



Land Information  
New Zealand  
*Toitū te whenua*

## **Crown Pastoral Land Tenure Review**

**Lease name : AIRIES**

**Lease number : PT 090**

## **Analysis of Public Submissions and 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 Crown Pastoral Land Act. 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.

**Dec**

**14**

**ANALYSIS  
OF  
PUBLIC SUBMISSIONS**

**AIRIES  
PASTORAL LEASE**



**ANALYSIS OF PUBLIC SUBMISSIONS****Statement Pursuant To Sec 45(a)(iii) Crown Pastoral Land Act 1998****AIRIES TENURE REVIEW NO 197****Details of lease:**

Lease name:	Airies pastoral lease.
Location:	Albury Range, approximately 5km east of Burkes Pass township.
Lessee:	Alastair Leonard Munro, Lucy Lilian Munro, Grant Andrew Munro and Elizabeth Anne Munro

**Public notice of preliminary proposal under s43 CPLA:**

Date advertised:	9 <sup>th</sup> August 2014.
Newspapers advertised in:	
- The Press	Christchurch
- The Otago Daily Times	Dunedin
- The Timaru Herald	Timaru.
Closing date for submissions:	3 <sup>rd</sup> October 2014.

**Details of submissions received**

Number received by closing date:	3
No late submissions were received.	
Cross-section of groups/individuals represented by submissions: Two submissions were received by non government organisations, and one submission from a private individual.	

## 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 points numbered on the same basis.

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	The freehold disposal of the whole pastoral lease is opposed, and those areas proposed to be subject to Open Space Covenant should be retained by the Crown as conservation land.	1	Allow	Accept

The submitter opposed the freehold disposal of the entire property, and suggested the areas proposed to be subject to Open Space Covenant should be retained by the Crown as conservation land, since those areas have important natural values, and this would allow those areas to be managed to fully protect and retain those important natural values for the long term.

### Rationale for Allow or Disallow

The point relates to the protection of significant inherent values through the retention of land under Crown ownership, which is relevant under sections 24(b)(ii) and section 35(2) CPLA. The point has therefore been allowed.

### Rationale for Accept or Not Accept

The appropriate designation of the areas concerned has been previously considered, but the submitter articulated a reason for suggesting an alternative outcome, being that the areas concerned have important natural values which could be managed and fully protected for the long term if retained as conservation land. The point has therefore been accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
2	The intention to remove wilding trees is supported.	1	Allow	Accept

The submitter supported the intention to remove wilding trees from the property, which the submitter stated are now growing and spreading widely across the area.

### Rationale for Allow or Disallow

The control of wilding trees can relate to ecological sustainability and the protection of significant inherent values, which are relevant considerations under s24(a)(i) and section 24(b) CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

The point is accepted because it is a statement of support for an aspect of the proposal.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3	Provisions should be made for public access.	1,2,3	Allow	Accept

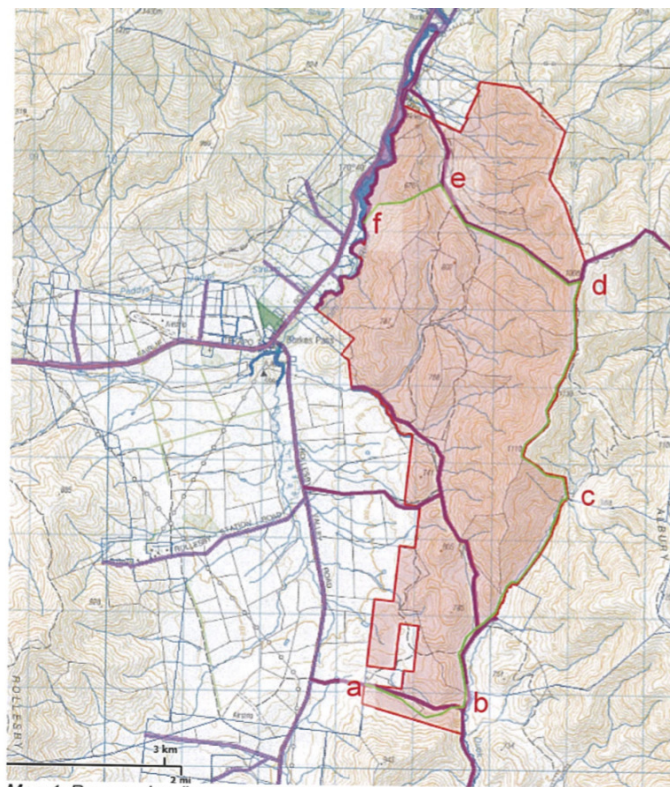
Submitter 1 was concerned that no public access is provided. The submitter stated that QEII covenants usually allow for public access, and that there should be formalized public access to the conservation areas at least. The proposal does not include any conservation areas, but it is noted that submitter 1 suggested the covenant areas in the preliminary proposal should be conservation areas.

