

Crown Pastoral Land Tenure Review

Lease name: KIRKLISTON

Lease number: PT 119

Preliminary Report on Public Submissions

This document includes information on the public submissions received in response to an advertisement for submissions on the Preliminary Proposal. The report identifies if each issue raised is allowed or disallowed pursuant to the CPLA. If allowed the issue will be subject to further consultation with Department of Conservation, or other relevant party.

The report attached is released under the Official Information Act 1982.

February 06

**PRELIMINARY ANALYSIS OF PUBLIC SUBMISSIONS THROUGH PUBLIC NOTICE OF
PRELIMINARY PROPOSAL FOR TENURE REVIEW**

TR 037 KIRKLISTON REPORT
Phase 8_7.4.1

File Ref: Pt 119 Kirkliston **Report No:** Kirkliston 501 **Report Date:** 16 May 2005

LINZ ID: CON/50232/12726/A-ZNO

Contractor's Office: Timaru **LINZ Case No:** TR03/95 **Date sent to LINZ:**

RECOMMENDATIONS


1. That the Commissioner of Crown Lands (or his delegate) **notes** the submissions received and **approves** the preliminary analysis of public submissions.
2. That the Commissioner of Crown Lands (or his delegate) **authorises** DTZ to send the preliminary analysis, and copies of the public submissions, to the Minister of Conservation in partial fulfilment of section 45 of the Crown Pastoral Act 1998.
3. That the Commissioner of Crown Lands (or his delegate) **authorises** DTZ to consult with the Director General of Conservation's delegate on points allowed from the public submissions.
4. That the Commissioner of Crown Lands (or his delegate) **authorises** DTZ to consult with the Holder following consultation with the Director General of Conservation's delegate.

Signed for DTZ New Zealand Limited:

PP 

R A Ward-Smith
Manager - Timaru

Approved/Declined (pursuant to a delegation from the Commissioner of Crown Lands) **by:**



Name:

Date of decision: , 05/05/05

1. Background

This analysis has been carried out in partial fulfilment of the requirements set out in section 45(a)(iii) Crown Pastoral Land (CPL) Act 1998.

2. Details of lease

Lease Name: Kirkliston

Location: Haldon Road

Lessee: Haldon Station Limited

3. Public Notification of Preliminary Proposal

Date Advertised	Publication	Location
Wednesday 3 rd November 2004	High Country Herald	South Canterbury
Saturday 6 th November 2004	The Press	Christchurch

A copy of the advertisement is attached at Appendix 2.

The closing date for submissions was 21st January 2005

4. Details of submissions received:

A total of nine submissions were received by 21 January 2004.

Additionally, two late submissions were received, and LINZ advised (emails dated 15 February 2005) that these late submissions should be forwarded to LINZ and a decision would be made on whether they would be accepted. LINZ subsequently advised that one submission (Aoraki Conservation Board) would be accepted for analysis and the other submission (Fish & Game) would not be accepted.

5. Groups/individuals represented by the submissions

1. Federated Mountain Clubs of NZ (Inc)
2. University of Otago Botany Dept
3. Royal Forest & Bird Protection Society
4. Environment Canterbury
5. The North Otago Four Wheel Drive Club Inc.
6. Sth Cant. Royal Forest & Bird Protection Soc.
7. Combined 4WD Clubs
8. The Geraldine Tramping Club
9. Public Access New Zealand Inc.
10. Canterbury Aoraki Conservation Board

Land Information New Zealand Assessor, R Lysaght advised by email dated 6 April 2005 that submission 10 be accepted as it was dated 21 January 2005 and that submission 11 **not** be accepted due to lateness, being three weeks after closing.

6. *Appendices*

1. Analysis of submissions
2. Copy of public notice
3. List of submitters
4. Copy of annotated submissions

APPENDIX 1

TR 037 KIRKLISTON

PRELIMINARY ANALYSIS OF PUBLIC SUBMISSIONS

1. Introduction

Each of the submissions received has been reviewed in order to identify the points raised and these have been numbered accordingly. Where submitters have made similar points, these have been given the same number.

