

Crown Pastoral Land Tenure Review

Lease name : *CABERFEIDH*

Lease number : PT 134

Analysis of 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.

May

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**ANALYSIS
OF
PUBLIC SUBMISSIONS

CABERFEIDH**



ANALYSIS OF PUBLIC SUBMISSIONS

Statement Pursuant To Sec 45(a)(iii) Crown Pastoral Land Act 1998

CABERFEIDH TENURE REVIEW NO 286

Details of lease

Lease name:	Caberfeidh pastoral lease
Location:	Kirkliston Range, 10 km north of Kurow
Lessee:	Star Holdings Limited

Public notice of preliminary proposal

Date advertised:	Saturday 22 nd October 2011
Newspapers advertised in:	<ul style="list-style-type: none">• The Press Christchurch• The Otago Daily Times Dunedin• The Timaru Herald Timaru
Closing date for submissions:	20 th December 2011

Details of submissions received

Number received by closing date:	5
Cross-section of groups/individuals represented by submissions:	

Submissions were received from a non government environmental organisation, a Crown entity, a Trust and private individuals.

Number of late submissions refused/other:	Nil
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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	Statements of support for aspects of the proposal.	1, 4, 5	Allow	Accept

Rationale for Allow or Disallow

Submitter 1 supports the creation of covenant CC over the area encompassing the rabbit fence.

Submitter 4 supports the creation of all the easements. They have also made a number of requests to amend the conditions of the easements, suggested extensions to the easements and suggested additional easements be created, as outlined in the points 7, 8, 9, 10 below.

Submitters 5 supports the creation of conservation areas CA1 and CA2, they have also suggested these areas be extended as outlined in points 11 and 12 below. Submitter 5 supports the proposed easements “a-b” and “c-d”, they suggested an extension to “a-b” as outlined in point 16 below. They also provided support for protecting the historic rabbit fence within the lower part of the covenant.

The above statements of support are validly made, are relevant to the tenure review and can be properly considered under the CPLA. The statements of support relate to most aspects of the proposal. General statements of support for the proposal relate to Sections 24(a), 24(b) and 24(c) of the CPLA. These statements of support have therefore been allowed for further consideration.

Rationale for Accept or Not Accept

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 (Sub-points a & b)	The wording of the covenant conditions should be amended to provide better protection of the historic values.	1	Allow in part (being Sub-point a)	Accept in part (being Sub-point a)

Rationale for Allow or Disallow

Sub-point (a)

Amend the conditions in Schedule 2 of the covenant and ensure Covenant CC captures the Rabbit Fence:

Submitter 1 seeks to ensure the proposed covenant CC encompasses the South Canterbury Rabbit Fence dated 1888 (NZAA site I40/87), and wants the conditions in Schedule 2 of the covenant amended to provide better protection of the archaeological sites. They point out the sites predate 1900 and are protected as archaeological sites under the Historic Places Act 1993, and further stress the significance of the rabbit fence as the only Government funded rabbit fence in New Zealand. They have suggested the wording of the Covenant conditions in Schedule 2 is altered as follows:

“Work affecting the archaeological sites, including standing structures erected prior to 1900, is subject to the archaeological authority process under the Historic Places Act 1993. An authority (consent) from the New Zealand Historic Places Trust (NZHPT) must be obtained prior to the commencement of any earthworks, construction or clearance that could cause damage to historic values on the covenant area. In particular, any modification of the fence or hut including, but not limited to, the replacement of wires and posts will require an authority from NZHPT. It is an offence to modify damage or destroy a site for any purpose without an authority. The Historic Places Act 1993 contains penalties for unauthorised site damage.”

The covenant currently does not include a clause related to the requirement of an authority consent from the New Zealand Historic Places Trust and therefore it is interpreted the submitter is requesting an additional clause be added to the covenant.

The sub-point relates to the protection of historic significant inherent values. Section 24(b) of the CPLA relates to the protection of significant inherent values, so this sub-point has been allowed for further consideration.