Submitter 3 also suggested that there should be public access to areas proposed for protection C1, C2, C3 and C4, but they suggested QEII covenants do not provide any ability for public access. They propose conservation covenants for these areas under the Conservation Act 1987 which they state allow for public access to the land in question.

Submitter 2 suggested that the proposal should include a walkway to provide public access along a route a-b-c-d-e-f illustrated on map 4 in their submission, as shown.

The submitter indicated Burkes Pass and Fairlie are heritage and recreation areas on a major tourist route, with tourism being a significant industry in the area. They suggested this tenure review offers the opportunity to enhance public access and recreational initiatives in the area and provide further economic benefits to the locality.

The submitter indicated the proposed route would offer a 6km walk from the Opihi River to the ridge of the Albury Range, offering spectacular views, and a whole day 12km walk taking in the valleys and ridgeline experiences. The submitter regards the area as having high scenic and recreational value.



Map 4: Proposed walkway around Aries pastoral lease (a-b-c-d-e-f)

The submitter proposed that this access should be created as a walkway under the Walking Access Act 2008.

**Rationale for Allow or Disallow**

The point relates to the securing of public access to and enjoyment of the reviewable land, which is an object of tenure review under section 24(c)(i) CPLA. It is noted that the creation of a walkway under the Walking Access Act 2008, as suggested by submitter 2, is enabled as protective mechanism (section 2 CPLA)<sup>1</sup>. The point has therefore been allowed.

**Rationale for Accept or Not Accept**

Public access was not mentioned in the Summary of the Preliminary Proposal since no public access was included in the proposal. However, the provision of public access was considered via a number of routes in the development of that proposal.

However, while access along various routes to Duck Stream and the Albury Range were considered, access to the other areas proposed for protection by covenant, as suggested by submitters 1 and 3, was not the subject of much consideration, and the specific route proposed by submitter 2 is a perspective not previously considered. The suggestions of the submitters have therefore been accepted for further consideration.

**Summary and Conclusion****Overview of analysis:**

Only three public submissions were received. Two submissions were received from non government organisations and one submitter was received from a private individual.

One submitter suggested the areas proposed to be protected by covenant should be retained by the Crown as conservation land to better protect values, but apart from that the main concern related to a desire for the provision of public access, either to the areas in the preliminary proposal designated for protection by covenant, or along specific suggested routes.

**Generic issues:**

The key generic issues identified were:

- Concern for the provision of public access
- Concerns as to whether QEII covenant is the most appropriate mechanism for the protection of the areas concerned, taking into account the protection of values, or public access.

**Gaps identified in the proposal or tenure review process:**

No gaps in the proposal were identified by the submitters, although submitter 2 was critical that the matter of public access was not discussed in the Summary of the Preliminary Proposal document provided to the public.

<sup>1</sup> Section 2 CPLA defines that a “protective mechanism” may include an easement under section 8 of the New Zealand Walkways Act 1990. The New Zealand Walkways Act 1990 was repealed on 30<sup>th</sup> Sept 2008 by section 81 of the Walking Access Act 2008.

Risks identified:

No risks identified.

General trends in the submitters' comments:

Discussed under generic issues above.

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.



**Appendices:**

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

# **APPENDIX I**

## **Copy of Public Notice**

**Land  
Information  
New Zealand** Logo

## **CROWN PASTORAL LAND ACT 1998**

### **AIRIES TENURE REVIEW**

#### **NOTICE OF PRELIMINARY PROPOSAL**

Notice is given under Section 43 of the Crown Pastoral Land Act (CPLA) 1998 by the Commissioner of Crown Lands that he has put a Preliminary Proposal for tenure review to Alastair Leonard Munro, Lucy Lilian Munro, Grant Andrew Munro and Elizabeth Anne Munro as lessees of Auries pastoral lease.

#### ***Legal description of land concerned:***

Pastoral lease land:

Run 295 being all that land contained in Instrument of Title CB529/234 (Canterbury Land Registry) comprising 1655.9736 hectares more or less.

#### ***General description of the Proposal:***

The whole pastoral lease of approximately 1655.9736 hectares is to be designated as land to be disposed of by freehold disposal to the Holders, Alastair Leonard Munro, Lucy Lilian Munro, Grant Andrew Munro and Elizabeth Anne Munro, as persons specified under Section 35(3) Crown Pastoral Land Act 1998.

