TO THE PUBLIC INTEREST

I enclose for your urgent action a summary report by our researcher, Bruce Mason on the 8 categories of Crown land where major errors appear to have been made in their allocation to Landcorp. Mr Mason's research has been based on the schedules of assets and plans made publically available in DoC offices throughout the country. A summary of the categories, problems and examples are as follows:-

1. Special leases

Alienation of land with major conservation values. (eg. Walter Peak, Woodbank, Arawata).

2. Recreation Permits

These cover extensive areas of mountain lands, riverbeds, etc. Land assets over which these permits apply have been transferred to Landcorp when only administrative responsibility should have been transferred (although even here we believe most of the Rec. permits should be administered by DoC). (eg. entire Ben Ohau Range, Neumann Range, Craigieburn Range, Two Thumb Range, Boyle-Waiiau - Hope walking track).

3. Riverbeds

A large number of temporary tenancies (licences to graze) cover the actual bed of rivers and have been transferred to Landcorp, since marginal strips cannot be transferred to Corporations it is even less acceptable for the rivers themselves to be. (eg. Maitake River-72ha, Kyeburn River-330ha, Waitaki River-580ha).

4. Riverbanks and Shorelines

A large number of Crown land parcels on riverbanks and shorelines with and without Section 58 strips laid off are scheduled for transfer to Landcorp. This is contrary to the requirement and general intent of the Conservation Act and the SOE Act. (eg. Lake Pukaki, Matukituki River, Clutha riverbank, Lake Ohau).

2.

5. Areas enclosed by or adjacent to pastoral leases

These areas scheduled for transfer to Landcorp are indistinguishable from adjoining Pastoral lease lands which Government has decided should stay in Crown title. (eg. St James Station-82ha, Gientanner Station, Routeburn-15ha, Alexandra-813ha).

6. Crown High Country lands equivalent to pastoral lease retired lands

These lands scheduled for transfer to Landcorp are dominantly Class 7 and 8 lands which by Government policy should be protected. There are strong reserve cases for some of them. (eg. Eyre-Cainard-34,000ha, Avoca block Lake Ohau-553ha, Upper Ahuriri Valley-30ha).

7. Indigenous State Forests

Indigenous state forest has been transferred to Landcorp apparently by mistake. (eg. Ohau State Forest Recreation Area, Maitland-1157ha, S Temple-127ha).

8. Other Crown Land areas

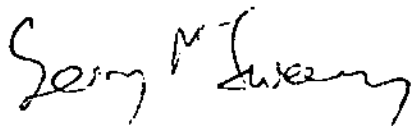
These include townships within National Parks and State Forest (eg. Arthurs Pass, Bealey township, Boyle Village) where the Crown has retained control to protect natural/scenic values and any transfer to Landcorp should only occur subject to protective covenants).

These issues need urgent clarification and resolution. Mr Mason has only looked at one quarter (3 out of 12) of the land districts through New Zealand. He has identified tens of thousands of hectares of important natural land which is scheduled for alienation to Landcorp. The Government's haste to confirm schedules of assets (once legal challenges from the New Zealand Maori Council have been resolved) means this issue is of great urgency and priority for us. It is only thanks to the NZ Maori Council challenge that this transfer is not already a fait accompli.

Because of the extent of the errors and past inflexible attitudes from Landcorp we have no choice other than to publicise the problems that our research has uncovered. Our publicity will focus on the Deputy Prime Minister's invitation to the public to scrutinise the allocation schedules and bring to his attention any that we disagree with so Government can rectify these.

We believe this will assist your efforts to redress the problems and look forward to hearing from you of progress in these efforts. If we can assist with further information, don't hesitate to contact me.

Yours sincerely,



Dr Gerry McSweeney
CONSERVATION DIRECTOR

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