Sub-point (b)

Supply the Historic Report to the owners:

Submitter 1 have further suggested, subject to permission from DoC and NZHPT, that the Historic Resources Report for Caberfeidh Pastoral Lease be supplied to the prospective owners. The distribution of reports produced by DoC and/or NZHPT is not a tenure review matter and cannot be considered under the CPLA, therefore the sub-point has been disallowed.

Rationale for Accept or Not Accept

Sub-point (a)

The sub-point relates to objects and matters that can be taken into account in the CPLA, as discussed above. Although this matter has been considered before, the submitter has articulated reasons why they prefer an alternative outcome, being the historical significance of the rabbit fence as discussed above. In this case the alternative outcome is to amend the covenant conditions resulting in more protection of the historic values. This additional protection is provided by adding a clause that highlights an authority consent from the NZHPT is required prior to commencing any work that could damage historic values (sites and structures) built before the year 1900. The clause also outlines that it is

an offence to carry out any work on these sites and structures without an authority consent with penalties under the Historic Places Act 1993. Their reasons are emphasised by the importance they place on the rabbit fence, being built before 1900 and as the only Government funded rabbit fence in New Zealand.

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

Sub-point (b)

N/A

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3	Proposed easement "e-f" should be removed from the proposal.	2, 3	Allow	Accept
Rationale for Allow or Disallow				

Submitter 2 has expressed concern with the proposed easement "e-f". They advised the easement would finish at their boundary and they cannot allow access through their property as this block runs hinds and is therefore very dangerous in the mating season when the stags are out. They also advised during the fawning season, October to January the block needs to be left undisturbed to ensure the hinds do not leave their young. Although the submitter has not requested the easement be removed from the proposal, it is interpreted that this is their wish given their concerns about the public entering their property

Submitter 3 has said the public access points between points "f" to "e" need to be removed from the plan. They consider this proposed access easement serves no purpose and advised that visitors to the property during tenure review have all agreed it serves no purpose.

The submitters' point is relevant to the tenure review and can be properly considered under the CPLA. Provisions of public access and public access easements are matters that can be considered in tenure review under the CPLA and therefore the point has been allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. The submitters have introduced a perspective not previously considered and have given reasons for an alternative outcome and therefore the point has been accepted for further consideration in the formulation of the Substantive Proposal.

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Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4	Proposed fence line "W-X" should be erected in consultation with the land owner.	3	Allow	Not Accept
Rationale for Allow or Disallow				

Submitter 3 has said the proposed fence line must be erected in consultation with the land owners to ensure the fence line does not trap stock behind it. They have further pointed out that there may be a need for gates to be installed and the fence ended in an appropriate place to ensure stock are not trapped behind it.

The submitter's point is relevant to tenure review and can be properly considered under the CPLA. Appropriate fencing to ensure stock are not trapped within conservation areas relates to the protection of significant inherent values. Section 24(b) of the CPLA relates to the protection of significant inherent values and therefore the point has been allowed for further consideration.

Rationale for Accept or Not Accept

The detailed layout of the fence line in terms of specific lines each small section takes in relation of the hill slope, around ground obstacles, the location of gates are also tenure review matters. These details are always determined during a later stage of tenure review during boundary fixing (pre-implementation survey) in consultation with the Holder and a fencing advisor in the field. It is possible the Holder and his representative did not fully appreciate this and therefore made a submission to ensure it does happen.

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. The submitter has provided a reason with their submission, being the importance to consult with the land owner to ensure the fence is constructed in an appropriate way so that stock are not trapped behind it. However, the point relates to a part of the tenure process that occurs during a later stage and therefore the point is neither new information (or a perspective not previously considered); nor is it an alternative outcome and therefore cannot be 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
5	Clearly identify on the plan, waterways that qualify for marginal strips, or at least outline them in the PP summary.	4	Disallow	N/A
Rationale for Allow or Disallow				

Submitter 4 has suggested the identification of qualifying waterways is a key factor when considering the adequacy of public access proposed in tenure reviews.