This land will be subject to an Open Space Covenant under Section 22 of the Queen Elizabeth the Second Trust Act 1977 in perpetuity in four separate areas totalling approximately 409 hectares, as a protective mechanism under Sections 40(1)(c) and 40(2)(a) Crown Pastoral Land Act 1998.

Further information, including a copy of the Proposal document which includes the designation plan and the draft covenant, is available on request from LINZ at the following address:

Commissioner of Crown Lands  
Land Information New Zealand  
Crown Property  
CBRE House, 112 Tuam Street  
Private Bag 4721  
CHRISTCHURCH 8140  
Phone: 0800 665 463 (Option 7)  
Email: [pastoral&tenurereview@linz.govt.nz](mailto:pastoral&tenurereview@linz.govt.nz)

#### **Inspections:**

Any person wishing to inspect the lease should contact LINZ in the first instance at the above address.

**Submissions:**

Any person or organisation may send a written submission on the above proposal to the Commissioner of Crown Lands at the above address.

All submissions are being collected and held by LINZ either directly or through its agents or contractors.

Submitters should note that all written submissions may be made available, in full, by LINZ to its employees, agents and contractors, the Department of Conservation and the public generally.

**Closing date of submissions:**

Written submissions must be received by the Commissioner of Crown Lands at the above address no later than 5pm Friday 3<sup>rd</sup> October 2014.

## **APPENDIX II**

### **List of Submitters**

Submitter number	Date received	Submitter	Representative	Address
1	1 Oct 2014	Fraser Ross		46 Selwyn St, TIMARU.
2	3 Oct 2014	NZ Walking Access Commission	Mark Neeson, Chief Executive	PO Box 12348, Thorndon, WELLINGTON 6144
3	3 Oct 2014	Federated Mountain Clubs of New Zealand	Peter Wilson, Vice President	Federated Mountain Clubs, PO Box 1604, WELLINGTON

## **APPENDIX III**

### **Points Raised by Submitters**

Point Raised	Number of submitters	Details of point raised			Details of point raised
1	1	1			The freehold disposal of the whole pastoral lease is opposed, and those areas proposed to be subject to Open Space Covenant should be retained by the Crown as conservation land.
2	1	1			The intention to remove wilding trees is supported.
3	3	1	2	3	Provisions should be made for public access.



## **APPENDIX IV**

### **Copies of Submissions**

# Submission 1

Commissioner of Crown Lands  
Crown Property  
PB 4721  
**Christchurch 8140**

**Submission:**

**Crown Pastoral Land Act 1998  
Airies Tenure Review  
Preliminary Proposal**

Re the review of Tenure of Airies Pastoral Leasehold land I am not in support of the Proposal as documented. I oppose the intention that the whole pastoral leasehold land, of approximately 1655.9736ha. be disposed of by freehold disposal in its entirety.

Those areas of land that are proposed to be subject to an *Open Space Covenant* under Section 22 of the Queen Elizabeth II Act 1977 in perpetuity, in four separate areas totalling 409ha, must, I ask, be fully retained by the Crown as Conservation Land. Because important natural values exist on those areas proposed for disposal. And it would be consistent with the Crown Pastoral Land Act 1988 for that to be implemented. If retained as conservation land then those areas can be managed to fully protect and retain those important natural values for the long term.

Also some parts of Airies Pastoral Lease are visible from the nearby State Highway and so form part of the scenic vistas seen by many people who travel that route including visitors from overseas.

The intention to remove wilding trees is supported which are now growing and spreading widely across not only the pastoral leasehold land but on other nearby land as well.

Also I am most concerned that provision has not been made to provide public access to the Pastoral Leasehold Land even if the proposal to place Covenants on some of the property is implemented. For most QEII Covenants it is usual to allow for public access with exceptions say at lambing time. So, regardless of the outcome of the land tenure, I ask that there be formalised public access to the conservation areas at least.

And, in the past, for most properties, there has been a split of the pastoral lease land between that which is retained for conservation purposes and that which is to be disposed of for freehold activities. I ask why this has not happened in this instance and question if the intentions and legal requirements of the CPL Act 1988 have been fully complied with. Where such intentions and requirements appear to be included and mandatory.

I trust that my opposition to the total disposal of the pastoral leasehold land on *Airies* Pastoral Lease be taken fully into account when the final decisions are made on this Preliminary Proposal.

Yours sincerely

Fraser B Ross  
46 Selwyn St  
**Timaru 7910**

Ph - 03 6843382    email: [fraserross@clear.net.nz](mailto:fraserross@clear.net.nz)

## Submission 2

3 October 2014

Commissioner of Crown Lands  
Land Information New Zealand  
Crown Property  
Private Bag 4721  
**CHRISTCHURCH 8140**

## **Preliminary Proposal for Tenure Review of Airies Pastoral Lease, Pt 090. Submission from the Walking Access Commission**

Thank you for the opportunity to comment on the Preliminary Proposal (Proposal) for the tenure review of the Airies pastoral lease. As you will appreciate, this is the first opportunity that the New Zealand Walking Access Commission (the Commission) has had to comment on this proposal.

