

Crown Pastoral Land Tenure Review

Lease name : CLENT HILLS

Lease number : PC 076

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.

**ANALYSIS
OF
PUBLIC SUBMISSIONS

CLENT HILLS**



ANALYSIS OF PUBLIC SUBMISSIONS**Statement Pursuant To Sec 45(a)(iii) Crown Pastoral Land Act 1998****CLENT HILLS TENURE REVIEW NO 204****Details of lease**

Lease name:	Clent Hills pastoral lease.
Location:	South of Lake Heron in the upper Ashburton River South Branch valley and approximately 40 kilometres north-west of the Mt Somers township.
Lessee:	Clent Hills Holdings Limited.

Public notice of preliminary proposal

Date advertised:	26 March 2011.
Newspapers advertised in:	
- The Press	Christchurch
- The Otago Daily Times	Dunedin
- The Ashburton Guardian	Ashburton.
Closing date for submissions:	24 May 2011.

Details of submissions received

Number received by closing date:	6
Number of late submissions received/accepted:	0
Cross-section of groups/individuals represented by submissions:	
	Submissions were received from non government environmental and recreational groups and crown entities.
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 [i.e. relates to the right property and tenure review], 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	The provision of public access is sought to CC1 and northwards along Isolated Ridge, and also public car parking to facilitate public walking access.	1, 4	Allow	Accept

Submitter 1 has said that two areas that warrant provision of public access are the ridge extending northwards from Isolated Hill and the proposed conservation covenant (CC1). The submitter seeks the following:

- Provision for public walking access from the west by the creation of easements from Hakatere Heron Road, east along the southern boundary of the pastoral lease to the proposed conservation covenant CC1, then along the boundary to Isolated Hill ridge and northwards along the ridge to the knob at spot height of 761m.
- Provision for public walking access from the east by the creation of the easements commencing at the end of the eastern-most unformed legal road where it joins the pastoral lease boundary westwards across the middle unformed legal road to the Isolated Hill ridge.
- Provision made for public walking access from the northern knob (spot height 761m) of the Isolated Hill ridge east along a practical fence line to the middle unformed legal road.
- Appropriate provision for car parking off the Hakatere Heron Road to facilitate public walking access.

Submitter 1 has said that the flora values of the proposed covenant area are very likely to be of interest to the public now, and especially in the future as they become even more significant. The Isolated Hill ridge, northwards, provides an elevated platform from which the public may view the Lake Heron basin. There are very limited readily accessible opportunities for viewing the basin elsewhere. The eastern easement would enable the completion of a loop linking with the conservation area via unformed legal roads and the western access would provide convenient access from the formed road.

Submitter 4 states that given the significance of plants in the proposed covenant (CC1), interest to the public and their place in O Tu Wharekai is significant and that public access is not undesirable or inappropriate.

Rationale for Allow or Disallow

The point relates to the provision of public access which can be properly considered under section 24(c)(i) CPLA. The point has therefore been allowed.

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 issue of public access has previously been considered but the submitters have given reasons for preferred alternative outcomes under the CPLA and the point is therefore accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
2	Access for fisheries management purposes should be provided on the property.	2	Allow	Accept

Submitter 2 seeks access on the property for the purposes of fisheries management. They have said that they have had no previous access issues and request that this continues into the future.

Rationale for Allow or Disallow

The submitter is seeking the provision of access for fisheries management on the property. Although the submitter has not been specific in terms of where or how this access should be provided, the point relates to access rights for the management of recreational significant inherent values. The protection of significant inherent values is relevant under section 24(b) CPLA and the point has therefore been allowed.

Rationale for Accept or Not Accept

The point relates to the objects and matters that can be taken into account in the CPLA, as discussed above. The matter of fisheries management access for the protection of recreational significant inherent values is a perspective not previously considered under the CPLA and therefore is accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
3	The water quality of Gentleman Smith Stream should be maintained and protected.	2, 4, 5, 6	Allow	Accept

Submitter 2 has said that it is important to maintain water quality in Gentleman Smith Stream as downstream of the property it provides significant spawning grounds and the water contributes to the Maori Lakes. The submission refers to (and attached) the Fish and Game NZ resources report (May 2006) and also refers to the subsequent site assessment and determination. The submitter notes that there are currently no water quality issues but seeks that the quality of water be maintained by fencing the stream from stock and providing a riparian zone. Alternatively, if the land owner intends to continue farming sheep, the marginal strips should be turned into covenants with conditions governing stock type and access.