The point is related to the depiction of what the submitter believes to be relevant information within pastoral lease status plans and the PP summary. LINZ has determined that marginal strips are not a matter able to be dealt with by the Crown Pastoral Land Act and 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
6 (Sub-points a & b)	Marginal strips should be created and managed to ensure practical and unobstructed public access.	4	Disallow (Sub-points a & b)	N/A (Sub-points a & b)

Rationale for Allow or Disallow

Sub-point (a)

Marginal strips should be created wide enough to provide effective access along them:

Submitter 4 wants to ensure marginal strips to be created within the lease will be created with sufficient width to enable practical public access. They have also made a general request that marginal strips extend to join with the conservation areas. The submitter also suggested the Farm Stream marginal strip could be widened to connect with the legal road.

Sub-point (b)

Access along marginal strips should be unimpeded by structures:

Submitter 4 has also requested that marginal strips should have unobstructed public access along them, with the use of stiles and/or gates as appropriate in any fence which may cross over a marginal strip:

Marginal strips will be laid off on qualifying water bodies on land that is disposed of as freehold land through tenure review. However, the creation of marginal strips is not a matter that can be considered under the CPLA and therefore both sub-points are disallowed.

Rationale for Accept or Not Accept

N/A

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Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
7	The proposed easements should have unrestricted public access without any annual closure periods, particularly easement “b-a”.	4	Allow	Accept
Rationale for Allow or Disallow				

The submitter requests to have unrestricted public access over all the public access easements. They consider there is inadequate justification and insufficient information provided to warrant annual closure periods on all the easements. They then provide more detail by stating there should be at least one easement route where unrestricted public access is available, and preferably it should be “b-a” because this provides for legal access from Milne Road to conservation area CA1.

The submitter’s point is relevant to the tenure review and can be properly considered under the CPLA. Requests for unrestricted public access relates to creating better provisions for public access over proposed freehold land. The securing of public access to the reviewable land is an object of tenure review under Section 24(c)(i) of the CPLA and therefore the point has been allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. Although closure periods over all the easements have been previously considered, the submitter has provided reasons for an alternative outcome, being that there has not been enough justification provided to warrant closure periods, and that easement “b-a” is an important access route and therefore should not have any restrictions placed on it.

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
8	Easement “f-e” should be extended (T junction part way along easement) to connect with the legal road north of Station Stream.	4	Allow	Accept
Rationale for Allow or Disallow				

The submitter notes there no legal public access to point “f” located on the boundary of the property near Station Stream. They also note the track which the first part of the easement follows, appears to be located within 30 to 50 metres of the legal road north of Station Stream that runs along the property boundary. They have suggested a T junction (our terminology) branching off easement “f-e” on a plan in their submission, labeled as “g-h”.

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They acknowledge the legal road is unformed, but consider connecting the legal road to the proposed easement “f-e” will enhance possible future access possibilities.

Securing of public access to the reviewable land is an object of tenure review under Section 24(c)(i) of the CPLA and therefore the point has been allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. Although the extent of the proposed easements and access to them has been well considered and consulted on, the submitter has articulated reasons why they prefer an alternative outcome. 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
9 (Sub-points a & b)	Easement “c-d” should be extended to secure legal access to point “d”.	4	Allow (Sub-points a & b)	Accept (Sub-points a & b)

Rationale for Allow or Disallow
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The same submitter as submitted in point 8 above also notes there is no legal public access to point “d” located on the boundary of the property near Farm Stream. They acknowledge the Department of Conservation is attempting to secure access across existing freehold land outside of tenure review but consider there should be alternative options secured within tenure review to create certainty. They have suggested two possibilities which are outlined as two sub-points below. They have also suggested a clause whereby any extension they are proposing could be replaced by the one Doc are negotiating with the Holder outside the lease if DoC are successful in those negotiations.

Sub-point (a)

Extend easement “c-d” over an existing track:

The submitter has suggested extending easement “c-d” northwards over the existing track to the lease boundary at Farm Stream. It is not entirely clear how far northwards the submitter is suggesting, but it is assumed they might be anticipating it would connect with the marginal strip on Farm Stream.

Sub-point (b)

Extend easement “c-d” south along the lease boundary to the legal road:

The submitter’s alternative suggestion is to extend easement “c-d” south along the lease boundary to connect with the legal road near the southern boundary of the lease.