The following analysis summarises each of the points raised along with the recorded number of the submitter(s) making the point. The rationale for the decision whether to allow/disallow the point follows.

The decision to **“Allow”** the point made by submitters is on the basis that the matter raised is a relevant matter for the Commissioner of Crown Lands (CCL) to consider when making decisions in the context of the Crown Pastoral Land Act 1998 (CPL Act). Conversely, where the matter raised is not relevant in terms of the Commissioner’s consideration, the decision is to **“Disallow”**.

2. Analysis

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.s</i>	<i>Decision</i>
1	Agreement with the proposal.	1, 8	Allow

Rationale for allowing point 1

It is reasonable for the CCL to allow support for the proposal.

<i>Point</i>	<i>Summary of Point Raised</i>	<i>Sub No.s</i>	<i>Decision</i>
2	Submitters state that insufficient area has been proposed for restoration to full Crown ownership and control, some citing a further area to the west of the property between Big Range and Little Range and with further area along the Haldon Downs on the eastern side of the property. Other small areas are indicated on the fringe of CA1 and CA2. No substantial reasons were given except to say that such extensions would provide more representative conservation areas with more regular boundaries in terms of future management and overall long-term viability. Reference is also made to limited areas of red tussock grassland and wetland which should have been included.	2, 3, 4, 6, 9, 10	Allow

Rationale for allowing point 2

The protection of significant inherent values is relevant under CPL Act, Part 2, Section 24 (b) and the point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
3	That an easement be provided from the legal road near the marked airstrip on the northern side of the property at the end of Stoney River Road westward along the boundary to give access if the area to be restored to full Crown ownership and control is extended to the southern end of Little Range.	2	Allow

Rationale for allowing point 3

The matter of public access is relevant under CPL Act, Part 2, Section 24 (c) (i) and the point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
4	That the Haldon Downs have very high landscape values and that the area above 900 meters ASL be freeholded subject to a landscape protection covenant preventing subdivision, cultivation, forestry and new farm buildings or new roads or tracks.	3, 6	Allow

Rationale for allowing point 4

The matter of the protection of significant inherent values is relevant under CPL Act, Part 2, Section 24 (a) (i) and (b) (i) and the point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
5	Restore to full Crown ownership and control the Stoney Stream and its right hand branch (southern) including the Montane Valley floor wetland in the central basin.	4	Allow

Rationale for allowing point 5

The submitter goes into considerable depth, the importance of protecting waterways and their margins. The streams on the lease drain into Lake Benmore and the Waitaki River system and are therefore important. The purity of water is reasonably considered as a significant inherent value.

The matter of the protection of significant inherent values is relevant under CPL Act, Part 2, Section 24 (a) (i) and (b) (i) and the point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
6	Riparian fencing below 900 metre contour on the Hay Stream, Pringle Stream and Stoney River tributaries to protect riparian shrublands and tussocklands, aquatic habitats and water quality. This is associated with point 5 above however it extends into further streams.	4	Allow

Rationale for allowing point 6

The protection of riparian margins, especially where the stream is insufficient to require a marginal strip is a valid point in terms of protecting water quality, particularly in arid areas. Water quality is considered a significant inherent value together with marginal vegetation.

The matter of the protection of significant inherent values is relevant under CPL Act, Part 2, Section 24 (a) (i) and (b) (i) and the point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
7	That the soil and water conservation plan agreement (Land Improvement Agreement) for the Kirkliston lease that contributes to ongoing restoration of the vegetation cover should be retained through any proposal for the freeholding of land through tenure review.	4	Disallow

Rationale for disallowing point 7

The matter of bringing down the LIA onto a freehold title is a matter to be considered when granting consent by the authority that holds the encumbrance on the title. While it is a matter to be dealt with through the process of the tenure review it is an administrative matter rather than a matter of meeting the objects of Part 2 of the CPL Act. The point is not allowed.