Submitter 4 seeks the establishment of a protective mechanism, based on robust integrated conservation principles, to protect and enhance the values of Gentleman Smith Stream and Maori Lakes, which it flows into but is outside the property's boundary. The submitter believes that a protective mechanism will ensure the ongoing vigour of species and ecosystems dependent on Gentleman Smith Stream and it should, at least, include the complete fencing of the stream within the property's boundaries and appropriate riparian planting that covers the margins sufficiently to eliminate nutrient and sediment run-off as far as possible.

Submitter 5 seeks that a 20 m setback on each side of the Gentleman Smith Stream be fenced and restored to full Crown ownership to protect stream health, with an alternative stock water supply being arranged if necessary. The fenced area should either become a DOC managed reserve (preferably) or have a covenant to ensure the stream and its margins are managed to protect aquatic habitat values. The covenant should prohibit grazing, cultivation, burning afforestation and OSTD. Boundaries of the protected and fenced areas should be identified after a

field inspection. The submitter notes that cultivation and stock access to Gentleman Smith Stream will be increasing sediment and nutrient levels in the stream, polluting and degrading water quality in the Maori Lakes (a key part of the O Tu Wharekai wetland programme), enriching it and potentially affecting its healthy functioning.

Submitter 6 refers to the Fish and Game NZ report that the Gentleman Smith Stream is important as a trout spawning stream and its quality has significance for the lake downstream. The submitter believes that the values of the stream should get recognised and some protection be given to the stream. The submitter does not provide any further detail on what that protection should be.

Rationale for Allow or Disallow

These submitters recommend the protection of waterways [to protect water quality and aquatic values] so as to protect spawning grounds and Maori Lakes downstream of the reviewable land. The protection of water quality, which is an ecological sustainability issue, is a relevant matter for consideration under section 24(a)(i) CPLA, and the protection of significant inherent values is relevant under section 24(b) CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

This point relates to the objects and matters to be taken into account in the CPLA, as discussed above. The point has previously been considered but the submitters have provided reasons for preferred alternative outcomes under the CPLA. The point has therefore been accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
4	The quality of water on the reviewable land draining into Lake Emily [outside of the reviewable area] should be protected and maintained.	2, 4, 5, 6	Allow	Accept

Submitter 2 states that the wetland in the southeast corner of the property is important for the maintaining good water quality which drains into Lake Emily. They have said that whilst it is not affected by the current farming regime, it may become threatened in the future and the Lake Emily Wetland should be protected either by restricting stock access or by conditions governing stock type and access.

Submitter 4 seeks that all of the Lake Emily catchment that lies within the Clent Hills boundary be designated public conservation land to protect its wetland values and in support of the broader aim of the O Tu Wharekai project. The submitter states that this area should be protected within the consistent management regimes of the Department of Conservation for the safety of the lake and its biological systems, the integrity of the broader O Tu Wharekai principle of the whole wetland system protection and restoration, and the recreational opportunities that will come with the presence of a fully functioning lake ecosystem.

Submitter 5 seeks that an area of approximately 175 ha of wetland communities, which are connected with and help sustain Lake Emily, be protected as conservation land. This area is marked on a map attached to the submission. The submitter states that these wetlands are crucial for ecological functioning and buffering of Lake Emily (part of O Tu Wharekai) as well as their inherent values. The submitter gives other reasons for seeking protection for this area, including:

- Freeholding risks the degradation and destruction of the wetland values through grazing and desiccation or OSTD and cultivation and fragmentation of the landscape

- The area contains high SIV's (i.e. fauna and aquatic habitat, red tussockland and herbfield communities, threatened species, landscape).

Submitter 6 states that the wetland in the Lake Emily catchment (the northern end of this wetland is on the pastoral lease) should be given some protection. The submitter does not provide any further details on what that protection should be.

Rationale for Allow or Disallow

These submitters recommend the protection of waterways [to protect water quality and aquatic values] so as to protect wetlands downstream of the reviewable land. The protection of water quality, which is an ecological sustainability issue, is a relevant matter for consideration under section 24(a)(i) CPLA, and the protection of significant inherent values is relevant under section 24(b) CPLA. The point has therefore been allowed.

