

Crown Pastoral Land Tenure Review

Lease name: MANAHUNE

Lease number: PT 091

Analysis of Public Submissions

This document builds on the Preliminary Report on public submissions. The analysis determines if an issue that was allowed, and further consulted on, is accepted or not accepted for inclusion in the Substantive Proposal and to what extent. The report complies with the requirements of Section 45 Crown Pastoral Land Act 1998.

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

May

10

**ANALYSIS
OF
PUBLIC SUBMISSIONS

MANAHUNE**



ANALYSIS OF PUBLIC SUBMISSIONS

Statement Pursuant To Sec 45(a)(iii) Crown Pastoral Land Act 1998 (for Part 2 reviews, or Sec 88(d) for Part 3 reviews)

MANAHUNE TENURE REVIEW NO 221**Details of lease**

Lease name:	Manahune pastoral lease.
Location:	10 km south-west of Fairlie.
Lessee:	Andrew Grant McNab, Susanne Kay McNab and Stephen John McFarlane.

Public notice of preliminary proposal

Date advertised:	Saturday 4 th July 2009.
Newspapers advertised in:	
- The Press	Christchurch
- The Otago Daily Times	Dunedin
- The Timaru Herald	Timaru.
Closing date for submissions:	28 August 2009.

Details of submissions received

Number received by closing date:	10
Number of late submissions received/accepted:	1
This submission was received on 4 th September 2009. LINZ provided approval to include the submission for analysis on 7 September 2009.	
Cross-section of groups/individuals represented by submissions:	
Submissions were received from mainly non government environmental and recreation groups together with private individuals, a regional council, a government agency and farmer interest group.	
Number of late submissions refused/other:	Nil.

ANALYSIS OF SUBMISSIONS

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:

1. Summarises each of the points raised along with the recorded number (shown in the appended tables) of the submitter(s) making the point.
2. Discusses each point.
3. Recommends whether or not to **allow** the point for further consideration.
4. If the point is **allowed**, recommends whether to **accept** or **not accept** the point for further consideration.

The points raised have been analysed to assess whether they are matters that are validly-made, relevant to the tenure review and can be properly considered under the Crown Pastoral Land Act 1998 (CPLA). Where it is considered that they are the decision is to **allow** them. Further analysis is then undertaken as to whether to **accept** or **not accept** them.

Conversely where the matter raised is not a matter that is validly-made or relevant or can be properly considered under the CPLA, the decision is to **disallow**. The process stops at this point for those points disallowed.

The outcome of an **accept** decision will be that the point is considered further in formulation of the draft SP. To arrive at this decision, the point must be evaluated with respect to the following:

The objects and matters to be taken into account in the CPLA; and

Whether the point introduces new information or a perspective not previously considered; or

Where the point highlights issues previously considered but articulates reasons why the submitter prefers an alternative outcome under the CPLA, or

Is a statement of support for aspects of the Preliminary Proposal which can be considered by the Commissioner when formulating the designations for a Substantive Proposal.

How those accepted points have been considered will be the subject of a Report on Public Submissions which will be made available to the public. This will be done once the Commissioner of Crown Lands has considered all matters raised in the public submissions in formulating a Substantive Proposal.

Analysis

The submissions have been numbered in the order in which they were received and the points have been arranged so similar points are grouped together.

Appendix III provides a table of the points raised by the various submitters.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
1	Statements of support for aspects of the proposal.	1, 2, 3, 4, 7, 8, 9, 10, 11	Allow	Accept

General Support:

Submitters 1 and 2 express support for the preliminary proposal.

Submitter 4 considers that the proposal is reasonable and acceptable from the viewpoint of recreational users of the land but has concerns about access routes and cattle grazing outlined in points 12, 13 and 15 below.

Submitter 7 supports the proposal on the grounds that it recognises and protects the more vulnerable areas of the property for soil conservation management by providing limits to the use of those areas in line with their land use capability levels. This submitter requests 13 changes to the proposal outlined in the points below.

Support for Proposed Conservation Areas:

Submitter 3 supports the return of CA2 to the Crown but also has concerns about other aspects of the proposal which are outlined in nine points below.

Submitter 7 supports areas CA1, CA2 and CA3.

Submitter 9 fully supports the proposed conservation areas CA1, CA2 and CA3 but has concerns about public access outlined in point 12 below.

Submitter 10 supports the return of conservation areas to Crown control but has some concerns outlined in 4 points below.

Submitter 11 supports the return of CA2 to the Crown if the Manahune owners are prepared to do accept that proposed return of CA2. This submitter also has concerns about other aspects of the proposal which are outlined in seven points below.

Support for area Proposed to be Freeholded:

Submitter 9 is not opposed to the proposed area to be freeholded but has concerns about water quality outlined in point 15 below.

Support for Proposed Conservation Covenant:

Submitter 9 supports the requirement of the owner to keep the land free from exotic tree species (clause 3.2.3) but has concerns outlined in point 20 below.

Submitter 10 supports the proposal to covenant an area of limestone outcrops but has concerns about weed spraying outlined in point 20 below.

Support for Proposed Easements:

Submitter 7 supports the provision of public access along the unformed legal road at the southern end of the property.