Securing of public access to the reviewable land is an object of tenure review under Section 24(c)(i) of the CPLA and therefore the sub-points have been allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. Although the location of the easements and access to them has been well considered and consulted on, the submitter has articulated reasons why they prefer an alternative outcome. 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
10	An additional public access easement should be provided from the legal road by Farm Stream to the marginal strip to be created on Farm Stream.	4	Allow	Accept

Rationale for Allow or Disallow

The submitter is suggesting an additional short easement to link the legal road located along the property boundary near Farm Stream to the marginal strip to be created on the true left of Farm Stream. They have shown their proposed easement as “i-j” on an aerial photo in their submission. The purpose of this easement is to achieve direct access to CA2. Point 19 below outlines an alternative approach to achieve the same outcome.

Securing of public access to the reviewable land is an object of tenure review under Section 24(c)(i) of the CPLA and therefore the point has been allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. Although the provision of easements has been well considered and consulted on, the submitter has provided reasons for an alternative outcome, being the need to provide access to CA2.

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
11	Conservation Area CA1 should be extended down to the rabbit proof fence and include the side gullies of the water catchment.	5	Allow	Accept

Rationale for Allow or Disallow

Submitter 5 considers Conservation Area CA1 should be extended down to the rabbit proof fence including the floor of the valley and the side gullies of the water catchment to better protect the water supply and indigenous vegetation.

They point out that CA1 is part of a community water supply catchment for the Hakataramea Valley and its protection is beneficial to maintaining the water quality for downstream users. They therefore consider that a greater area than CA1 should be protected to capture more of the native shrublands, grasslands and wetlands around the water supply catchment site. They also consider it would protect good habitat values as they believe they are not represented enough on the lower altitudes of the Kirkliston Range.

The submitter has also requested that if this point is not accepted into the proposal then it should be designated as a conservation covenant, as outlined in point 15 below.

The point relate to the protection of ecological significant inherent values. Section 24(b) of the CPLA relates to the protection of significant inherent values, this point has therefore been allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. Although the extent of Conservation Area CA1 has been well considered, the submitter has articulated reasons why they prefer an alternative outcome, being the protection of ecological significance inherent values.

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
12	Conservation Area CA2 should be extended down to include shrubland areas in the valley of Farm Stream.	5	Allow	Accept

Rationale for Allow or Disallow
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Submitter 5 considers Conservation Area CA2 should be extended right down to include most or all the shrubland areas in the valley of the Farm Stream. They also request CA2 be extended southwest to include the western tributary of Farm Stream. They point out this area appears to contain good stands of shrublands and also has had a high number of lizard observations. Also similar to point 11 above in suggesting more land below CA1 be in Crown ownership, they consider the land below CA2 will also protect good habitat values as they believe they are not represented enough on the lower altitudes of the Kirkliston Range.

The submitter also notes there is no access proposed to CA2. They suggest if the area was extended to the boundary of the lease and connects with the legal road which adjoins the boundary in this area, then that would also provide direct public access to CA2.

The submitter has also requested that if this point is not accepted into the proposal then it should be designated as a conservation covenant, as outlined in point 15 below.

The point relate to the protection of ecological significant inherent values. Section 24(b) of the CPLA relates to the protection of significant inherent values, this point has therefore been allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. Although the extent of Conservation Area CA2 has been well considered, the submitter has articulated reasons why they prefer an alternative outcome, being mainly for the protection of ecological significance inherent values, but also to provide access to CA2.

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
13	All land from at least the 700 metre contour and above should be designated as conservation land.	5	Allow	Accept

Rationale for Allow or Disallow
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Submitter 5 considers all land from at least the 700 metre contour and above should be designated as conservation land to better capture the ecological values. They consider the stream beds and the upper parts of the proposed covenant contain values down to the 700 metre contour. They also consider there is an unequal allocation of land for freeholding compared to other reviews and their point would address this and make the process much more fair and equitable.