The following submission should be considered as new information as, to-date, the tenure review planning, extensive discussion and consultation have been undertaken without input from the Commission – the statutory body established in 2008 to lead and support public access negotiations.

The Commission's public access statutory role is described below, under section A. Introduction, and the detailed submission is presented in section B. Submission.

In summary, the Commission **seeks** to have a practical and enduring public access route provided from the south-western boundary to the north-western boundary of the property. This will provide a very desirable public access recreational opportunity at the northern end of the Albury Range that is easily accessible to the local residents of Burkes Pass and Fairlie and also visitors in this popular tourist area.

### **A. Introduction**

#### **Purpose, objective and functions of the NZ Walking Access Commission**

The Walking Access Act 2008 (WA Act) (sections 3, 9 and 10) sets out the purpose, objective and functions of the NZ Walking Access Commission. Central to its role is the Commission's leadership functions in negotiation and provision of free, certain, enduring and practical access to the outdoors for New Zealanders and visitors.

#### **Focus of submission is public access**

The Commission's submission on the Proposal for Airies is designed, as envisaged by the WA Act, to focus on the achievement of free, certain, enduring and future-focused public access in this area of New Zealand.

The Commission's submission is in line with the objectives of the Crown Pastoral Land Act 1998 (CPL Act), in particular section 24(c) which is to make easier the securing of public access to and

enjoyment of reviewable land. Specifically, our submission addresses the public access and public enjoyment matters provided for in the protection mechanism subsections (2) (c) and (d) of section 40 of the CPL Act.

The Commission was not consulted during the preparation of this Proposal. This submission should, therefore, be considered as new information provided by the Crown agency with statutory responsibility<sup>1</sup> for leading and supporting the negotiation, establishment, maintenance, and improvement of –

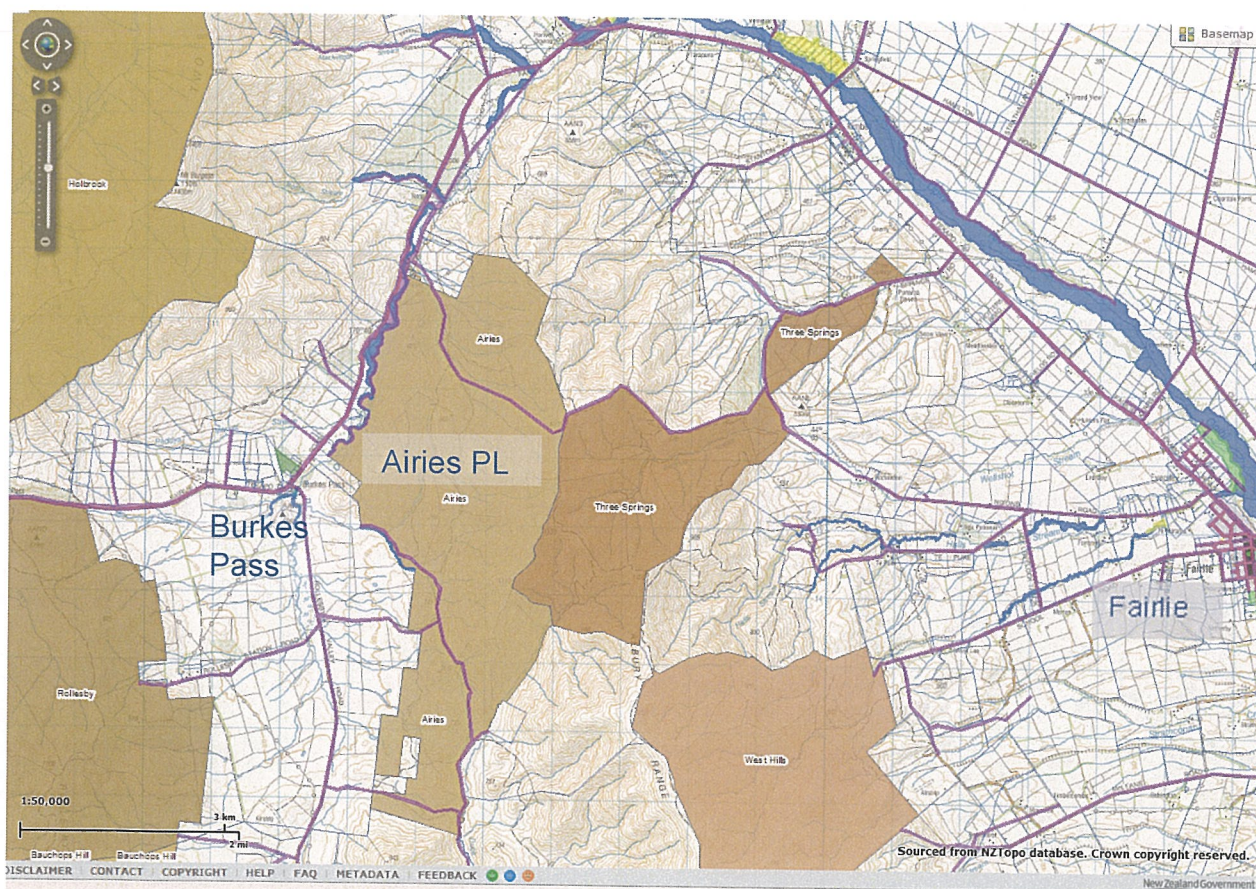
- walking access (including walkways, which are one form of walking access) over public and private land; and
- types of access that may be associated with walking access, such as access with firearms, dogs, bicycles, and motor vehicles.