Submitter 8 considers that the proposal does not present any major walking access concerns but does have concerns about access routes and cattle grazing outlined in point 12 below.

Submitter 9 is not opposed to the granting of the easements marked 'l-m' 'n-o'.

Submitter 9 is not opposed to the granting of the easement 'p-q', 'r-s' and 't-u' provided it allows access for farm management purposes only.

Submitter 9 is not opposed to the granting of the easements 'b-c', 'd-e', 'f-g', 'h-i' and 'j-k' for the public provided that these access ways follow reasonable and practical routes and allow for the passage of mountain bikes, foot traffic and possibly horses, outlined in point 12 below.

Submitter 9 supports conditions (a) – (h) in the Easement Concession (Appendix 4).

Submitter 10 supports the access provisions in the proposal.

Support for Proposed Grazing Concession:

Submitter 9 is not opposed to the grazing concession provided their concerns are met outlined in point 17 below.

Submitter 9 supports the conditions in Schedule 2 providing for monitoring and the review of stock numbers but has concerns outlined in point 17 below.

Submitter 9 supports conditions 10.1 (a) – (h) in the grazing concession.

Rationale for Allow or Disallow

These statements of support are validly made. Most submitters provided reasons for supporting aspects of the proposal, including the benefits the proposal will offer in relation to ecological sustainability, the protection of significant inherent values, or public access. The promotion of the management of the land in a way that is ecologically sustainable is a matter for consideration under section 24(a)(i) CPLA, the protection of significant inherent values is identified in section 24(b), and the making easier of public access is indicated in section 24(c)(i). All these reasons are relevant under the CPLA and such comments have therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters to be taken into account in the CPLA and statements of support for aspects of the proposal can be considered by the Commissioner when formulating the designations for a Substantive Proposal.

The point has therefore been accepted for further consideration in the formulation of the Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
2	Opposition to CA1 being restored to Crown control as Conservation Area.	3, 6, 11	Allow	Accept

Submitter 3 has said that the land has been economically used for farming and should continue to do so. Submitter 11 considers that this area should become part of the freehold land.

Submitter 6 believes that CA1 should remain freehold or at the very least have a limited grazing concession to limit the spread of the muehlenbeckia vine. They have said that CA1 has been over-sown and top-dressed and the existing reserve below CA1 has had the noxious muehlenbeckia vine (confirmed as present by an Environment Canterbury Weed Officer) that it will eventually spread up the entire valley.

Submitters 3 and 11 have said that this area has been over-sown and top-dressed and has only moderate conservation resources. Submitters 3 and 11 have also said that access through the property appears to be another purpose for CA1 when access provided by farm tracks and legal roads will be sufficient for persons to access CA2.

Rationale for Allow or Disallow

The submitters views are that this area does not have significant inherent values or that the values present cannot be sustained. They argue that pastoral use of the land is ecologically sustainable and the land should be designated for freehold disposal. These are all valid and relevant matters which can be considered under the CPLA and have therefore been allowed for further consideration.

Rationale for Accept or Not Accept

The matters raised in this point relate directly to the objects of the CPLA. The matters raised have generally been considered previously however the submitters have all articulated reasons why an alternative outcome is preferred. In the case of the impact of the Muehlenbeckia vine on the sustainability of the SIV's in the area this is a perspective not previously considered.

For these reasons the point is accepted for further consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3	Concerns relating to Water Concession Easement (Appendix 4).	3, 11	Disallow	N/A

Submitter 3 has said that the proposal does not disclose any involvement of ECAN with respect to consent to take water, or if in fact they would agree to granting the right to take water. The submitter has said that a farmer is entitled to have access to water for stock purposes that naturally arises on his land but now that the water will be taken from conservation land, across to the freehold land, consent will be required from ECAN to take water from the adjoining land.

Submitter 11 considers that freeholding of CA1 would avoid the need for a water easement through conservation land for farm management water supply.

Rationale for Allow or Disallow

The point raised is not considered to be a matter that can properly be considered under the CPLA. The easement proposal relates to access to allow water and not the taking of the water itself. The point is therefore disallowed.

Rationale for Accept or Not Accept

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4	CA3 should be freeholded subject to a sustainable management covenant limiting the number of stock to be carried.	3, 11	Allow	Accept

Submitters 3 and 11 consider that as grazing is to be allowed for 30 years in CA3, this land should be freeholded subject to a sustainable management covenant limiting the number of stock to be carried.

Rationale for Allow or Disallow

This point relates to ecological sustainability of the proposed land use and freehold disposal which are matters which can be considered under the CPLA. The point is relevant and validly made and is therefore allowed for further consideration.

Rationale for Accept or Not Accept

Ecological sustainability and freehold disposal are objects of the CPLA and while these matters have been considered previously in relation to this area the submitters have articulated reasons why they prefer an alternative outcome and therefore the point is accepted for further consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
5	Concerns relating to fencing of CA1.	3, 11	Allow	Accept

Discussion:

Submitters 3 and 11 believe that the CA1 should remain within the freehold land and this would eliminate the cost of fencing CA1.