The point relate to the protection of ecological significant inherent values. Section 24(b) of the CPLA relates to the protection of significant inherent values, this point has therefore been allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to the objects and matters that can be taken into account in the CPLA as outlined above. While the extent of conservation land has been previously considered, the submitter articulates reasons why an alternative outcome under the CPLA is preferred, and therefore the point has 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
14 (Sub-points a, b, c, d, e & f)	Conservation Covenant CC conditions should be amended to ensure better protection of the values.	5	Allow (Sub-points a, b, c, d, e & f)	Accept (Sub-points a, b, c, d, e & f)
Rationale for Allow or Disallow				

Submitter 5 has made a number of recommendations to amend the conditions of conservation covenant CC. These have been divided into the sub-points listed below. They highlight the *bulbinella* species which they consider contributes greatly towards the significant inherent values the covenant is designed to protect. They believe the covenant needs to ensure greater protection of the values. They are concerned about most of the pastoral activities that are permitted below the yellow line, and in particular burning and spraying.

Sub-point (a)

Top dressing and over sowing should not be allowed in the upper covenant area above the yellow line:

The submitter wants top dressing and over sowing excluded from the upper covenant. They consider it would result in greater growth of exotic grass species and induce more stock to that area increasing the pressure on the more vulnerable native species. They also want this request to apply down to their suggested alternation of the yellow line as outlined in sub-point 14(b) below.

Sub-point (b)

The yellow line between the upper and lower covenant areas should be moved from around 800 metres down to 700 metres:

The submitter has suggested the dividing line between the lower and upper covenant should be lowered to at least the 700 metre contour to include more indigenous values including the habitat for the green/spotted skink.

Sub-point (c)

Burning should not be permitted over any part of the covenant:

It is currently proposed to allow burning in the lower covenant. However, the submitter considers it should not be permitted over any of the covenant area because of the risk of fire spreading onto adjacent conservation land including CA1 and CA2.

Sub-point (d)

The grazing of merinos should not be permitted at all:

It is currently proposed that if merino sheep are to be grazed then fencing will be required at the owner's cost to contain them within the covenant. The submitter considers merinos should not be permitted at all because fencing would not be viable due to the threats from snow drifts and it would not be visually acceptable. They also suggest other stock such as

perendales are mobile and may graze up to the conservation area boundary, in which case the stock should be removed for the same reason of fencing not being viable.

Sub-point (e)

The Department of Conservation should design and implement a monitoring programme as part of the covenant:

The submitter requests that the Department of Conservation be obliged to design a monitoring programme to ensure the ecological values and their integrity are maintained in the longer term.

Sub-point (f)

There should be no proposal to fence the upper boundary into the Conservation Area:

Currently it is proposed not to have any fencing of the boundaries between the freehold and conservation areas. The submitter is adamant that there should not be any option to fence this boundary in the future. They consider it is not a good fence line, visually, ecologically or practically. They suggest if stock do stray into conservation areas, then stock numbers should be adjusted or stock removed altogether.

The submitter's rationale appears to be the same as in sub-point (d) above which is that stock type and numbers are modified rather than any fencing to prevent stock drift. It is not certain if the submitter is suggesting an additional clause, as they have also suggested that if there was any need for future fencing it would need to be lower down to avoid adverse effects on the landscape or ecology.

The sub-points relates to the protection of ecological significant inherent values. Section 24(b) of the CPLA relates to the protection of significant inherent values, so all sub-points have been allowed for further consideration.

Rationale for Accept or Not Accept

The sub-points relate to objects and matters that can be taken into account in the CPLA, as discussed above. While the conditions within the covenants have been well consulted on, the submitter articulates reasons for each sub-point why they prefer an alternative outcome.

The sub-points have all 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
15	Parts of the proposed unencumbered freehold should be designated as a conservation covenant.	5	Allow	Accept

Rationale for Allow or Disallow
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The submitter requests that if the areas below CA1 and CA2 are not included in an extension of these conservation areas as requested in points 11 and 12 above, then these areas should be included within a covenant.

Based on the submitters comments on point 11 it is interpreted their suggested extension to CA1 did not include much if any land beyond the current proposed covenant boundary. However, in point 12 they did suggest CA2 could potentially be extended to the boundary of the lease which based on the current proposal includes unencumbered freehold land. The submitter does suggest the protected areas should extend over all the vegetated streambeds, their margins and adjacent slopes, where intact shrublands still exists.