## Location of Airies pastoral lease property

The Airies property is located at the north-west end of the Albury Range, see Map 1 below. It is on the outskirts of Burkes Pass Township, approximately 26 km west of Fairlie on State Highway 8.

Burkes Pass and Fairlie are heritage and recreation areas on the major tourist route from Christchurch to the Mackenzie basin, Mt Cook and Queenstown. Tourism is a significant industry in the area with skiing, fishing, hunting and all-year-round hiking and climbing keeping the towns busy.

The property is a backdrop for travellers on the busy tourist route between Canterbury and the Southern Lakes and this tenure review offers the opportunity to enhance public access and recreation initiatives in this popular area, providing further economic benefits to the locality.



Map 1: Location of Airies and nearby pastoral leases

[Source: [www.wams.org.nz](http://www.wams.org.nz)]

<sup>1</sup> Section 3(b) Walking Access Act 2008

## B. Submission

The objectives of tenure review, as set out section 24 CPL Act include protecting the significant inherent values of reviewable land and to make easier the securing of public access to and enjoyment of reviewable land. In the CPL Act, “inherent values” includes recreational values.

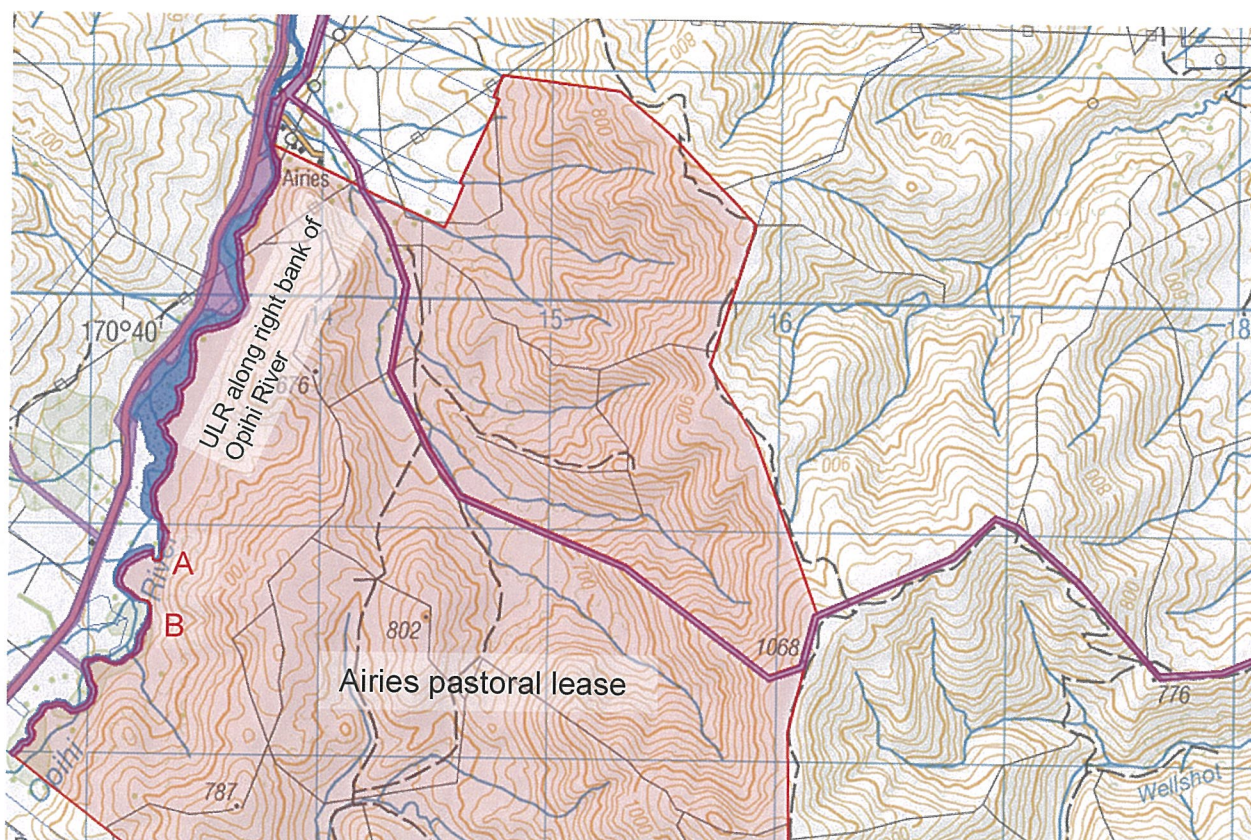
Section 25 of CPL Act requires the Commissioner of Crown Lands to take public access into account to the extent that it is applicable.