Rationale for Accept or Not Accept

This point relates to the objects and matters to be taken into account in the CPLA, as discussed above. The point has previously been considered but the submitters have provided reasons for preferred alternative outcomes under the CPLA. The point has therefore been accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
5	Land owners (current and future) to be made aware of the requirements of the Historic Places Trust Act 1993.	3	Disallow	N/A

Submitter 3 states that in the absence of recorded archaeological sites in the NZAA Site Recording Scheme on the property should not be taken as evidence that no sites are present, as a systematic survey has not been undertaken. The submitter requests that current and future owners should be made aware that work affecting archaeological sites is subject to the archaeological authority process under the Historic Places Act 1993.

Rationale for Allow or Disallow

The point raised relates to compliance with the Historic Places Trust Act 1993, not the CPLA. This point is not a matter that can be dealt with in tenure review, or considered under the CPLA, and has therefore been disallowed.

Rationale for Accept or Not Accept

N/A.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
6	Recommendation for consultation to be undertaken with Te Runanga of Ngai Tahu to identify areas of Maori heritage value within the proposed freehold land.	3	Allow	Not Accept

Submitter 3 notes that the proposed freehold land is adjacent to Lake Heron which is part of the O Tu Wharekai (Ashburton Lakes) Statutory Acknowledgment area under the Ngai Tahu Claims Settlement Act 1998 and that there is no mention in the Preliminary Proposal that there has been consultation with Te Runanga o Ngai Tahu (TRONT). The submitter recommends that consultation be undertaken with TRONT to identify any areas of Maori Heritage value within the area of the proposed freehold land.

Rationale for Allow or Disallow

Submitter 3 states that there is no mention of consultation with Te Runanga o Ngai Tahu (TRoNT) in the preliminary proposal. On this basis, the submitter recommends that consultation with TRoNT be undertaken to identify any areas of Maori heritage value within the area of proposed freehold land.

Rationale for Accept or Not Accept

Consultation with Te Runanga o Ngai Tahu (TRoNT) on the preliminary proposal has been undertaken. A Cultural Values report was prepared by TRoNT in August 2006. A submission on the Clent Hills preliminary proposal by TRoNT was received dated 20 May 2011. Consultation with the iwi authority is a matter to be taken into account under the CPLA and this has been undertaken, as discussed above. The submitter however does not introduce new information or a perspective not previously considered, nor does it articulate reasons why an alternative outcome is sought. The point therefore cannot be accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
7	Statements of support for aspects of the proposal.	4	Allow	Accept

The submitter recognises the worth of both agricultural and conservation values to the Clent Hills locale and recommends that the majority of the property's flat areas be designated for freehold disposal to Clent Hills Holdings Limited with exceptions covered in points 8, 9, 10, and 11 below.

Rationale for Allow or Disallow

The submitter has provided reasons for supporting aspects of the proposal, including the benefits the proposal will offer in relation to ecological sustainability and the protection of significant inherent values. 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 and the protection of significant inherent values is a matter for consideration under section 24(b). These reasons are relevant under the CPLA and such comments have therefore been allowed.

Rationale for Accept or Not Accept

Statements of support for aspects of the preliminary proposal can be considered by the Commissioner when formulating the designations for a Substantive Proposal. Point 1 has therefore been allowed and accepted for further consideration.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
8	The northern block of the proposed freehold should be retained as public conservation land.	4, 5	Allow	Accept

Submitter 4 seeks that the northern block, adjacent to the Swin River, be retained as public conservation land to protect the ecological, landscape and recreational values of the river and its margins, including Lake Hill and the existing 7.133 ha fenced off covenant. In recreation planning terms, giving clear access to the legal road on the south edge will encourage visitors in greater numbers (to Double Hut and the Taylor Range) and may, in providing an alternative to the often-used lake-side route, relieve pressure on Lake Heron's birdlife.

Submitter 5 seeks that the boundary be moved and the existing fenceline south to run along the unformed legal road which runs from the Hakatere-Heron Road across conservation land and then west to east across the lease to protect this land as conservation land. This area is marked on a map attached to the submission. The reasons given include:

- the existing fenceline is intrusive (and vulnerable to snow damage)
- protection of the remainder of Lake Hill (i.e. the landscape values) and the wetland at its base would ensure consistent management of this highly visible landform which is a key part of the recreational experience
- a boundary change would promote connectivity in providing better buffering of the Swin River and its margins
- the proposed boundary restricts public access to the hill's highest point
- a boundary change would ensure walkers would be separated from vehicles.