Rationale for Allow or Disallow

This point is related to point 2 above. The cost implication of fencing is acknowledged as a factor in the determination of designation boundaries and as such the point raised is considered to be a matter that can properly be considered under the CPLA. The point raised is considered to be relevant and validly made and is therefore allowed for further consideration.

Rationale for Accept or Not Accept

The point made does not relate directly to an object of the Act however financial matters are of course a relevant consideration in tenure review. The cost of fencing has been previously considered however the submitters articulate their reasons for the preferred alternative outcome and therefore the point is accepted for further consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
6	Uncertainties as to the marginal strip provisions that are applicable	3, 7, 11	Disallow	N/A

	to the land.			
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Submitters 3 and 11 express concerns about the lack of certainty as to what streams may already have marginal strips, or will attract them. These submitters seek clarification on whether any of the streams qualify for a marginal strip. Submitter 3 seeks confirmation that the Director-General of Conservation has completed all the actions required under Part IVA of the Conservation Act. The submitter also considers that the title is subject to Part IVA of the Conservation Act and that according to Crown Law, a marginal strip is not to be created.

Submitter 7 seeks that where marginal strips are to be provided under s24 of the Conservation Act 1987 that these be specifically shown in the Designations Plan along Ducks Stream.

Rationale for Allow or Disallow

Marginal strips are not a matter that can be properly considered under the CPLA and therefore this point has been disallowed. The application and assessment of marginal strips is the statutory responsibility of the Department of Conservation. Their consideration of marginal strips is a matter outside of tenure review.

Rationale for Accept or Not Accept

N/A.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
7	Amendment sought for clause 2 of Easement Concession (Appendix 4).	3	Allow	Accept

Submitter 3 has said that words appear to be missing from clause 2 of the Easement Concession (Appendix 4) and this needs to be completed.

Rationale for Allow or Disallow

The submitter has identified an issue with the terms of a proposed easement concession. Easement concessions contain terms designed to promote ecologically sustainable land management and protection of SIV's and therefore the point raised can be properly considered under the CPLA. The point is also considered to be validly made and relevant and is therefore allowed for further consideration. This matter will be referred to the Department of Conservation.

Rationale for Accept or Not Accept

Ecological sustainability and protection of SIV's are objects of the CPLA and the point made introduces new information and is therefore accepted for consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
8	Concern relating to closure of Easement Concessions.	3, 11	Allow	Accept

Submitters 3 and 11 refer to clause 10 of the Easement Concession (Appendix 4) which allows the Department of Conservation (DOC) to close the easement for any period that is considered

necessary. These submitters consider that as the easement is for farm access, it should not be closed to the farmer.

Rationale for Allow or Disallow

The point raised relates to a matter (farm management access) which is considered integral to the future ecological sustainability of the reviewable land. It is considered to be validly made and relevant and is therefore allowed for further consideration.

Rationale for Accept or Not Accept

Ecological sustainability is an object of the CPLA. The point raised relates to a particular aspect of the proposal not previously considered and is therefore accepted for consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
9	Public access easement should be closed during lambing.	6	Allow	Accept

Submitter 6 states that they need public access stopped for lambing and that this is quite normal in other tenure reviews.

Rationale for Allow or Disallow

The point raised is relevant, validly made and relates to public access which is a matter that can be properly considered under the CPLA. The point is therefore allowed for further consideration.

Rationale for Accept or Not Accept

The point raised relates to public access which is an object of the CPLA. A lambing closure has been previously considered however the submitter has articulated reasons in support of an alternative outcome (i.e. easement closure for the reason of lambing) and the point is therefore accepted for further consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
10	Condition relating to assignment of Easement Concession (Appendix 4) should not apply.	3	Allow	Accept

Submitter 3 states that clause 13.1 of the Easement Concession prohibits assignment of the concession unless DOC consents to it. They consider that this is an easement appurtenant to the land forever and therefore the assignment provisions do not apply.

Rationale for Allow or Disallow

The point raised relates to a matter (farm management access) which is considered integral to the future ecological sustainability of the reviewable land. It is considered to be validly made and relevant and is therefore allowed for further consideration.

Rationale for Accept or Not Accept

Ecological sustainability is an object of the CPLA. The point raised relates to a particular aspect of the proposal not previously considered and is therefore accepted for consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
11	Track maintenance responsibilities in relation to areas shared with the public should not be placed on the farmer.	3, 6, 11	Disallow	N/A

Submitters 3 and 6 believe that where the Crown invites the public onto a property, the responsibility of maintenance should fairly rest with the Crown and not the farmer.

Submitter 3 states that cost and responsibility of maintenance and OSH responsibilities have to be borne by the farmer under the current proposal. They consider that as the Easement is for public access, the Crown should be responsible to make sure that it is suitable for public use. They have said that DOC are able to modify the surface of the easement area (eg for mountain bikers) but that there does not appear to be any obligation on the Crown to maintain the surface in the particular condition.

Submitter 11 opposes the farmer being responsible for maintenance on the public access easement and considers that if the Crown requires public access, they must take responsibility for all costs, not the farmer.