The submitter's reasons to protect additional land as outlined above in points 11 and 12 is to protect water quality, native shrublands and lizard habitats.

The point relates to the protection of ecological significant inherent values. Section 24(b) of the CPLA relates to the protection of significant inherent values, so this point has been allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as outlined above. While the extent of the covenant has been previously considered, the submitter articulates reasons why an alternative outcome under the CPLA is preferred, and therefore the point has 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
16	Proposed easement "a-b" is extended to include the more popular route to the tops, on the northern side of CA1.	5	Allow	Accept

Rationale for Allow or Disallow
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The submitter supports the proposed easement "a-b" but has requested it be extended to include the more popular route to the tops on the northern side of CA1. The submitter considers that based on local advice (farm manager) CA1 is too steep for most people to access and instead they usually use the slopes to the northern side of CA1.

Securing of public access to the reviewable land is an object of tenure review under Section 24(c)(i) of the CPLA and therefore the point has been allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as discussed above. Although the location of the easements have been well considered and consulted on, the submitter has articulated reasons why they prefer an alternative

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outcome. 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
17	Access across an existing track located outside the lease to the property boundary at “d” should be finalised before tenure review is completed.	5	Disallow	N/A

Rationale for Allow or Disallow

The submitter requests that the access being negotiated between the holder and the Department of Conservation outside of tenure review over existing freehold land should be negotiated and finalised before the tenure review is completed. They consider this easement needs to provide access to the adjacent legal road.

This point relates to access outside the property and is therefore not part of the reviewable land. It is consequently not a matter that can be considered under the CPLA and therefore 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
18	The proposed access route of easement “e-f” should be reconsidered.	5	Disallow	N/A

Rationale for Allow or Disallow

Submitter 5 considers easement “e-f” has been located in a problematic position. They state that the legal road is located on the adjoining property and is often stocked with deer. They also stated that the suggested easement across freehold on the south side of Station Stream is not acceptable to the farm manager because the area is irrigated and workers are frequently in the area. They have suggested a better route could be to use Station Stream if that can be negotiated with land owners.

The submitter is clearly referring to land outside the lease as they refer to the legal road that goes across farmland on an adjoining property which is stocked with deer. The reference to irrigated paddocks is also outside the lease because there are no irrigated paddocks in this area within the lease.

The submitter’s specific recommendation is worded as follows. “*The proposed access route e-f needs to be reconsidered where it is proposed to cross freehold farmlands. Here*

we suggest a legalized route along Station Stream, if that can be negotiated with the appropriate land owner."

It is not entirely clear what the submitter is suggesting to the proposed easement "e-f" within the reviewable land given it is interpreted they are referring to access cross land outside the lease.

This point relates to access outside the property and is therefore not part of the reviewable land. It is consequently not a matter that can be considered under the CPLA and therefore 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
19	An additional easement should be created along the margin of Farm Stream to CA2.	5	Allow	Accept

Rationale for Allow or Disallow

Submitter 5 considers an additional easement is required along the margin of Farm Stream from the legal road adjoining the property to provide access to CA2. They have pointed out there is no access provided to CA2 and consider there should be for people to visit this area which has values that maybe of interest. In point 12 above the same submitter is advocating for CA2 to be extended down to the property boundary to protect values in the streambeds and valleys. They point out this would also achieve public access to CA2 and is their preference, but if that is not acceptable they have requested this additional easement be implemented instead.

This point is advocating access to CA2, just as submitter 4 was advocating in point 10 above and therefore would achieve the same outcome. The difference is that submitter 4 in that point suggested using the marginal strip to be created on Farm Stream and was therefore only proposing a short easement to link the marginal strip to the legal road in the southern tip of the property.

Securing of public access to the reviewable land is an object of tenure review under Section 24(c)(i) of the CPLA and therefore the point has been allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA, as outlined above. Although the location and number of the easements have been well considered and consulted on, the submitter has articulated reasons why they prefer an alternative outcome, being that there is no direct access to CA2 which will be an area of interest to the public and therefore an additional easement should be implemented along the margin of Farm Stream.