Submitter 5 seeks that the boundary of the proposed freehold be shifted west to protect an area including the northern tip of Ricki Spur and the north eastern corner of the pastoral lease for protection to provide continuity and given that it is dissected by unformed roads. This area is marked on a map attached to the submission. The submitter states that the area deserves protection for reasons including:

- the area contains good examples of original valley floor plant communities
- the area supports several threatened species
- the vegetation has high naturalness values
- it is inappropriate for Lake Hill to be in two different management regimes that would bisect the landform and degrade the landscape values.

Rationale for Allow or Disallow

The submitters suggest that land in the northern block of the proposed freehold should be designated as land to be retained under full Crown ownership and control. Such a designation is provided for under section 35(2)(a)(i) CPLA. The reasons given relate to issues of ecological sustainability, which is a matter that can be properly considered under section 24(a)(i) CPLA, the protection of significant inherent values, which is relevant for consideration under section 24(b) CPLA, and public access which is relevant for consideration under section 24(c)(i). The point has therefore been allowed.

Rationale for Accept or Not Accept

As discussed above, the point relates to the objects and matters to be taken into account in the CPLA. The point has previously been considered but the submitters have articulated reasons why they prefer alternative outcomes. The point has therefore been accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
9	Ricki Spur should be retained as public conservation land.	4, 5	Allow	Accept

Submitter 4 seeks that all of Ricki Spur within the pastoral lease and above the flats and not part of the Lake Emily catchment be designated public conservation land for its general conservation values, and particularly those landscape and recreation values associated with O Tu Wharekai.

The submitter states that Ricki Spur is dominant in the O Tu Wharekai landscape from many positions in the basin, contains part of the Lake Emily catchment and has tussockland, rockland, scrub, shrubland and herb communities that are representative of the original vegetation. The submitter is particularly interested in the protection of the value of the landscape congruency within the O Tu Wharekai context.

Submitter 5 seeks that the boundary of the proposed freehold be moved to include the western slopes of Ricki Spur and cushionfield and valley floor vegetation. The reasons given include that if the western slopes are freeholded, there is a strong likelihood that OSTD and spray drift will compromise kettlehole and other wetland turf communities on the valley floor and moraines on conservation land to the east of the Spur. A boundary change will help buffer the SIV's on adjacent conservation land.

Rationale for Allow or Disallow

The submitters suggest that Rick Spur should be designated as land to be retained under full Crown ownership and control. Such a designation is provided for under section 35(2)(a)(i) CPLA. The reasons given relate to the protection of significant inherent values which is relevant for consideration under section 24(b) CPLA and public access which is relevant for consideration under section 24(c)(i). The point has therefore been allowed.

Rationale for Accept or Not Accept

As discussed above, the point relates to the objects and matters to be taken into account in the CPLA. The point has previously been considered but the submitters have articulated reasons why they prefer alternative outcomes. The point has therefore been accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
10	The north eastern block of the proposed freehold should be retained as public conservation land.	4	Allow	Accept

Submitter 4 seeks that the north eastern block, adjacent to both Ricki Spur and the northern block, become public conservation land in support of the landscape and ecological values, to enhance access up the Swin River and to make access behind Ricki Spur by legal road available to the public. The submitter states that in terms of ecology and landscape, this block is connected with the northern block and Ricki Spur [also proposed for protection by this submitter] and as freehold land subject to development, could present anomalous relative to the adjacent ecology and landscape and be in tension with O Tu Wharekai principles.

Rationale for Allow or Disallow

The submitter suggests that land in the north eastern block of the proposed freehold should be designated as land to be retained under full Crown ownership and control. Such a designation is provided for under section 35(2)(a)(i) CPLA. The reasons given relate to issues of ecological sustainability, which is a matter that can be properly considered under section 24(a)(i) CPLA, the protection of significant inherent values, which is relevant for consideration under section 24(b) CPLA and public access which is relevant for consideration under section 24(c)(i). The point has therefore been allowed.