Rationale for Allow or Disallow

The point raised relates to the maintenance obligations contained within the public access easement and easement concession. Public access is an object of the CPLA, however, the issue of maintenance of public access tracks is not able to be addressed under the CPLA and will instead be handled alongside the tenure review with the Department of Conservation. As the point raised is not a matter that can be properly assessed under the CPLA, it is disallowed for further consideration.

Rationale for Accept or Not Accept

N/A.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
12	Concern about public access routes.	4, 8, 9	Allow in part (sub points (a) and (b))	Accept

Sub point (a) – Access routes:

Submitter 4 considers that the access route immediately uphill above the Tengawai River ('a-b') could be improved by taking a less direct route than the legal road line up the bank above the Tengawai River. They have said that the access route is steep and does not appear to provide the best access and it would be better to construct a lightly benched track up this bank. They believe

that if this is not on the same alignment as the legal road, it would require definition by GPS and a separate easement.

Submitter 8 considers that Submitter 4’s point raised above is reasonable but that it must be made legally secure if it diverts from the legal road by means of realignment of the legal road or by an easement in gross.

Submitter 9 seeks that all access routes be by reasonable and practical routes to enable access by foot, mountain bike and possibly horses, and to consider using farm tracks if they are more practical routes than the proposed routes.

Submitter 9 asks that any proposed easement route for public access be retained in full Crown control so as to avoid the possibility of a shift of access route.

Sub point (b) – Public access to CC1:

Submitter 9 has said that CC1 would be an interesting area for their members (at least) to visit and requests that limited access for members of the public be made available to this area.

Sub point (c) – Access along the legal road adjacent to Tengawai River:

Submitters 4 and 8 consider that cattle should be excluded from the legal road along the Tengawai River. Submitter 4 has said this road provides viable foot access and is subject to cattle grazing which causes severe pugging in places making foot access difficult.

Rationale for Allow or Disallow

The point raised relates to public access, a matter which can properly be considered under the CPLA. Sub point C relates to legal road which is not part of the reviewable land and therefore this sub point is not allowed for further consideration.

Sub points (a) and (b) are relevant and validly made and are allowed for further consideration.

Rationale for Accept or Not Accept

The point raised relates to public access which is an object of the CPLA. The alignment of public access routes have been previously considered however the submitters have articulated reasons for the preferred alternatives and the point is therefore accepted for further consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
13	Interest expressed at the creation of a public foot access route along the Albury Range.	4	Disallow	N/A

Submitter 4 has said that they should discuss with the Walking Access Commission the opportunity of making the old track along the crest of the Albury Range a public foot access route. They have said that it is unlikely to become available for public use in the foreseeable future as a result of tenure review because leases at the northern end of the range are not in review, but it would be suitable for consideration by the Walking Access Commission.

Rationale for Allow or Disallow

The matter raised relates to a track that is substantially outside of the reviewable and is therefore not a matter that can be properly considered under the CPLA.

Rationale for Accept or Not Accept

N/A.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
14	Request for further information on water extraction in CA1 and the proposed stock water scheme.	5	Disallow	N/A

Submitter 5 requests more information on the easement which allows extraction of water from the CA1 area and the proposed stock water scheme, in particular, details on the proposed take and location of take.

Rationale for Allow or Disallow

The submitter has requested further information in relation to a proposed easement concession. The request for supply of further information to a third party is not a relevant matter in terms of the CPLA and water take issues are not a valid matter under the CPLA. The point raised is therefore disallowed. Water take issues are a matter for the relevant regional council and are therefore handled outside of the tenure review.

Rationale for Accept or Not Accept

N/A.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
15	Land use effects on water quality of Tengawai River and Ducks Stream.	4, 5, 7, 9	Allow in part (sub points (c), (d), (e))	Accept

Sub point (a) – Exclusion of cattle from legal road along the Tengawai River.

Submitter 4 considers that cattle should be excluded from the legal road along the Tengawai River as cattle grazing affects the water quality of the Tengawai River.

Sub point (b) – Establishment of marginal strip along the Tengawai River.

Submitter 5 seeks a provision for the establishment of a marginal strip along the Tengawai River border if the road reserve running along the Tengawai River and Duck Stream are not retained.

Sub point (c) – Construction of fence along Ducks Stream.

Submitter 5 requests a fence be constructed to prevent stock access to Ducks Stream, including an appropriate buffer zone if the land is to be irrigated. They have said this would effectively relieve their concerns involving poor quality water entering the Tengawai River.

Sub point (d) – Protection of riparian margins.

Submitter 7 seeks that the proposal provides the protection of the riparian margins of Ducks Stream and all permanently flowing reaches of the tributaries draining the Albury Range where these cross areas of land freeholded under tenure review by preventing stock access to the beds and banks of waterways. They consider that the margins on either side of Duck Stream should be managed or fenced to exclude livestock from this waterway.

Sub point (e) – Management of grazing animals.

Submitter 9 has expressed concern about the quality of the water arising from these upland gullies and the indigenous shrubland cover from development and hard grazing by animals and believes that the land needs to be managed in a way so that they are not subjected to mob stocking of grazing animals.

Rationale for Allow or Disallow

These submitters have expressed some concern about the future quality of water flowing into Ducks Stream and the Tengawai River from the reviewable land. The suggestion that cattle should be excluded from the legal road adjoining the river and that marginal strips should be established are both matters which cannot be properly considered under the CPLA and therefore sub points (a) and (b) must be disallowed.