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
20	The proposed fence line "W-X" should instead be sited along an existing fence line lower down.	5	Allow	Accept
Rationale for Allow or Disallow				

Submitter 5 feels that the proposed fence line "X-W" at the boundary to CA2 should be sited along an existing lower fence line which crosses from one side of Farm Stream to the other. They have alternatively suggested that this existing fence be upgraded and continued up the southern slope on the true right of the stream.

The submitter has highlighted yet another alternative. Their preference is to extend CA2 down to the property boundary as outlined in point 12 above. If this extension of CA2 is accepted, the submitter has suggested it could either be fenced or remain unfenced in the shorter term.

The point relates to the protection of ecological significant inherent values. Section 24(b) of the CPLA relates to the protection of significant inherent values, so this point has been allowed for further consideration.

Rationale for Accept or Not Accept

The point relates to objects and matters that can be taken into account in the CPLA as outlined above. Whether or not to fence conservation area boundaries has been well considered in this review, however the submitter has articulated reasons why an alternative outcome under the CPLA is preferred, and therefore the point has been accepted for further consideration in the formulation of the Substantive Proposal.

Summary and Conclusion

Overview of analysis:

Five submissions were received from a Crown entity, private individuals, one nongovernmental organisation and one trust.

Overall, the most common response in terms of the number of submissions received from different submitters was support for aspects of the proposal. Three out of the total of five submitters expressed statements of support for various aspects of the proposal. Most of the support endorsed the proposed public access easements, although the same submitters also suggested minor changes to the easements or additional easements.

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Because of the low number of submitters, virtually all the points were made by single submitters and often by the same submitter. In fact most of the points derived were made by just two different submitters. A total of 20 points were derived.

In terms of the most common points made, about half of the 20 points derived related to various aspects of easements, including suggestions for additional easements.

Three points from the same submitter advocated for more land to be designated as conservation land. This same submitter also suggested a number of amendments to the covenant, derived into five sub-points.

From the 20 points derived, 16 were allowed for further consideration. All 16 allowed points were accepted for further consideration in the formulation of the draft Substantive Proposal.

Generic issues:

The key generic issues identified are:

- Statements of support for aspects of the proposal, mainly the proposed easements.
- Amendments to the proposed public access easements including additional easements should be provided.
- The proposed conservation areas should be extended.

Gaps identified in the proposal or tenure review process:

No gaps in the proposal were identified by the submitters.

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.

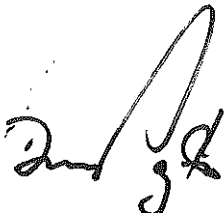
I recommend approval of this analysis and recommendations



Simon deLautour – Tenure Review Consultant

Date 16/03/2012

Peer reviewed by



Dave Payton – Tenure Review Contract Manager

Date 16/03/2012

Approved/Declined

Commissioner of Crown Lands

Date _____

Appendices:

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

APPENDIX I

Copy of Public Notice

Land
Information
New Zealand Logo

CROWN PASTORAL LAND ACT 1998

CABERFEIDH TENURE REVIEW

NOTICE OF PRELIMINARY PROPOSAL

Notice is given under Section 43 of the Crown Pastoral Land Act 1998 by the Commissioner of Crown Lands that he has put a Preliminary Proposal for tenure review to Star Holdings Limited, as lessee of Caberfeidh Pastoral Lease:

Legal description of land concerned:

Pastoral lease land:

Rural Section 41381 and Lot 1 DP 9888, Lot 1 DP 44493, Part Lots 2,3 & 4 DP 2739, Part Lot 1 DP 44485 shown as Rural Section 41298 and Rural Section 41382.