Point	Summary of Point Raised	Sub No.s	Decision
8	That any decision to freehold land hatched blue on the map attached to submission 4 and land considered in any other submission which is fragile and has a high percentage of bare land should be based on the further examination of the condition of soils and vegetation cover and the potential for more sustained production consistent with soil and water objectives for the restoration of intact and resilient vegetation cover.	4, 9	Allow

Rationale for allowing point 8

The submitters are concerned about the management of reviewable land in a way that is ecologically sustainable. There is an indication coming through the submissions covering this type of land that rules covering sustainable management should be set out and covenanted on the title if the land is to be freeholded.

The promotion of management of reviewable land in a way that is ecologically sustainable is relevant under CPL Act, Part 2, Section 24 (b) and the point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
9	The submitter has a concern that some access will be completely denied except to hikers and able-bodied people who choose to visit and that an exception is made to officers of the Crown who may use motorised access. That section "a-b" of the proposed easement include public motor vehicle access.	5, 7	Allow

Rationale for allowing point 9

The matter of public access is relevant under CPL Act, Part 2, Section 24 (c) (i) and the point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
10	The point is in relation to legal road and continuance of the Stoney River road. The key point is the linking of the road at "a" in diagram A where map representation shows the road offset on the boundary.	7	Disallow

Rationale for disallowing point 10

The matter of legal roads is not one that the CCL is required to consider under the CPL Act therefore the point is not allowed.

Note that provision has been made in the Preliminary Proposal to link the offset road ends by easement thereby providing access for pedestrian, cycle and horse access. It does not however ensure motor vehicle access.

Point	Summary of Point Raised	Sub No.s	Decision
11	Incorporated into point 9 above.		

Point	Summary of Point Raised	Sub No.s	Decision
12	Deleted. See explanation note 2 in discussion		

Point	Summary of Point Raised	Sub No.s	Decision
13a	The terms of the Public Easement fail to provide secure access as required by the CPL Act.	9	Allow

Rationale for allowing point 13a

The matter of public access is relevant under CPL Act, Part 2, Section 24 [c] (i) and the point is therefore allowed.

Note: this is also related to Point 13b below.

Point	Summary of Point Raised	Sub No.s	Decision
13b	The submitter, at some length, explains why the proposal to provide public access by way of easement is not secure and that the land required for access should be retained by the Crown for the specified Crown purpose (Sec.35(2)(a)(iii) CPL Act) of "public highway". The uses to which it would be put for access can then be specified.	9	Allow

Rationale for allowing point 13b

The matter of public access is relevant under CPL Act, Part 2, Section 24 (c) (i) and the point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
14	That rural Section 33976 being a freehold area in common ownership be included in the tenure review as it provides the practical access before entering the legal road on the pastoral lease.	9	Allow

Rationale for allowing point 14

Sec. 30, CPL Act enables freehold land to be included in a tenure review. Sec. 35 enables land in a tenure review to be designated as fully set out in the Act. Section 36 provides for qualified designations which provide for, under Sec. 36 (3) (b), easements in designating land under the tenure review. Such easements can be used to make easier securing of public access as set out in the Objects of Tenure Reviews – Sec. 24 (c) (i).

The matter of public access is relevant under CPL Act, Part 2, Section 24 (c) (i) as is the inclusion of freehold land, Section 30. The point is therefore allowed.

Point	Summary of Point Raised	Sub No.s	Decision
15	That there is concern about fencelines being unsustainable at such altitude with some fencing proposed at about 1500metres. Fence at lower level and manage higher grazing through a lease agreement	10	Allow

Rationale for allowing point 15

The protection of significant inherent values is relevant under CPL Act, Part 2, Section 24 (b) and the point is therefore allowed.

5. Discussion and conclusions

Discussion relevant to each particular point has been made under each point for simplicity and clarity

Explanation Notes:

1. Public Access New Zealand have commented at the end of their submission that the current policy of dealing with marginal strips post final determination of Tenure Review is unsatisfactory. This would appear to be a policy and administrative matter rather than a particular point in this particular review.
2. One submitter strongly indicated that the Tenure Review should not proceed as it does not meet the objects of the Crown Pastoral Land Act while two others had similar sentiments if further protection was not given to additional areas. The reasons given are within the points scheduled.