Of concern is the lack of reference to public access in Land Information NZ’s *Summary of Preliminary Proposal (August 2014)*. This apparent lack of consideration of public access is at complete odds with section 24(c)(i) CPL Act and reinforces the need for the NZ Walking Access Commission to make this submission to identify and secure desirable public access. This submission would appear, therefore, to be the first time public access has been considered formally in the context of this tenure review.

### Existing public access

An unformed legal road (ULR) adjoining the true right of the Opihi River forms the north-western boundary of the pastoral lease. This ULR is accessible from the Fairlie-Tekapo Road (SH8) through the Opihi riverbed.

However, is not continuous along the western boundary of the property. There are two gaps, shown as ‘A’ and ‘B’ in Map 2 below.



Map 2: ULR on west boundary and through northern section of property

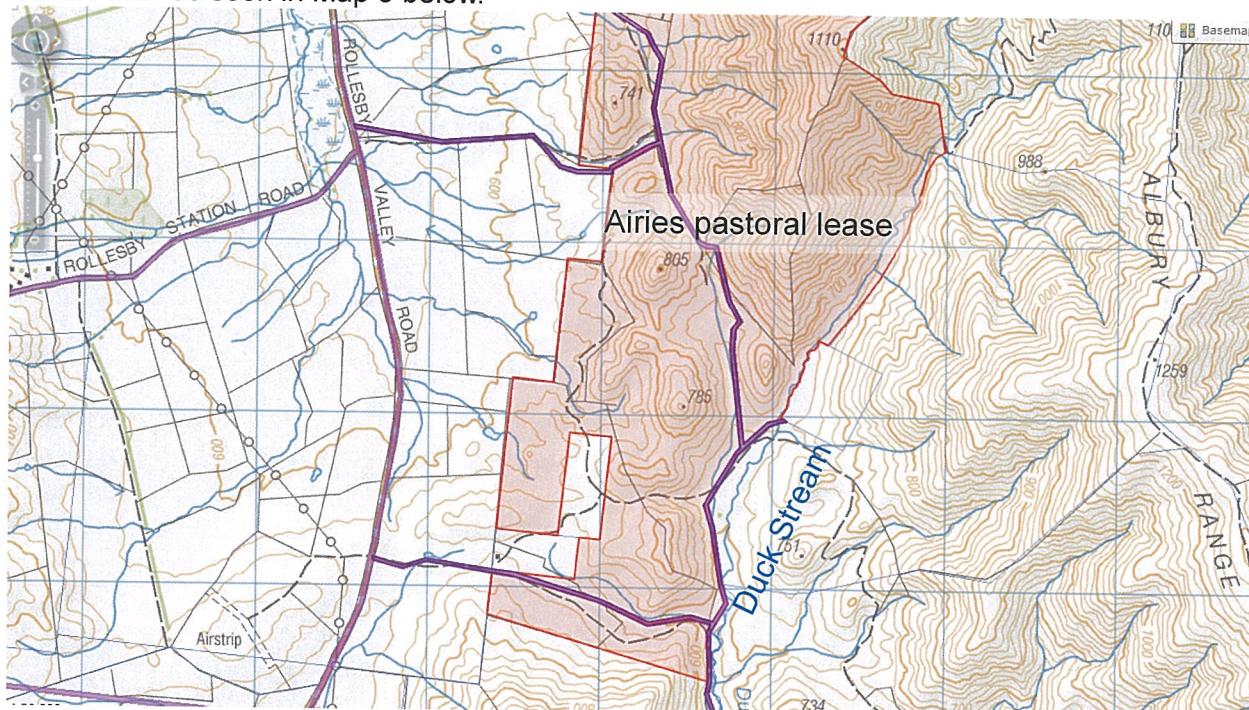
[Source: [www.wams.org.nz](http://www.wams.org.nz)]

Legal public access to the south western boundary of the property is by two ULRs off the Rollesby Valley Road. These ULRs connect with an ULR near Duck Stream, which runs approximately north-south along the foothills of the property.