Rationale for Accept or Not Accept

As discussed above, the point relates to the objects and matters to be taken into account in the CPLA. The point has previously been considered but the submitter has articulated reasons why they prefer an alternative outcome. The point has therefore been accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
11	The covenant (CC1) should be reviewed with regard to stocking, fencing, removal of weeds, public access, and size and shape.	4, 5	Allow	Accept

The submitters concerns (as detailed below) with the proposed covenant relate to:

- lack of fencing and the potential impact of grazing in covenant area
- size and shape of the covenant
- presence of woody weeds
- public access to the covenant.

Submitter 4 seeks that the proposed covenant (CC1) on Isolated Hill be redesigned to exclude stock, be of a self-sustaining size and shape and have built-in flexibility with regard to public access. The submitter believes that the lack of fencing would mean that stock incursions would occur and the slow growth rates of many of the species within the area would likely mean that proper regeneration would be unlikely. The submitter also states that the small size of the suggested area (7.5 ha) raises concern about the area's ability to perform its full range of ecological functions and remain viable in the long term.

Submitter 5 seeks that the proposed covenant be fenced to exclude grazing and provide for the removal of any woody weeds prior to freeholding. The submitter states that the lack of connectivity from nearby conservation land and lack of fencing will not protect its shrublands, and that the effects of grazing animals and fertiliser to the west and east is expected to be significant.

Rationale for Allow or Disallow

This point relates to the protection of significant inherent values within the proposed covenant area. The reasons given relate to issues of ecological sustainability, which is a matter that can be properly considered under section 24(a)(i) CPLA, the protection of significant inherent values, which is relevant for consideration under section 24(b) CPLA, and public access which is relevant for consideration under section 24(c)(i). The point has therefore been allowed.

Rationale for Accept or Not Accept

As discussed above, the point relates to the objects and matters to be taken into account in the CPLA. The point has previously been considered but the submitters have articulated reasons why they prefer alternative outcomes. The point has therefore been accepted.

Point	Summary of point raised	Submission numbers	Allow or disallow	Accept or not accept
12	Protection is sought for Lake Heron moraine.	5	Allow	Accept

Submitter 5 seeks the protection and restoration to full Crown ownership of the currently unprotected Lake Heron moraine (c 15 - 20 ha). The submitter states several reasons for why the area deserves protection including that freeholding risks the landscape, geological and botanical values being fragmented under two different land uses and management. Boundaries of the protected and fenced areas should be identified after a field inspection.

Rationale for Allow or Disallow

This point relates to the protection of significant inherent values [landscape, geological and botanical values] within the reviewable land. The protection of significant inherent values is a matter which can be considered under the s24(b) of the CPLA and the point has therefore been allowed.

Rationale for Accept or Not Accept

The point raised relates to objects and matters that can be taken into account in the CPLA, as discussed above. The issue of protection of significant inherent values has previously been considered but the submitter has articulated reasons for an alternative outcome under the CPLA. The point is therefore accepted for further consideration.

Summary

Overview of analysis:

Twelve submissions were received from non government environmental and recreational groups and crown entities. Submissions were analysed in the order in which they were received and points were listed in the order in which they were encountered.

Point 7 covers a statement in support for aspects of the proposal.

A number of submissions were made in relation to the provision of public access to the proposed covenant and points of interest on the property.

A number of submissions were made in respect of protecting waterways on the property so as to protect water quality in streams and wetlands outside the reviewable area.

A number of submissions were made in respect of protection mechanisms or return to full Crown ownership to protect significant inherent values, in particular for land along the northern and eastern edges of the property.

From all the twelve points derived from the six submissions received, eleven were allowed for further consideration. Ten of the allowed points were accepted for further consideration in the formulation of the draft Substantive Proposal. One point was disallowed for further consideration in the formulation of the draft Substantive Proposal.

Appendix III lists the points raised, grouped by the above categories.

Generic issues:

The generic issues identified were:

- Requests for public access to CC1 and northwards along Isolated Ridge.
- Protection of water quality in Gentleman Smith Stream.
- Protection of the quality of water on the property draining into Lake Emily [outside of the reviewable area].
- Protection of significant inherent values, preferably through creation of areas for Crown retention.

Gaps identified in the proposal or tenure review process:

No gaps were identified in the proposal or tenure review process.

Risks identified:

No risks were identified.

General trends in the submitters' comments:

The general trend in submitters comments related to public access, protection of significant inherent values and the protection of waterways.

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.