General description of the proposal:

1. An area of approximately 107 hectares to be restored to full Crown ownership and control as conservation area pursuant to Section 35(2)(a)(i) Crown Pastoral Land Act 1998.
2. An area of approximately 1,976.5812 hectares to be disposed of by freehold disposal to Star Holdings Limited, as lessee of Caberfeidh pastoral lease, pursuant to Section 35(3) Crown Pastoral Land Act 1998, subject to Part IVA Conservation Act 1987, Section 11 Crown Minerals Act 1991 and the following protective mechanisms and qualified designations.
 - 2.1 Conservation covenants covering an area of approximately 1353 hectares, pursuant to Sections 40(1)(b) and 40(2)(a) Crown Pastoral Land Act 1998.
 - 2.2 An easement to provide public and conservation management access pursuant to Section 36(3)(b) Crown Pastoral Land Act 1998.
 - 2.3 The continuation in force of the existing easements embodied in interests 7032093.1, 7189215.1, and 8457638.1 on the title of Caberfeidh pastoral lease.

Further information is available on request from the LINZ contractor at the following address:

Simon de Lautour
Opus International Consultants Ltd
Private Bag 1913
Dunedin 9054
Phone: (03) 471 5500; Fax (03) 474 8995
Email: Simon.deLautour@opus.co.nz

Inspections: Any person wishing to inspect the property is advised to contact the LINZ contractor 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, C/- Simon de Lautour, Opus International Consultants Ltd at the above address.

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

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 no later than 5pm December 20th 2011.

APPENDIX II

List of Submitters

Submitter number	Date received	Submitter	Representative	Address
1	15 Dec 11	New Zealand Historic Places Trust	Malcolm Duff, General Manger Southern	Southern Regional Office, PO Box 4403, CHRISTCHURCH 8140
2	17 Dec 11	Barry, Heather & Richard Gray, Hakataramea Station Ltd		504 Homestead Road RD 1 Kurow 9498
3	18 Dec 11	Lone Star Farms Ltd	Boyd Macdonald, General Manager	PO Box 1242 Nelson 7040
4	19 Dec 11	New Zealand Walking Access Commission	Mark Neeson, Chief Executive	PO Box 12348, Thorndon, WELLINGTON 6144
5	20 Dec 11	South Canterbury Branch – Royal Forest and bird protection Society NZ Inc	Fraser Ross, Field Officer	29a Nile St, Timaru 7910

APPENDIX III

Points Raised by Submitters

Point Raised	Number of submitters	Submitter number						Details of point raised
1	3	1	4	5				Statements of support for aspects of the proposal.
2	1	1						The wording of the covenant conditions should be amended to provide better protection of the historic values.
3	2	2	3					Proposed easement “e-f” should be removed from the proposal.
4	1	3						Proposed fence line “W-X” should be erected in consultation with the land owner.
5	1	4						Clearly identify on the plan, waterways that qualify for marginal strips, or at least outline them in the PP summary.
6	1	4						Marginal strips should be created and managed to ensure practical and unobstructed public access.
7	1	4						The proposed easements should have unrestricted public access without any annual closure periods, particularly easement “b-a”.
8	1	4						Easement “f-e” should be extended (T junction part way along easement) to connect with the legal road north of Station Stream.
9	1	4						Easement “c-d” should be extended to secure legal access to point “d”.
10	1	4						An additional public access easement should be provided from the legal road by Farm Stream to the marginal strip to be created on Farm Stream.
11	1	5						Conservation Area CA1 should be extended down to the rabbit proof fence and include the side gullies of the water catchment.
12	1	5						Conservation Area CA2 should be extended down to include shrubland areas in the valley of Farm Stream.
13	1	5						All land from at least the 700 metre contour and above should be designated as conservation land.
14	1	5						Conservation Covenant CC conditions should be amended to ensure better protection of the values.
15	1	5						Parts of the proposed unencumbered freehold should be designated as a conservation covenant.
16	1	5						Proposed easement “a-b” is extended to include the more popular route to the tops, on the northern side of CA1.
17	1	5						Access across an existing track located outside the lease to the property boundary at “d” should be finalised before tenure review is completed.
18	1	5						The proposed access route of easement “e-f” should be reconsidered.
19	1	5						An additional easement should be created along the margin of Farm Stream to CA2.
20	1	5						The proposed fence line “W-X” should instead be sited along an existing fence line lower down.

APPENDIX IV

Copy of Annotated Submissions

Submission 1

Submission 2

Submission 3

Submission 4

Submission 5