Water quality is a matter that can be properly considered under the CPLA and sub points (c), (d) and (e) raised are relevant and validly made. These points are therefore allowed for further consideration.

Rationale for Accept or Not Accept

The point allowed relates to ecological sustainability and the protection of water quality in the reviewable land. Water quality can be considered to be a SIV and therefore the point relates to an object of the CPLA.

The protection of riparian margins from stock access and the management of grazing to conserve water quality are not matters that have previously been specifically considered and the point is therefore accepted for consideration on the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
16	Proposed fence 'W-X' should not be constructed.	6	Allow	Accept

Submitter 6 believes that the fence enclosing CA2 is a waste of taxpayers money. They have said that if it proves necessary to fence CA2 because of stock pressure in the future, it could be done then. They have said very few stock go into this area, that a fenceline will have a detrimental impact on landscape values, and that the ongoing maintenance issues of this proposed fence would be an unnecessary cost.

Rationale for Allow or Disallow

The point raised relates to protection of landscape values and ecological SIV's (by exclusion of stock from CA2). These are matters which can be properly considered under the CPLA. The point raised is relevant and validly made and therefore the point is allowed for further consideration.

Rationale for Accept or Not Accept

Protection of SIV's is an object of the CPLA and while the matter raised has been considered previously the submitter has articulated reasons for the preferred alternative. The matter is therefore accepted for consideration in the formulation of a Substantive Proposal when the advice of a fencing advisor can be sourced relating to the issue raised.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
17	Concern relating to conditions of the Grazing Concession.	6, 7, 9, 10	Allow	Accept

Discussion:

Sub point (a) – Assignment of grazing concession.

Submitter 6 requests the inclusion of a condition in the grazing concession on CA3 that the Crown would not unreasonably withhold their consent to an assignment of the grazing concession given a change of ownership.

Sub point (b) – Renewal of grazing concession.

Submitter 6 has said that that if the grazing is shown to be sustainable, the concession should be renewable.

Sub point (c) – Responsibility for fencing.

Submitter 6 has said that the concessionaire should not be liable for the fences that are on the boundary with a neighbour.

Sub point (d) - Term of concession.

Submitter 9 seeks that the term of the concession be no more that ten years initially with a provision that it could be renewed for another ten years if there are less than minor effects and this is confirmed by regular monitoring of the area.

Sub point (e) – Monitoring.

Submitter 7 considers that monitoring of the grazing concession over CA3 should be a requirement of the concession and undertaken on an annual basis. They have said this should be undertaken in order to adjust grazing levels in line with available herbage and maintenance of an intact and healthy vegetation cover, and to ensure that stock are adequately contained within the CA3 area and there is no damage to vegetation in the CA2 conservation area.

Submitter 7 states that the level of grazing specified in the grazing concession (120 cattle) over CA3 appears to be within the capability of the Land Use Capability (LUC) assessment but it allows for a higher stocking level than previously agreed under the LIA (90 cattle only) and over a smaller area (CA3 only). On this basis, the submitter recommends that a site visit be undertaken to confirm that this is an appropriate level.

Submitter 7 has said that because there is no fence between CA3 and CA2, it will be impossible to prevent and comply with the condition relating to stock being adequately contained within CA3. They have also said that three yearly intervals for monitoring may not be adequate to identify or prevent the onset of degradation and that rigorous and frequent monitoring will provide some assurance that the purpose of the Land Improvement Agreement conditions will continue under Crown management.

Submitter 9 seeks that the grazing area be monitored regularly and by a suitably qualified person to determine if adverse impacts are occurring, or not, to the natural values.

Submitter 10 seeks that a grazing concession not be granted (outlined in sub point (g) below) but have also said that if the concession is granted, that strict conditions be imposed and appropriate monitoring be undertaken to avoid adverse impacts on current conservation and landscape values.

Sub point (f) – Level of grazing.

Submitter 9 seeks that this area not be hard grazed at all times because of the likely environmental impacts.

Subpoint (g) – Removal from grazing

Submitter 10 believes that a grazing concession over CA3 should not be granted as it is not essential to future farm management. They have said this will also simplify fencing requirements and the need for an easement concession.

Rationale for Allow or Disallow

This point relates to the terms of the proposed grazing concession and therefore to the ecological sustainability of the proposal, the protection of SIV's and economic use of the reviewable land. These are matters that can be properly considered in the CPLA, are relevant and validly made and therefore the point is allowed for further consideration.

Rationale for Accept or Not Accept

Ecologically sustainable management of the reviewable land, economic use and protection of SIV's are all objects of the CPLA. The matters raised in the point have all been previously considered however all submitters articulated reasons for their preferred alternative outcomes and therefore the point is accepted for further consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
18	CC1 should not be made available for grazing but protected for the values it contributes to soil conservation and water quality.	7	Allow	Accept

Submitter 7 considers that CC1 should either be retained as Crown Land for the purpose of maintaining the water quality of Duck Stream and minimising the erosion and detritus supply into the water body, or freeholded and covenanted to exclude stock from the area of river and riparian margins as identified for destocking under the Land Improvement Agreement (LIA).