The south eastern boundary of the Airies pastoral lease is the ULR in the vicinity of Duck Stream,



as can also be seen in Map 3 below.



Map 3: Legal access off Rollesby Valley Road

[Source: [www.wams.org.nz](http://www.wams.org.nz)]

## Marginal Strips

The 2008 Qualifying Water Bodies report (Waterways on Airies Station – Inspection Report) indicates that both the Opihi River and Duck Stream are of sufficient width that on disposition of the pastoral lease, marginal strips will be created on any land adjoining these waterways.

## Public access proposed in the Preliminary Proposal

There is no public access proposed in the Preliminary Proposal.

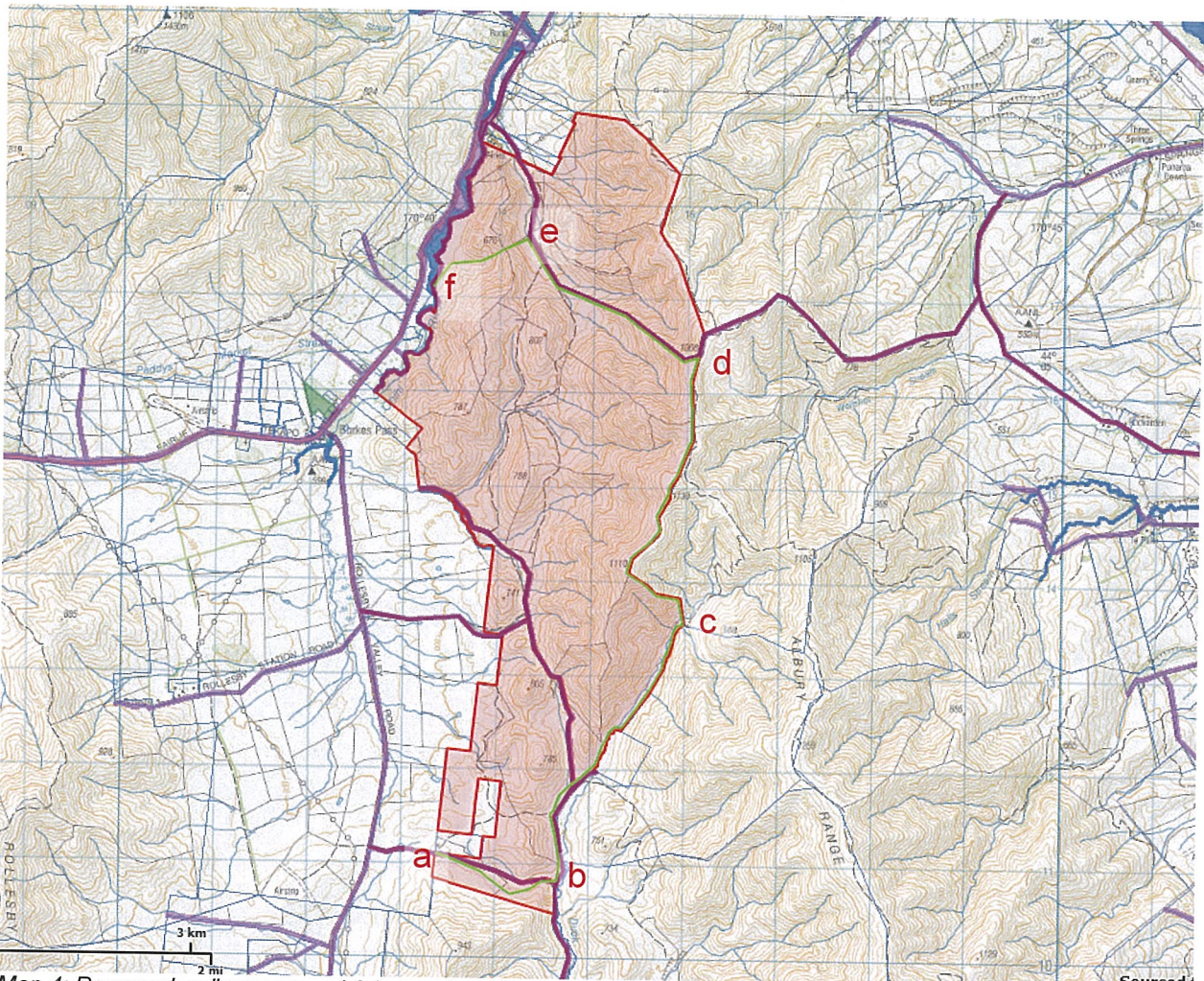
## Additional public access sought

This tenure review offers the opportunity to secure public access to and the enjoyment of this reviewable land by establishing a walkway from the unformed legal road at the south, thence northwards along the eastern boundary along Duck Stream, northwest and northwards via spot heights 1110, 1130 and 1068m thence north-westwards and westwards to exit along a practical route, via the saddle below spot height 676, to the Opihi River.