Submitter 7 has said that any freehold title will be issued with the LIA intact so the destocking requirement will continue to apply to the land if it is freeholded through tenure review. They have also said that Schedule 2 of the Conservation Covenant implies that the owner may graze the Covenant area at any time and that this is misleading and ignores the requirements that will apply to this land once freeholded.

Rationale for Allow or Disallow

The point raised relates to the ecological sustainability of the proposed outcome and protection of SIV's. These are matters that can be properly considered under the CPLA, the point is relevant and validly made and therefore the point is allowed for further consideration.

Rationale for Accept or Not Accept

Ecologically sustainable management and protection of SIV's are objects of the Act. The fact that the LIA prohibits grazing within CC1 is information which was overlooked in the formulation of the preliminary proposal CC1 designation and the point is therefore accepted for consideration in the formulation of the Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
19	The tenure review outcome should not conflict with the legal requirements for land management imposed by any Land Improvement Agreement (LIA).	7	Disallow	N/A

Submitter 7 seeks that the preliminary proposal clearly identifies the legal requirements for land management imposed by any Land Improvement Agreement registered over the land and does not compromise the objectives of the LIA or raise expectations for future land use options by the terms of its proposal or the conditions of any designation.

They have said that any change in land use must be negotiated via the LIA and Environment Canterbury.

Rationale for Allow or Disallow

Compliance with or consideration of third party agreements such as Land Improvement Agreements is not a part of tenure review under the CPLA. It is the Holders responsibility to take into account and gain any approvals re third party agreements. This is not a matter that can be properly considered under the CPLA, and therefore the point must be disallowed.

Rationale for Accept or Not Accept

Points that are disallowed are not accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
20	Greater protection sought for area CC1.	7, 9, 10	Allow	Accept

Submitter 7 considers that effective protection for CC1 should be provided by excluding stock, OSTD and aerial herbicide spraying. Any herbicide spraying should only be done to protect and enhance habitat for native species. They have said that these changes are considered necessary to provide for the long-term, sustainable protection of the range of significant biodiversity values identified on this land.

Submitter 9 believes that because of the visual significance of CC1 and the biological values that exist there, CC1 should be restored to full Crown control as Conservation Area.

Submitter 9 believes that if CC1 is to be covenanted, conditions should include the need for selective spraying only of pest weeds and the prevention of hard grazing on the sites where special plants and wildlife exist. They have said that any spraying with herbicides must be carried out with regard for the indigenous vegetation and special plants that may be present.

Submitter 10 has said that CC1 will require significant ‘rehabilitation’ including removal of pine trees, willows, poplars, elderberry and male fern.

Submitter 10 questions the appropriateness of the conditions allowing for weed spraying and other possible activities which may be harmful for the values present.

Rationale for Allow or Disallow

The point raised relates to the protection of SIV's which is a matter that may be properly considered under the CPLA. The point is relevant and validly made and therefore the point is allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to an object of the CPLA (protection of SIV's) and while the terms of the proposed covenant and the use of a full Crown ownership designation for this area have previously been considered the submitters all articulate reasons for their preferred alternative and therefore the point is accepted for further consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
21	CA2/3 should be extended to connect with CC1.	7	Allow	Accept

Submitter 7 believes that CA2/3 should be extended to connect with CC1 as there is a gully of native vegetation (containing uncommon shrub daisy species) linking these areas. The submitter has provided a map detailing the suggested extension/ connection. They have said that these changes are considered necessary to provide for the long-term, sustainable protection of the range of significant biodiversity values identified on this land.

Rationale for Allow or Disallow

The point raised relates to the protection of SIV's which is a matter that may be properly considered under the CPLA. The point is relevant and validly made and therefore the point is allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to an object of the CPLA (protection of SIV's). The gully referred to was not recommended for protection in the originally Conservation Resources Report recommendations for the property and therefore the protection of this area has not previously been considered. Therefore the point is accepted for further consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
22	Extend CA1 to the south-eastern boundary of the pastoral lease.	7	Allow	Accept

Submitter 7 believes that CA1 should be extended to the south-eastern boundary of the pastoral lease to include the extensive and diverse montane shrublands identified in the Conservation Resources Report that are classified as critically under-protected mid-altitude environments. The submitter has provided a map detailing the suggested extension/ connection. They have said that these changes are considered necessary to provide for the long-term, sustainable protection of the range of significant biodiversity values identified on this land.

Submitter 7 has also said that that the eastern boundary of CA1 should be extended eastward to the freehold boundary to protect the catchments of the suite of high quality continuous-flow streams feeding into the Tengawai River and the greater Ophihi River habitat.

Rationale for Allow or Disallow

The point raised relates to the protection of SIV's which is a matter that may be properly considered under the CPLA. The point is relevant and validly made and therefore the point is allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to an object of the CPLA (protection of SIV's). The shrublands referred to were not recommended for protection in the originally Conservation Resources Report recommendations for the property and therefore the protection of this area has not previously been considered. Therefore the point is accepted for further consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
23	Specific monitoring conditions should be included for easements and the grazing concession over CA1, CA2 and CA3.	7	Allow	Accept

Submitter 7 believes that specific monitoring conditions should be included for grazing, access, water take easements over the conservation areas CA1, CA2 and CA3 sufficient to ensure that these activities cause no adverse effects on native species and habitats. Conditions should provide for the cancellation of easements or the amendment of concessions if negative effects are detected.

They have said that the combination of grazing concessions, access arrangements and water supply concession proposed over these three areas will all reduce any effective protection of these areas. They have also said that these changes are considered necessary to provide for the long-term, sustainable protection of the range of significant biodiversity values identified on this land.

Rationale for Allow or Disallow

Similar to point 17 above but extended to cover all concessions. The point relates the protection of SIV's. These are matters that can properly be considered under the CPLA, are relevant and validly made. The point is therefore allowed for further consideration

Rationale for Accept or Not Accept

Protection of SIV's are objects of the CPLA. The terms and conditions of the concessions have of course been previously considered however the submitter has articulated reasons why they prefer an alternative outcome and therefore the point is accepted for further consideration in the formulation of a substantive proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
24	Specific protection should be provided for long-tailed bats.	7	Allow	Accept

Submitter 7 believes that specific protection should be provided for riparian vegetation, both native and exotic, along the Tengawai River and Ducks Stream as this is a critical habitat for long-tailed bats.

Rationale for Allow or Disallow

The point raised relates to the protection of SIV's (habitat for bats). The extent to which this habitat is actually within the reviewable land is unclear as it is riparian vegetation and there is a legal road alongside the river. Nevertheless this is a matter which can properly be considered under the CPLA and the point is relevant (at least for any habitat within the reviewable land) and validly made. The point is therefore allowed for further consideration.

Rationale for Accept or Not Accept

Protection of SIV's is an object of the CPLA. Although bats were identified in the Conservation Resources Report completed for this property the riparian vegetation referred to in the point was not identified for protection. As such the point introduces new information and is accepted for consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
25	A marked public access way should be provided along Ducks Stream.	7	Disallow	N/A

Submitter 7 believes that a marked public access way should be provided down the legal road that forms the northern boundary of the Manahune block and runs down Ducks Stream, thereby improving public access to the Albury Range.

Rationale for Allow or Disallow

This point relates to a legal road which is not part of the reviewable land and therefore cannot properly be considered under the CPLA. The point is disallowed.

Rationale for Accept or Not Accept

N/A.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
26	Conditions should be included on land proposed to be freeholded to reduce or remove wilding conifers.	7	Allow	Accept

Submitter 7 considers that as the proposal recognises the presence of wilding conifers and their ongoing threat to the protection of biodiversity and landscape values, the proposal should provide appropriate conditions on land proposed for freeholding to reduce or remove this threat.

Rationale for Allow or Disallow

The point raised relates to ecological sustainability and the protection of SIV's (biodiversity and landscape values). These are matters which can be properly considered under the CPLA. The

point raised is relevant to ecological sustainability and tenure review and is considered to be valid. The point is therefore allowed.

Rationale for Accept or Not Accept

Ecologically sustainable management of the reviewable land is an object of the CPLA. The need for conditions to control wilding conifers on the land to be freeholded is a matter not previously considered and therefore the point is accepted for consideration in the formulation of a Substantive Proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
27	Stock to be excluded from all areas designated for conservation.	10	Allow	Accept

Submitter 10 seeks that stock be excluded from CA1, CA2, CA3 and CC1. They have said that the regeneration of forest and shrubland will enhance vegetation cover adjacent to the streams that feed the Tenagawai River improving aquatic habitat, riparian habitat and water quality.

Rationale for Allow or Disallow

The reference to CC1 is dealt with at point 18 and CA3 is dealt with at point 17. No grazing is proposed for areas CA2 and CA1 (notwithstanding that there is some potential spill-over from CA3 into CA2) however submissions have been received arguing that grazing should be allowed in these areas. While the balance of the point relates to matters that are not in the proposed outcome they are matters that will be reopened for discussion as a result of public submissions and it is therefore considered that this point is relevant. The point relates to the protection of SIV's which is a matter that can be properly considered under the CPLA and the point is therefore allowed.

Rationale for Accept or Not Accept

The protection of SIV's is an object of the CPLA. Although the extent of grazing allowed within the reviewable land has been previously considered the submission process will result in a re-evaluation of those considerations. The submitter has articulated reasons why they suggest that cattle should be excluded, which relates to the protection of significant inherent values. The point has therefore been accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
28	Concern relating to spraying of CA1.	10	Disallow	N/A

Submitter 10 has said that spraying of weeds with broad-spectrum herbicides in CA1 should be avoided wherever possible.

Rationale for Allow or Disallow

No concession is proposed over CA1 and therefore it is assumed that the submitter is referring to the conservation management of this area which is not a matter that can properly be considered in terms of the CPLA.

Rationale for Accept or Not Accept

N/A.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
29	DoC should not have the power to close the proposed public access easement	3	Allow	Not Accept

Submitter 3 considers that DOC should not be given the power under clause 6 of the Easement in Gross (Appendix 6) to close the easement area.

Rationale for Allow or Disallow

Public access is a matter which can be properly considered under the CPLA. The point is relevant to the review and validly made and therefore allowed for further consultation.