This route, shown as 'a-b-c-d-e-f' on Map 4 below, will provide several public access opportunities including a 6 km return walk from the Opihi River to the ridge on the Albury Range with its spectacular views and a whole day 12 km walk around the eastern boundary of the property taking in river vales and ridgeline experiences.

Establishing a walkway under the Walking Access Act 2008 provides statutory liability protection for the landholder and a robust, statutory management and compliance regime to ensure appropriate behaviour on the walkway.

Establishing this walkway meets the specific objectives of the Crown Pastoral Land Act and the priorities of the Walking Access Act 2008 for walkways over private land by providing access to areas of high scenic and recreational value.



Map 4: Proposed walkway around Aries pastoral lease ('a-b-c-d-e-f')

Sourced from [Source: [www.wams.org.nz](http://www.wams.org.nz)]

## Conclusion

The Commission **seeks** to have a practical and enduring walkway provided from the south western boundary to the north western boundary of the property, incorporating the northern end of the Albury Range.

Thank you for the opportunity to make a submission on the Preliminary Proposal for tenure review of the Airies pastoral lease.

We request timely advice as to how all the points we have raised have been analysed and what amendments, if any, are subsequently proposed to the Preliminary Proposal designations.

Yours sincerely

Mark Neeson  
Chief Executive

## **Submission 3**

The Commissioner of Crown Lands  
Land Information New Zealand,  
Crown Property and Investment,  
Private bag 4721,  
Christchurch 8140

By email: [pastoral&tenurereview@linz.govt.nz](mailto:pastoral&tenurereview@linz.govt.nz)

03 October 2014

Dear Sir / Madam

### **Airies Station Tenure Review Preliminary Proposal**

Submission from the Federated Mountain Clubs of New Zealand Incorporated

#### **Introduction**

1. I write on behalf of Federated Mountain Clubs of NZ Inc. (FMC) which represents over 17,000 members of tramping, mountaineering, climbing and other outdoor clubs throughout New Zealand. We also indirectly represent the interests and concerns of many thousands of private individuals who may not currently be members of clubs but who enjoy recreation in the back country. On their behalf, FMC aims to enhance recreation opportunities, to protect natural values, especially landscape and vegetation, as well as historic values and to improve public access to the back country through the tenure review process.
2. FMC fully supports the objectives of tenure review as set out in the Crown Pastoral Land (CPL) Act 1998, and government's stated objectives for the South Island high country especially the following:-

- to promote the management of the Crown's high country in a way that is ecologically sustainable.
- to protect significant inherent values of reviewable land by the creation of protective measures; or preferably by restoration of the land concerned to full Crown ownership and control.
- to secure public access to and enjoyment of high country land.
- to ensure that conservation outcomes for the high country are consistent with the NZ Biodiversity Strategy.

[EDC Min (03) 5/3; CAB Min (03) 11/5 refer]

\* Note that regardless of the changes of government and of governments' policies, these objectives are still the law as stated in the Crown Pastoral Land Act 1998.

3. We believe that these additional objectives (introduced by the last government), are fundamental to the future well-being of the South Island high country and should be given appropriate weight in the tenure review process.

### **Key submission points**

4. This submission addresses those matters that are relevant for the Commissioner to consider under Part 2 of the Crown Pastoral Land Act 1998.
5. In this submission we present our views and recommendations in the same format as the preliminary proposal quoted above.
6. *Appendix 4 – the land shown in yellow on the plan to be disposed in freehold to the Holders, subject to a QEII covenant and marked as C1,C2,C3,C4.*

FMC opposes this proposal, because a QEII covenant does not contain any ability for the public to access this land. We agree that the area has significant conservation, landscape, and public access values, sitting within a viewshed on the eastern side of the highway to Burkes Pass.

**Relief sought**

7. FMC considers that a more appropriate covenant for the land is a conservation covenant under the Conservation Act 1987, which allows for public access to the land in question.
8. Thank you for the opportunity to submit.

Yours sincerely,

Peter Wilson

Vice President,

Federated Mountain Clubs of New Zealand Incorporated

**Address for Service**

Federated Mountain Clubs

P O Box 1604

Wellington 6104