Rationale for Accept or Not Accept

While public access is an object of the CPLA the public access provisions have been carefully considered in the development of the proposal to this point. The submitter does not introduce any new information. No reasons for the point made are articulated and therefore the point is not accepted for further consideration in the development of a Substantive Proposal.

Summary and Conclusion

Overview of analysis:

Eleven submissions were received from mainly non government environmental and recreation groups together with private individuals, a regional council, government agency, a farmer interest group, and the Holder.

The timing of the advertising appears to have been a factor in the submissions received. Between the finalisation of the preliminary proposal and advertising of the review new policies in relation to the high country were announced. The holder and other farming orientated submitters have taken the opportunity to express views on the proposal which could be said to orientate the direction of the review towards these new policies by expressing a desire to see less land being retained in Crown control and more going to freehold.

Nine out of the total of eleven submitters expressed statements of unqualified support for various aspects of the proposal and overall the proposal appears to have support.

A number of issues were raised in respect to the terms of both the public access easements and the easement concessions though the matters raised tend to be relatively minor and relate to issues such as maintenance and assignment provisions.

Some concern was expressed relating to the terms of the grazing concession with some submitters suggesting a shorter term and more monitoring of the effects of grazing.

A number of submissions were made in relation to the proposed Covenant are. Most submissions on this area suggested tighter protection measures or return to full Crown ownership.

From the 29 points derived from the 11 submissions received 21 were allowed (either fully or in part) for further consideration. 20 of the allowed points and sub-points were accepted for further consideration in the formulation of the draft Substantive Proposal.

Generic issues:

The generic issues identified were:

- Better protection of the CC1 area either through a tightening of the conditions of the covenant or retention in full Crown control.
- The effects of land use on water quality
- Proposals to shorten the grazing concession proposed and have more regular monitoring however these were offset by suggestions that the grazing concession are be freeholded with a covenant

Gaps identified in the proposal or tenure review process:

No real gaps were identified though it is apparent from the submission process that the Land Improvement Agreement could have been better better considered and integrated into aspects of the designations proposed.

Risks identified:

No risks identified.

General trends in the submitters' comments:

The most obvious trend in the submissions received was a general support of the proposal. Most submitters supported the proposal but had reservations about some aspects however these were far from uniform or consistent with some submitters advocating an extension of protection while others advocated an extension of the proposed freehold.

List of submitters:

A list of submitters is included in Appendix II and a summary of the points raised by submitters is included in Appendix III.

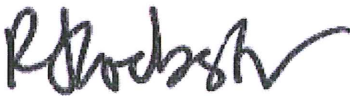
I recommend approval of this analysis and recommendations



Mike Todd – Work Group Manager, Property Consultancy

Date

Peer reviewed by



Bob Webster – Tenure Review Consultant

Date

I recommend approval

KMLee

18/3/10

KARYN MICHELLE LEE
PORTFOLIO MANAGER
CROWN PROPERTY MANAGEMENT
C/- LINZ, CHRISTCHURCH

Approved/~~Declined~~



Commissioner of Crown Lands

Date *19.3.10*

Mathew Clark (Manager Pastoral)
Land Information New Zealand
Under delegated authority of the
Commissioner of Crown Lands.

Appendices:

- I Copy of Public Notice
- II List of Submitters
- III Points Raised by Submitters
- IV Copy of Annotated Submissions

APPENDIX II

List of Submitters

Submitter Number	Date received	Submitter	Representative	Address
1	2/08/09	Geoff Clark		10 Smacks Close, Papanui, CHRISTCHURCH 8051
2	18/08/09	Federated Mountain Clubs of NZ (Inc)	Allan Evans	34 John Street, Temuka, SOUTH CANTERBURY
3	20/08/09	High Country Accord	Kit Mouat, Project Manager	PO Box 10021, Office 14, Richardson Terrace, CHRISTCHURCH 8145
4	24/08/09	Federated Mountain Clubs of NZ (Inc)	Phil Glasson, Secretary	PO Box 1604, WELLINGTON 6140
5	24/08/09	Fish & Game New Zealand - Central South Island Region	Devon Christensen, Resource Officer	32 Richard Pearse Drive, PO Box 150, TEMUKA
6	25/08/09	Andy & Sue McNab		Manahune, 88 Warratah Road, RD 17, FAIRLIE
7	27/08/09	Environment Canterbury	Cathie Brumley, Senior Resource Management Planner	58 Kilmore Street, PO Box 345, CHRISTCHURCH
8	27/08/09	New Zealand Walking Access Commission	Hunter Donaldson	Pastoral House, 25 The Terrace, PO Box 2526, WELLINGTON
9	28/08/09	Royal Forest & Bird Protection Society of New Zealand Inc	Fraser Ross, Field Officer, South Canterbury Branch	29a Nile Street, TIMARU 7910
10	28/08/09	Canterbury Aoraki Conservation Board	Ines Stager	C/- Brenda Preston, Department of Conservation, Private Bag 4715, CHRISTCHURCH
11	4/09/09	Russell and Janette Emmerson		Forest Range Station, PO Box 9 TARRAS 9347